

CHAPTER 5

Performance audit on the Efficacy of implementation of 74th Constitution Amendment Act with focus on 3Fs-Fund, Functions and Functionaries

Executive Summary

Intent of the 74th Constitutional Amendment Act

The Constitution of India provides a clear mandate for democratic decentralisation through the 74th Constitutional Amendment Act, which sought to create an institutional framework of local self-government for ushering in democracy at the grass root level. Accordingly, the Act provides for devolution of 18 functions as listed in the Twelfth Schedule to the urban local bodies. The 74th CAA came into force with effect from 1 June 1993.

Why this Performance Audit?

The objective is to assess whether the ULBs were adequately entrusted with functions and whether they were empowered with adequate capacity and resources to fulfill the obligations/responsibilities in respect of their functions.

Period of Audit : 2015-16 to 2019-20

Sample : 20 ULBs across all three tiers

What Audit found

To comply with the provisions of the 74th CAA the State Government enacted the Odisha Municipal (OM) Act and Odisha Municipal Corporation (OMC) Act. Audit observed that the legal provisions were not backed by decisive actions, resulting in a situation in which the spirit of the 74th CAA has not fructified. The devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, remained lackadaisical.

The 74th CAA envisaged devolution of 18 functions to the ULBs. Audit observed that out of 18 functions, the ULBs had no role in respect of one function; ULBs were simply implementing agencies for three functions; ULBs had dual role in one function; and in respect of 13 functions, the ULBs had minimal role and/or had overlapping jurisdiction with State Government departments and/or parastatals.

Audit observed that, out of the total 114 ULBs, elections had not been held in 112 ULBs, with delays ranging from 41 days to 3,252 days as of March 2021. As such, Standing Committees and Ward Committees were not constituted in these ULBs, leading to absence of community participation in local governance.

ULBs had failed to prepare and submit their comprehensive Development Plans to the District Planning Committees, for inclusion in the comprehensive District Development Plans.

The need to seek approval of the District Administration for works to be taken up from own sources of ULBs, despite prior approval by the respective Councils, went against the autonomy of ULBs.

The existence of parastatals significantly eroded the autonomy of the ULBs in the implementation of functions, especially in urban planning, slum improvement and water supply and sewerage.

Delays in constitution of the State Finance Commissions (SFCs) and delays in implementation of their recommendations, led to delays in fiscal transfers by the State, impacting the revenues of ULBs.

The State Government did not provide autonomy to ULBs in generating their own revenue. Omissions attributable to ULBs, such as non-revision of rates, non-collection of sewerage cess *etc.*, also contributed to lower revenue generation.

ULBs were largely dependent on fiscal transfers from the Government of India (GoI) and the Government of Odisha (GoO), which together constituted about 91.64 *per cent* of their total funds, while the own revenue of ULBs constituted only 11.22 *per cent* of their total funds, during the period covered under audit (from FY 2015-16 to FY 2019-20).

There was a shortfall of ₹196.44 crore in fiscal transfers during the period from FY 2015-16 to FY 2019-20 *vis-à-vis* the recommendations of the SFC. Against an allocation of ₹354.51 crore of performance grants by 14th Central Finance Commission (CFC) during FY 2016-17 to FY 2019-20, ULBs could not avail ₹ 286.25 crore, mainly due to non-compliance to urban reforms and deficiencies in attainment of the benchmark levels fixed by GoI.

While budget exercises were flawed and resulted in preparation of unrealistic and unscientific budgets, ULBs had spent only 29 to 42 *per cent* of the funds available with them, during FY 2015-16 to FY 2019-20.

Powers to assess staff requirements and recruitment of such personnel were vested with the State Government against the spirit of decentralisation. The State Government also vested with itself the powers to regulate the classification, method of recruitment, conditions of service and pay and allowances, as well as to initiate disciplinary action on the staff of ULBs and transfer staff across ULBs, or to other Government departments.

Population was the sole criterion for determining the sanctioned strength of ULBs. The sanctioned strength decreased, despite increase in population over a decade, in all the test-checked ULBs.

Huge vacancies across all cadres, specifically in crucial technical posts, resulted in the absence of adequate manpower for providing delivery of citizen-centric services.

A large number of posts were filled up on contractual basis, as well as on deputation basis. This impacted the accountability of ULBs in performance of functions.

Recommendations:

1. *Government may entrust task of delimitation to the State Election Commission as per the recommendation of the 2nd Administrative Reforms Commission.*
2. *In order to enable ULBs to function as effective democratic units of local Self Government, the State Government may consider for timely conduct of elections.*
3. *Government may constitute the State Finance Commissions immediately at the expiry of every five years.*
4. *To strengthen ULBs in long term, Government may take appropriate action on the recommendations of SFC in regard to institutional measures.*
5. *The Central Valuation Board may be established in order to enable ULBs to revise their tax structure regularly and provide technical expertise to ULBs.*
6. *Government may establish an independent assessment mechanism for implementation of road works in ULBs.*
7. *ULBs need to assess and explore ways for generating 'own revenue' for their self-sustenance.*
8. *Government may ensure timely release of balance SFC grants and take necessary steps to obtain the performance grants from the Central Government, in order to augment the financial resources of ULBs for meeting their expenditure.*
9. *Government may issue instructions to ULBs for effective collection of Holding Tax.*
10. *Since receipts of grants from Government still constitutes the major chunk of revenue of ULBs, the Department may take it more predictable, to enable ULBs to streamline their budgeting process.*
11. *Government may ensure stringent implementation of timeframes for execution of works.*
12. *Government may take action to ensure that ULBs enjoy an adequate degree of autonomy in regard to the functions assigned to them, without the intervention of other agencies/parastatals, in order to achieve effective decentralisation.*
13. *Government may arrive at a desired sanctioned strength of ULB officials based on population, nature of population, geographical area etc. and take appropriate steps for filling up the vacant posts.*

Part-I

This part deals with the challenges faced by the ULBs and the background based on which the 74th Constitutional Amendment Act was enacted. It describes how the Act provides constitutional status to ULBs through devolution of various functions and enumeration of financial powers to enable the ULBs to act as institutions of self-government. It also discusses the availability of organisational structure for urban self-government.

5.1 Introduction

5.1.1 74th Constitutional Amendment Act

In many States, local bodies had become weak and ineffective on account of various reasons, including the failure to hold regular elections, prolonged supersession and inadequate devolution of powers and functions. As a result, the Urban Local Bodies were not able to perform effectively as vibrant democratic units of self-government. Accordingly, the Constitution (Seventy Fourth Amendment) Act, 1992 (74th CAA), which came into effect on 1st June 1993, introduced Part IX A (The Municipalities) in the Constitution of India. The Act provided constitutional status to Urban Local Bodies (ULBs). Article 243W of the CAA authorised 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-governance and make provisions for adequate funds and functionaries for execution of the devolved functions. The Twelfth Schedule of the Constitution enumerates 18 specific functions, given in the **Appendix-5.1**, to be devolved to ULBs. The 74th amendment provided for constitution of ULBs, elections to these ULBs and formation of committees in these ULBs. It also enumerated: (i) the powers and responsibilities of ULBs to generate own revenue (ii) sharing of revenue between State Government and ULBs and (iii) allotment of funds from the Consolidated Fund of the State, besides grants from GoI. Though the 74th CAA came into force from 1 June 1993, the Odisha Municipal Act, 1950 (OMA) was amended in 2007. The Odisha Municipal Corporation Act, 2003 (OMCA) was enacted to ensure devolution of powers and responsibilities to ULBs, in relation to the subjects listed in the Twelfth Schedule as detailed in **Part III**.

5.1.2 Trend of Urbanisation in Odisha

As per Census 2011, out of the total population of 4.20 crore of the State, 0.70 crore (16.67 *per cent*) reside in urban areas. The percentage growth of urban population in the decades 2001-2011 and 2011-2020 were 26.90 *per cent*⁶³ and 36.25 *per cent*⁶⁴ respectively. The increase in urban population was mainly due to better education, health and employment opportunities in the cities. Urban Odisha, faces multiple challenges, such as public health issues, poverty alleviation, waste management *etc.* due to rapid expansion of population. In this scenario, ULBs have an important role to play as most of these issues are best handled at the local level.

⁶³ Census 2011

⁶⁴ Manual of Solid Waste Management 2016

5.1.3 Category wise ULBs in Odisha

In accordance with the Odisha Municipal Act, ULBs in Odisha have been categorised on the basis of population. The constitution relating to ULBs inter-alia provides for three types viz. (i) Municipal Corporations for larger urban areas, (ii) Municipalities for smaller urban areas and (iii) Notified Area Council (NACs) for transitional areas. There are five Municipal Corporations, 45 Municipalities and 64 NACs, thus totalling to 114 ULBs in the State as detailed in **Appendix 5.2**. The ULBs are governed by the Odisha Municipal Act, 1950 and Municipal Corporation Act, 2003.

5.1.4 Broad framework of functions carried out by ULBs

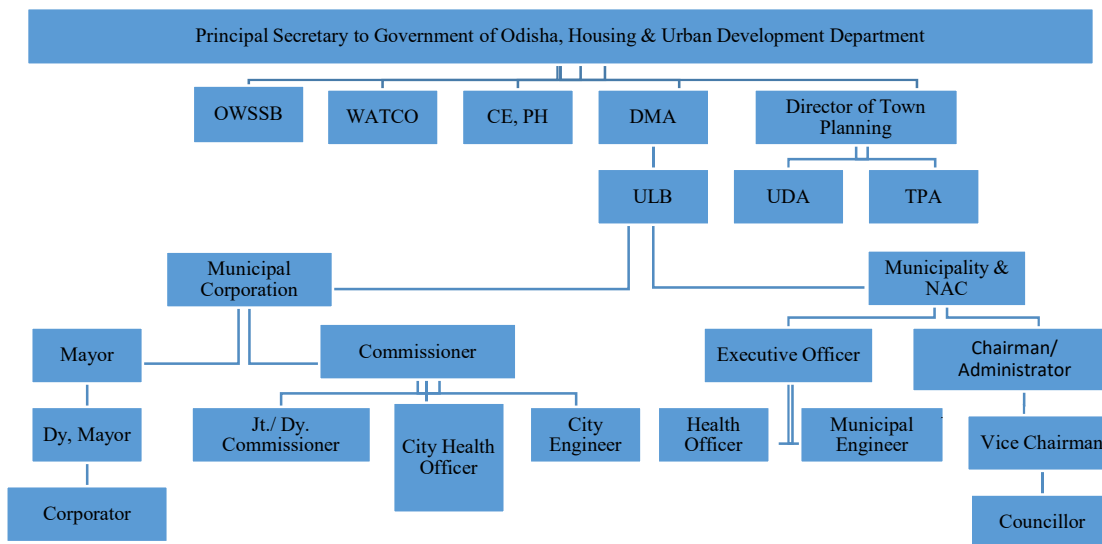
As per the 74th CAA, ULBs have to perform 18 functions, as mentioned in the Twelfth Schedule. The broad framework of functions carried out by the ULBs is depicted in the **Appendix-5.3**.

5.1.5 Organisational structure for Urban Local Self Government in Odisha

The Housing and Urban Development (H&UD) Department, Government of Odisha (GoO), is headed by Principal Secretary to the Government, assisted by the Directorate of Municipal Administration (DMA) (attached to the Department), Directorate of Town Planning (DTP) and Chief Engineer (CE), Public Health Engineering Organization (PHEO).

DMA regulates the functioning of all Municipal Corporations, Municipalities and NACs, in performing their enforcement and regulatory activities in the State. DMA coordinates various activities of the Municipal Corporations, Municipalities and NACs in the field. The Directorate has the responsibility to supervise the developmental functions of the ULBs, work out suitable human resource policies, exercise disciplinary control over the staff, monitor tax collection activities, lay down policies for transparency in expenditure, hear appeals against the decisions of ULBs, release Government funds to the ULBs, as well as to monitor the implementation of schemes and programmes. However, to deliver or facilitate urban infrastructure and services, the H&UD Department has other key agencies, such as the Water Corporation (WATCO), Odisha; CE/PHEO, Odisha; Odisha Water Supply and Sewerage Board (OWSSB); nine Urban Development Authorities (UDAs) and 20 Town Planning Authorities (TPAs) under DTP, Odisha, under its control. These functionaries act as parastatal agencies, directly accountable to the State Government and not the local Government. Further another organisation namely Odisha Livable Habitat Mission (OLHM) “JAGA” was registered under the Societies Registration Act, 1860 to transform slums into liveable habitats and to deliver other urban services. The details of parastatals and their functions are discussed in **Part-V**. The organisational structure, with regard to the functioning of ULBs in the State, is as indicated below:

Chart-5.1 ORGANISATIONAL STRUCTURE OF ULBs IN THE STATE



Part-II

This part describes the broad objectives of the Performance Audit, the source of Audit criteria used and the scope and methodology adopted for the Performance Audit.

5.2 Audit Framework

5.2.1 Audit Objectives

The broad objectives of the Performance Audit were:

- 1) To ascertain whether the basic framework for devolution of functioning was as per the 74th CAA.
- 2) To ascertain whether the devolution of funds to the ULBs has taken place as recommended by the Central Government and State Government.
- 3) To evaluate the actual extent of devolution of functions to the ULBs envisaged in the 74th CAA.
- 4) To assess whether the ULBs are able to carry out the functions devolved to them through adequate functionaries.

5.2.2 Audit Criteria

The following sources of audit criteria were used by Audit, for assessment of the extent of devolution:

- (i) 74th Constitutional Amendment Act, 1992;
- (ii) Odisha Municipal Act, 1950;
- (iii) Odisha Municipal Corporation Act, 2003;
- (iv) Odisha Municipal Accounting Rule, 2012;
- (v) Odisha Municipal Laws Amendment Act, 2015;

- (vi) Odisha Development Authorities Amendment Act, 2015;
- (vii) The Odisha Water Supply and Sewerage Act, 1991;
- (viii) Odisha Land Rights to Slum Dwellers Act, 2017;
- (ix) Central/State Finance Commission Report;
- (x) Report of the Second Administrative Reforms Commission; and
- (xi) State Government orders, notifications, circulars and instructions, issued from time to time.

5.2.3 Audit Scope and Methodology

The Performance Audit, covering the period from FY 2015-16 to FY 2019-20, was carried out in two spells, from December 2020 to April 2021 and July 2021 to September 2021, in 20 selected ULBs⁶⁵ of all three tiers, viz. Municipal Corporations, Municipalities and NACs, along with connected parastatals involved in the execution of devolved functions. The following functions/activities were selected for detailed checking.

- (i) Water Supply
- (ii) Public Health and Sanitation
- (iii) Solid Waste Management
- (iv) Property tax
- (v) Water Tax/Charges
- (vi) Roads and Bridges

Besides test-check of records in 20 selected ULBs out of 114 in the State, records in the offices of Principal Secretary, H&UD Department, DMA, CE/PHEO, WATCO, Works Department, OWSSB, UDAs and TPAs were also scrutinised.

An Entry Conference was held on 17 February 2021 with the Principal Secretary, H&UD Department, in which the audit objectives, criteria, scope and methodology, were explained. An Exit Conference was held on 18 April 2022 with the Principal Secretary to Government, H&UD Department wherein Audit observations were discussed. The views expressed at the meeting and the replies furnished by the Department were considered and incorporated in the report.

5.2.4 Acknowledgement

Audit acknowledges the cooperation and assistance extended by the State Government, DMA, CE, PHEO, WATCO, Works Department, OWSSB, UDA, TPAs and all the test-checked ULBs, in conduct of the performance audit.

⁶⁵ Balugaon NAC, Baragarh Municipality, Berhampur Municipal Corporation, Bhadrak Municipality, Bhawanipatna Municipality, Bhubaneswar Municipal Corporation, Cuttack Municipal Corporation, Dasapalla NAC, Jajpur Municipality, Jharsuguda Municipality, Kendrapara Municipality, Khurda Municipality, Konark NAC, Koraput Municipality, Puri Municipality, Ranapur NAC, Rayagada Municipality, Rourkela Municipal Corporation, Sunabeda Municipality and Vyasaganagar Municipality.

Part-III

In this part, the constitutional provisions of 74th CAA, compliances thereto by the State Government through enactment of State legislation and the functioning of the ULBs are discussed.

Out of the 18 functions to be devolved, ULBs in Odisha exercise no role in one function while all the other functions were either being partially carried out by ULBs, or the ULBs had overlapping jurisdictions with other parastatals, rendering truly decentralised governance a pipe dream.

Out of the total 114 ULBs, elections had not been held in 112 ULBs, with delays ranging from 41 days to 3,252 days as of March 2021. As such, Standing Committees and Ward Committees were not constituted in those ULBs leading to absence of community participation in local governance.

None of the test-checked ULBs had prepared their Development Plans, for inclusion in the comprehensive District Development Plan.

The need to seek approval of the District Administration for works to be taken up from own sources of ULBs, despite prior approval by the respective Councils, went against the autonomy of ULBs.

5.3 Planning for Compliance to provisions of the 74th CAA and functioning of ULBs

5.3.1 Assessment of State level legislations vis-a-vis 74th CAA

The 74th CAA introduced certain provisions relating to municipalities, vide Articles 243Q to 243ZD. The State Government, vide amendments to the OMA/OMCA, introduced provisions corresponding to the CAA provisions, as detailed in *Appendix-5.4*. Major provisions of the State legislations corresponding to constitutional provisions are detailed below:

- Article 243Q: -This article provides constitution of three types of municipalities. The State complied with this provision vide Section 4 of OMA 1950 and Section 3(1) of OMCA 2003.
- Article 243R: - All the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration etc. as nominated by Government. The State brought this provision in Section 8 of OMA 1950 and Section 6 of OMCA 2003.
- Article 243X: - This Article provides for State Government to delineate power to impose taxes and sources of funds of the Municipalities. The State made provision vide Section 131 of OMA 1950 and Section 191 and 192 of OMCA 2003.
- Article 243Y (read with Article 243 I): - State Government shall constitute Finance Commission to review the financial position of the municipalities, allotment of funds and distribution between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and duties that are charged by the State Government. Section 120A of OMA 1950 and Section 146 of OMCA 2003 empowers the state for constitution of the Finance commission.

- Article 243ZA (read with Article 243K): - The superintendence, direction and control of all procedures of elections of the Municipalities shall be vested in the State Election Commission (SEC). In this regard, Section 11A of OMA 1950 and Section 62(1) of OMCA, 2003 vested the power to conduct of all elections in the SEC.

The State Government had complied with the provisions of the 74thCAA through OMA 1950 and OMCA 2003 and necessary amendments made from time to time. However, compliance to the constitutional provisions by law does not guarantee effective decentralisation on ground, unless it is followed by effective implementation. Audit observed that the legal provisions were not backed by decisive actions, resulting in a situation in which the spirit of the 74th CAA has not fructified. This was especially true in case of provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, which are discussed in the subsequent Chapters/Paragraphs.

In reply, the Government accepting the fact, stated (May 2022) that some Acts and Rules are further being amended by the State to empower the ULBs to act as an effective local self-government as per the recommendation of 2nd Administrative Reforms Commission and 74th CAA.

5.3.2 Devolution and implementation of functions

The 74th CAA sought to empower ULBs to perform functions and implement schemes in relation to 18 functions specified in the Twelfth Schedule. Each State was expected to enact legislation to implement the amendment. The State Government claims to have devolved almost all functions to ULBs as per 74th CAA. However, as per the OMCA, 2003 10 functions were obligatory, seven functions were discretionary and one function is neither obligatory nor discretionary, as detailed in *Appendix-5.5*.

Out of 18 functions to be transferred, the State Government claimed that almost all functions were transferred. Audit observed overlapping in discharge of the functions between ULBs and parastatals/ government departments. Out of 18 functions, the ULBs had no role in respect of one function namely fire service; ULBs were simply implementing agencies for three functions viz. (i) Planning for economic and social development, (ii) Urban poverty alleviation, and (iii) Safeguarding the interest of weaker sections of society including the handicapped and mentally retarded; ULBs had dual role in one function of Roads and bridges; and ULBs had minimal role and/or overlapping jurisdiction with State Government departments and/or parastatals in respect of 13 functions, viz. (i) Urban planning including town planning, (ii) Regulation of land-use and construction of buildings, (iii) Water supply for domestic, industrial and commercial purposes, (iv) Public health, sanitation conservancy and solid waste management, (v) Urban forestry, protection of the environment and promotion of ecological aspects, (vi) Slum Improvement and up-gradation, (vii) Provision of urban amenities and facilities such as parks, gardens, play grounds, (viii) Promotion of cultural, educational and aesthetic aspects, (ix) Burials and burial grounds, cremations, cremation grounds and electric crematoriums, (x) Cattle pounds, prevention of cruelty to animals, (xi) Vital statistics, including birth and death registrations, (xii) Public amenities, including street lighting, parking lots, bus stops and public conveniences and

(xiii) Regulation of slaughter houses and tanneries. Details of functions with corresponding jurisdiction of ULBs is given in *Appendix-5.6*.

Details of implementation of the above functions, in the test-checked ULBs are given in *Appendix-5.7*.

In reply, the Government stated (May 2022) that almost all functions under Twelfth Schedule have been devolved to the Municipalities. However, it did not furnish documentary evidence of devolving the functions except three⁶⁶.

Regarding no role of ULBs in Fire Services, Government stated (May 2022) that as Fire Services required high technical skills with high end machinery and law and order situation, the service has been vested with Home Department. However, Municipalities have been empowered to utilize the Municipal Fund for establishment and maintenance of a fire brigade as per Section 117 (xxx) of OMA. The reply is not tenable as none of the test checked ULBs has established fire brigade.

In respect of functions where ULBs are functioning as simply implementing agencies, State Government stated that being the third-tier Government, local body needs to take necessary action as per operational guidelines of the scheme or programme. The reply of Government confirmed that ULBs were acting as only implementing arm of Central and State Government schemes.

As regards dual role of ULB in execution of Roads and Bridges, State Government stated (May 2022) that the municipal roads within the area of an ULB are executed by the ULB and other roads such as National Highways, State Highways etc., are transferred to other Departments. The reply is not acceptable as Audit found instances of transfer of ULB roads which were not maintained by Works Department.

In respect of minimal role/overlapping functions of ULBs Government stated (May 2022) that some functions are being performed by the parastatals and some functions are being performed by the ULBs. The fact, however, remained that only some components of three out of 13 functions are being performed by the ULBs.

5.3.3 Institutional mechanism for empowerment of Urban Local Bodies

Discharge of devolved functions can be effective only when appropriate institutions are established and adequately empowered. The 74th CAA provided for establishment of institutional mechanisms as described below.

5.3.3.1 State Election Commission

Article 243ZA read with Section 12 of OMA 1950 and Section 62(1) OMCA 2003 states that the powers of the State Election Commission (SEC) include superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to ULBs. The 2nd Administrative Reforms Commission, constituted by GoI, had recommended entrustment of the task of delimitation and reservation of wards to the SECs, which was accepted by GoI.

⁶⁶ (i) Public health, sanitation conservancy and solid waste management (Odisha Gazette Resolution dated: 03.11.2006) (ii) Planning for economic and social development (Odisha Gazette Resolution dated: 03.11.2006) and (iii) Regulation of land use and construction of buildings (H&UD Order No.1781, dated: 19.01.2015)

Contrary to the above recommendation, the power of delimitation of wards, reservation of seats for the council and rotation policy of seats for the posts of Mayor/Chairman, Deputy-Mayor/Vice-Chairman and wards were vested with the Government of Odisha.

In reply, Government stated (May 2022) to have noted the observation of Audit.

Recommendation:

- 1. Government may entrust task of delimitation to the State Election Commission as per the recommendation of the 2nd Administrative Reforms Commission.***

5.3.3.2 Status of elections and formation of councils

Article 243 U(3)(a) para 3(f) of the 74th CAA and provisions of the OMA and OMCA, stipulate a fixed tenure of five years for the Corporators/Councillors of ULBs from the date of the first meeting. As such, the fixed tenure of the Municipality/Corporation is five years and re-elections are to be held before the expiry of its duration. If a municipality is dissolved before the expiration of its duration, election is to be held within a period of six months of its dissolution.

Audit observed that, out of the total 114 ULBs, elections were held (April 2018) only in two ULBs *i.e.*, Hindol NAC & Atabira NAC and Councils were existing only in these ULBs. However, (i) in regard to 106 ULBs, which had been dissolved/where the Council's term had expired between April 2016 and January 2021, the last elections had been held between April 2011 and January 2016 and (ii) 6 ULBs had been newly constituted, between April 2012 and December 2017.

Since the dissolution/term expiration/new creation of these councils, elections had not been held in 112 ULBs, for periods ranging from 41 days to 3,252 days (nine years), as of March 2021 as detailed in ***Appendix-5.8***.

As there were no councils in 112 ULBs, the involvement of elected representatives in decision making and implementation of functions, which is essential for decentralized governance, is absent. Further, a ULB without a council is handicapped without proper representation for the needs of the citizens. This affects the discharge of functions in matters of policy involving public interest and specific requirements at the grassroots level.

In reply, the Government stated (May 2022) that the election process was delayed due to court cases and COVID-19 pandemic. However, due to non-existence of elected body in the ULB, the Department had constituted Ward Office and appointed Ward Officer. The Ward officer addressed the local needs of the citizen. Development activities were finalized in consultation with the local SHGs, Slum Dweller Association, and Federation of Residential Association etc. The reply is not acceptable as Audit was not provided with any records regarding involvement of the local SHGs, Slum Dweller Association, and Federation of Residential Association in matters of policy making and specific requirements at grass root level in any test checked ULBs. Thus, non-conduct of election of ULBs defeated the spirit of 74th CAA and adversely affected the decentralized governance as follows.

- **Article 243R** stipulates the composition of Municipalities. As per OMA and OMCA, the Municipalities and Corporations consist of elected Councillors /Corporators. The Chairman/Mayor is elected from amongst the Councillors/Corporators and is assisted by Standing Committees. The Corporations have 10 Standing Committees each, the Municipalities and NACs have five Standing Committees each. However, due to non-conduct of ULB elections between 03.04.2012 and 19.01.2021, no Council and Standing Committees existed in 112 ULBs, for addressing issues at the grassroots level.

In reply, Government stated (May 2022) that as on date 110 ULBs have elected bodies except four ULBs in which election could not be held due to sub-judice status of the matter in the Hon'ble High Court. The fact, however, remained that due to non-conduct of ULB elections no council and standing committee existed in 112 ULBs for impermissible period ranging from 41 to 3252 days (nine years) as March 2021 as detailed in *Appendix-5.8*.

- **Article 243S** provides for Ward Committees in all Municipalities with a population of three lakh or more. As per Section 21 of the OMCA, Ward Committees shall be constituted by all the Municipal Corporations. The Ward committees were to act as a bridge between the municipal body and citizens by increasing proximity between the elected representatives and citizens and provide a space for citizen participation in local level planning.

Audit observed that Ward Committees had not been constituted in any of four⁶⁷ sampled Municipal Corporations. This defeated the objective of facilitating community participation in local governance.

In reply, the Government stated (May 2022) that in absence of elected bodies Ward Officers were appointed in August 2019 to address the local needs. However, the fact remained that there was no mechanism from the date of expiry of terms of the ULBs up till August 2019 to address the local needs.

Recommendation:

- 2. In order to enable ULBs to function as institution of effective democratic units of local Self-Government, the State Government may consider for timely conduct of elections.***

5.3.3.3 District Planning Committees

Article 243ZD provides for the constitution of District Planning Committees (DPCs), for consolidation of development plans prepared by the Panchayats and the Municipalities. The District Development Plan (DDP) is to be prepared by the District Planning Committee for the district as a whole by collecting information/data/statistics from all departments and is to be forwarded to the State Government for integration into the State plan. Audit observed that,

- Though DPCs were constituted at the district level, none of the test-checked ULBs had prepared their comprehensive Development Plans for submission to DPCs.

⁶⁷ Bhubaneswar Municipal Corporation, Cuttack Municipal Corporation, Berhampur Municipal Corporation and Rourkela Municipal Corporation.

- The 74th CAA provides for representation of elected members of municipalities in the DPCs. As there was no council in 112 ULBs, there was no elected representative from the ULBs in the DPCs.

Non-preparation of comprehensive Development Plans by Municipalities, not only implied a failure to address local needs and matters of public interest, but also constituted a violation of the provisions of the 74th CAA.

Accepting the fact, Government stated (May 2022) that as election process has been completed in 111 ULBs⁶⁸, the elected representatives will become members of DPC very soon. The fact remained that elections in four ULBs are yet to be conducted.

5.3.3.4 State Finance Commission

Article 243-I makes it mandatory for the State Government to constitute a Finance Commission within one year of the commencement of the 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.

(i) Delay in constitution of the State Finance Commission

The 73rd and 74th CAA came into force on 1 June 1993. Hence, the setting up of first SFC became due on 31 May 1994, for all States, with subsequent SFCs to be set up thereafter at the expiry of every fifth year. The details of constitution of SFC is given in *Appendix-5.9*. There was delay of 903 days in constitution of 1st SFC which had resulted in consequential delay in constitution of SFCs as per provision.

Though the 6th SFC was due from 1st June 2019 as per constitutional provision, the recommendations of 5th SFC were being implemented for the period from FY 2020-21 to FY 2024-25. Thus, it was observed that there is considerable divergence between the constitutional provisions regarding setting up of SFCs by the State and the actual formation of SFCs and delay in days with respect to previous SFC ranged between 49 and 580 days during the period 2003 to 2018.

In reply, the Government stated (May 2022) that as the SFC was constituted by the Government in Finance Department, H&UD Department had no role to play.

Recommendation:

3. Government may constitute the State Finance Commissions immediately at the expiry of every five years.

(ii) Non-implementation of recommendations of State Finance Commission

Besides recommendations relating to devolution, SFCs have recommended several institutional measures that would strengthen ULBs in long term. An illustrative list of recommendations, where action was yet to be initiated is indicated below:

⁶⁸ Election process completed in 111 ULBs including one newly created ULB (Remuna NAC)

- ULBs still require more liberty to function within their legitimate domain of operations, without waiting for Government's approval.
- Municipal cadre should be put in place as quickly as possible. The Present Local Fund Service (LFS) and non-LFS staff have not been replaced by the organized municipal cadre.
- ULBs need to develop Integrated Urban Accessibility Planning which must include (i) Data Collection and Mapping (ii) Analyzing the magnitude of the problems and (iii) type of intervention required.
- Formulation of a policy for land transfer to ULBs.
- Setting up of a state level institution with professional experts to impart training regularly to the manpower and elected representatives engaged in urban administration.
- Line agencies like Development Authorities, Sewerage Board, PHEO, Director, Town Planning etc., need to put in place a framework of guidelines relating to functioning with ULBs, which is yet to be formulated.
- Urban Open Space Management Planning should form an important activity of the ULB. State Government needs to formulate a suitable policy, in the light of "Urban Greening Guidelines, 2014" of GoI, which is yet to be done.
- Should have drainage master plans, which were absent in most of the sampled ULBs.
- Management of markets and daily *haats*⁶⁹ should remain with the ULBs within which such markets exist.

Implementation of the above recommendations would have contributed significantly to the realisation of the objectives of the 74th CAA. Non-implementation was a setback to the process of achieving genuine decentralisation.

Regarding liberty to function within their legitimate domain of operations, Government stated (May 2022) that Odisha Municipal (Amendment) Rule, 2017 has been enacted wherein the Municipal Council has been empowered to approve all projects taken from own source/other source. The reply was not acceptable as ULBs were submitting their Action Plans, SWM bye-laws and Annual Budgets for the approval of Government/District Administration as commented in **Paragraphs 5.3.3.7, 5.3.3.8(i) and 5.4.2** of this report.

In respect of Municipal Cadre, Government stated (May 2022) that Odisha Municipal Service Act 2016 has been enacted and published in June 2016 for dedicated Municipal Cadre. The reply is not acceptable as all the cadres are not filled up and officials are posted on deputation from other departments as mentioned in **Paragraph 5.6.2.2**.

⁶⁹ Open-air vendor stalls

Government accepting the Audit observations stated (May 2022) that the Department is taking necessary steps for compliance of the recommendations of SFC.

Recommendation:

- 4. To strengthen ULBs in long term, Government may consider for taking appropriate actions on the recommendations of SFC, in regard to institutional measures.**

5.3.3.5 Non-establishment of Central Valuation Board on Property Tax

Article 243X of the Constitution provides for levy of tax by ULBs for local-governance. To exploit the potentiality of property tax, the Thirteenth Finance Commission (TFC) had recommended that States should establish a Central Valuation Board, on the lines of the West Bengal Central Valuation Board in order to standardise property assessment and valuation. The Board was to assist all municipalities and municipal corporations in the State in putting in place an independent and transparent procedure for assessing property tax.

Contrary to the Constitutional provision and recommendation of the TFC, the Central Valuation Board on property tax was not established in the State. Consequently, ULBs lacked technical guidance for the assessment and revision of property tax. Out of the 20 test-checked ULBs, Audit observed that, in six⁷⁰ ULBs, though the last revision of property tax had been done between April 2004 and April 2013, further revisions had been delayed by three to 12 years as of March 2021. In one ULB, the last revision had been made in April 2020, while the other 13 ULBs did not furnish any records relating revision of Property Tax. The absence of a Valuation Board for technical guidance, besides leading to lack of uniformity in collection of holding tax, also adversely affected the own revenue generation of the ULBs as discussed in **Paragraph 5.4.1.1(i)**

In reply, Government stated (May 2022) that a Valuation Organisation has been established to assist all ULBs in the State to assess the property tax. The reply is not tenable as despite establishment of the Valuation Organisation, the revision of property tax was not done in uniform manner at regular intervals.

Recommendation:

- 5. The Central Valuation Board may be established in order to enable ULBs to revise their tax structure regularly and to provide technical expertise to ULBs.**

5.3.3.6 Overriding Power of the State Government over ULBs

As per Article 243W of the Constitution, the Legislature of a 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-government. Audit observed that the State Government had overriding powers over ULBs, which was against the spirit of the constitutional amendment. A few provisions are indicated in **Appendix-5.10**.

⁷⁰ (i) BMC(01.01.2005) (ii) Jajpur Municipality(01.04.2004) (iii)Kendrapara Municipality(29.03.2006) (iv) Konark NAC(01.04.2013) (v) Puri Municipality(01.04.2006) (vi) Vyasagar Municipality(01.04.2011)

In reply, the Government stated (May 2022) that the State Government is empowered to frame Rules under Section 287 of OMA, 1950 and Section 656 of OMCA, 2003 as per the power conferred under Article 243W. However, the fact remains that actual devolution of powers has not been done by the State Government, which is against the spirit of 74th CAA.

5.3.3.7 District Urban Development Agency

The District Urban Development Agency (DUDA) was constituted (May 1999) under the control of the State Urban Development Agency (SUDA) (December 1990), to develop, formulate and implement Central and State Government schemes in the Municipal areas, in co-ordination with ULBs. The Project Director, DUDA, was to act as the main link between the ULBs and the district level government. The ULBs were required to prepare plans for development works to be taken up under various funds, including municipal funds. These plans were to be placed before the respective Councils, for approval. However, the ULBs are submitting the plans approved by their councils to DUDA for approval. The system of seeking approval by DUDA, after approval by the Council of ULB, is against the intention of the 74th CAA to provide autonomy to ULBs in the democratic framework of the country.

In reply, Government stated (May 2022) that the Odisha Municipal (Amendment) Rule, 2017 has been enacted wherein the Municipal Council has been empowered to approve all Projects taken up from own source/other source. The reply is not acceptable as all the plans after approval of council were sent to the DUDA for approval.

5.3.3.8 Other Audit findings on sampled functions

(i) Solid Waste Management

The Municipal Solid Waste Management Manual and Solid Waste Management Rules, 2016, stipulate that the ULBs shall:

- Prepare a solid waste management plan, as per state policy and strategy, on solid waste management, within six months from the date of notification of state policy,
- Frame by-laws for waste management
- Make arrangement for collection, segregation, storage, transportation and disposal of waste
- Construct, commission and operate waste management projects.
- Monitor and evaluate the waste management system

It was noticed that all the test-checked ULBs had prepared their model bye-laws on SWM and submitted them to the State Government, for approval and publication through a Gazette notification. Check of records produced to Audit in test checked ULBs revealed the following deficiencies:

- No action plan to handle and clear sporadic wastage dumps on the roadside, corners of parks, water bodies, vacant sites etc. was prepared.

Government stated (May 2022) that ULBs have notified Solid Waste Management bye-laws wherein it is instructed that no waste generator shall

throw or bury solid waste generated by them on streets, open public spaces outside their premises or in drains or water bodies. The reply is not acceptable as Government has not prepared any State policy and action plan for waste management.

- No assessment, through survey, had been made for the generation and disposal of waste and no periodical gap analysis was done.

Government stated (May 2022) that assessment of generation & disposal of solid waste and gap analysis were done through sample survey by the ULBs. The reply is not acceptable as the ULBs had not conducted any survey on waste generation during the period 2015-20 but adopted population estimation/per capita method.

- Segregation and disposal of bio-medical waste, as per norms was not being done in ULBs of BMC, CMC and Khordha (N), BeMC and Kendrapara.

Government stated (May 2022) that collection, segregation and disposal of Bio-medical waste were being implemented by Health & Family Welfare Department.

- Normative standards, prescribed to assess manpower requirements for solid waste management, were not being followed in BMC.

Government stated (May 2022) in reply that human resource has been deployed by the BMC for solid waste management as per Guidelines. However, Government had not furnished any documentary evidence in support of requirement and actual staff position for waste management in BMC.

- Fire management, at dumping yard sites, was not being done.

Government stated (May 2022) that steps have already been initiated for bio-remediation of the existing dumping yards in the ULBs. However, fire management requires more comprehensive steps.

(ii) Execution of Road works by both-ULBs and Works Department

As per the 74th CAA, ULBs have to perform the function of “Roads & Bridges”. As per Section 122 of the OMA, the State Government may, from time to time, by notification, exclude the operation of any such public road by ULBs, for repair and better maintenance and hand it over to the Works Department.

It was observed that, on the recommendations of the concerned ULBs, the H&UD Department had proposed (April 2013) transfer of 221 roads under 40 ULBs of the State to the Works Department, for development and repair/maintenance. Out of these, the Works Department had accepted only 108 roads under 37 ULBs.

It was further observed that 98 roads, in 14 out of the 20 test-checked ULBs, had been proposed by the H&UD Department, ULBs and District Level Monitoring Committees, for transfer to the Works Department, of which 42 roads were accepted by the Works Department as detailed in *Appendix-5.11*.

In reply, Government stated (May 2022) that as the roads were transferred to Works Department, H&UD Department had no role to play. The reply is not acceptable as all the roads transferred from H&UD Department were not

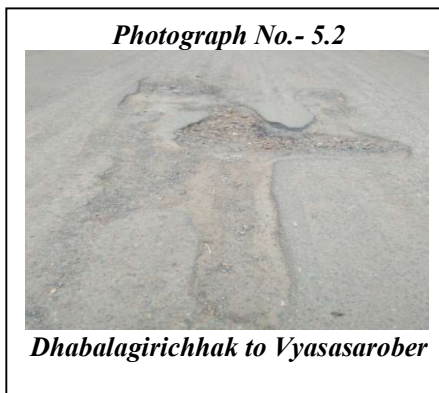
accepted by Works Department, as a result of which, four roads were not maintained by any of the Departments.

Scrutiny of records and joint site inspection of seven roads, within the jurisdiction of the test-checked ULBs revealed the following:

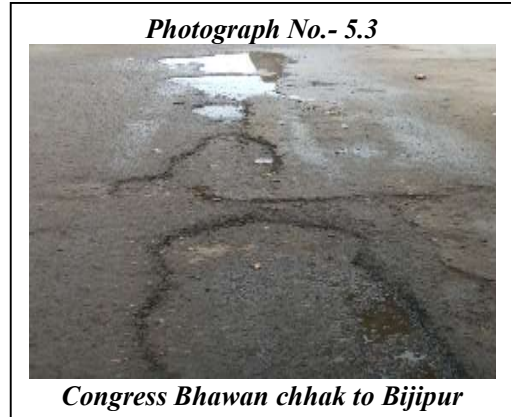
(iii) Non-maintenance of roads by ULBs – Roads proposed for transfer from ULBs but not accepted by Works Department

As discussed above, 92 urban roads were proposed for transfer to the Works Department, but 56 roads were not accepted by the Department. Hence, the ULBs were required to maintain those roads. Audit, however, observed that, in some cases, after transfer of the roads to the Works Department had been proposed, the ULBs did not undertake the repair and maintenance of these roads, even after non-acceptance of these roads by the Works Department. Site verification conducted on four such roads revealed the following:

- H&UD Department had transferred (May 2015) a road from Tinimuhani to Ichhapur, of the Kendrapara Municipality, to the Works Department, for repair and maintenance. Till date (April 2021), the R&B Division, Kendrapara, under the Works Department, has not taken over this road, in its jurisdiction. The repair & maintenance of the road is, at present, not being looked after by any department/ agency. Damages/ potholes were noticed on the road, during joint physical verification.
- A road from Dhabalagiri Chhak to Vyasasarobar Chhak, near Mundamal via Jodabar village was proposed for transfer (January 2019) by the Vyasagar Municipality, but was not taken over by the Panikoili R&B Division. The road is neither being maintained by the Vyasagar Municipality nor by the Panikoili R&B Division. Damage to the road as well as potholes were noticed at 00 m, 300 m, 400 m, 750 m, 900 m and 950 m near Dhabalagiri Chhak.



- A road from Congress Bhawan Chhak to Bijipur Chhak, under BeMC, was transferred (April 2013) to the Works Department by H&UD, but was not accepted by the R&B Division, Ganjam-I, under the Works Department. Maintenance and development of the road has not been done since May 2013. During joint site verification, potholes were noticed on the road.



- As per resolutions passed (September 2019) in the Bhadrak Municipality, a road, running from NH 16 to Shani Temple via New Bus Stand, was to be transferred to the Bhadrak R&B Division for development and repair/maintenance. The road was not yet transferred (July 2021) to the Works Department. During joint site visit of the road, it was observed that the road required repairs to patches of damaged/ uprooted/ scarified cement concrete, at several places.

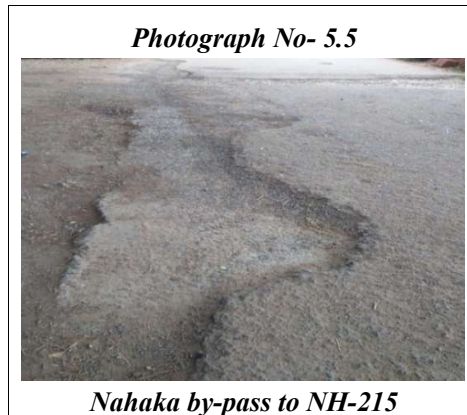


In reply, Government stated (May 2022) that the ULBs are maintaining the urban roads in phased manner utilizing the grant received under Finance commission and own revenue. The fact, however, remained that Audit came across the instances of non-maintenance of roads by ULBs for more than two to eight years even after non-acceptance of the proposal for transfer of roads to Works Department.

(iv) Non-maintenance of roads by the Works Department – Roads transferred from ULBs and accepted by Works Department

As discussed above, out of 92 urban roads proposed for transfer to the Works Department by H&UD Department, only 42 roads were accepted by the Department. Out of these 42 roads, site verification conducted on such roads revealed the following:

- A road from Nahaka by-pass to NH-215, near Kanheipur via Chandama Hingula Road, within the jurisdiction of the Vyasagar Municipality, was transferred (July 2014) to the R&B Division, Panikoili, and was accepted (July 2014) by the Works Department. During physical verification (August 2021) of the road, damages and potholes were noticed, indicating that, despite transfer of roads to the Works Department, the roads were not properly maintained.



- A Road leading from NH-26 to SH-16 via Bhawanipatna Railway Station, in Bhawanipatna ULB, was transferred (May 2014) by the Bhawanipatna Municipality, to the Works Department. Despite transfer of the road six years ago, it has not yet been developed. The condition of the road is shown in the adjoining photograph.



- The road from Purunabazar Chhak to Sangat Chhak, via Bokhari Baba Astana & Bahali Chhak, which is within the area of the Bhadrak Municipality, was transferred (November 2014) by H&UD and taken over (February 2015) by the Works Department. However, the road has not been taken into the books of the Department. During joint inspection of the road, it was seen that, from Sangat Chhak to Bahali Chhak, the road was in bad condition as shown in the photograph.



Such non-maintenance revealed that the ULBs were not made capable enough to take care of their needs and were dependent on existing structure which was found to be non-responsive.

In reply, the Department stated (May 2022) that information in this regard had been sought from Works Department and compliance will be submitted after receipt of the same.

Recommendation:

6. **Government may establish an independent assessment mechanism for implementation of road works in ULBs.**

Part-IV

This part deals with the management of the financial resources of the ULBs. ULBs were largely dependent on fiscal transfers and the shortfalls in fiscal transfers were mainly due to stagnant own revenue generation and non-fulfillment of other conditions like holding of elections to the ULBs, furnishing of audited accounts and achievement of service level benchmarks. Non-revision of tax rates, non-collection of tax *etc.*, also contributed to lower revenue generation.

Wide variation between budget estimates and actual receipt of funds and expenditure, was evidence of unrealistic budget preparation.

5.4 Financial Resources Management of Urban Local Bodies

Sustainable financing is paramount in ensuring effective discharge of any function. The devolved functions can be carried out effectively by ULBs only when they are supported with sufficient financial resources. Predictable fiscal transfer to ULBs needs to be ensured through a robust mechanism *viz.*, compliance with the State and Central Finance Commission recommendations, timely release of funds based upon these recommendations and access to own sources of revenue, including the power to levy as well as effect collections, from specific revenue streams.

5.4.1 Sources of Funds in ULBs

The details of availability of funds with ULBs in the State, for the period from FY 2015-16 to FY 2019-20, is indicated in the Table below:

Table 5.1: Funds available with ULBs in the State for the period from FY 2015-16 to FY 2019-20

(₹in crore)

Year	Grant					Devolu- tion of Funds ⁷¹	Assigned Revenue ⁷²	Own Revenue			Total Funds	Percent of own revenue against Total Funds
	4 th SFC	14 th CFC	State Schemes	Central Schemes				Tax	Non- Tax	Total		
				State Share	Central Share							
2015-16	59.61	162.44	0.00	118.95	37.83	164.60	641.02	56.89	96.96	153.85	1,338.30	11.49
2016-17	80.48	299.52	0.00	14.37	41.56	164.60	704.00	82.89	122.50	205.39	1,509.92	13.60
2017-18	178.10	258.84	633.42	89.92	17.05	164.60	773.24	118.15	151.26	269.41	2384.58	11.30
2018-19	180.94	292.73	448.98	13.82	57.00	164.60	850.34	104.38	125.54	229.92	2238.33	10.27
2019-20	184.08	426.38	400.00	476.51	114.77	164.60	935.10	144.29	173.66	317.95	3019.39	10.53
Total	683.21	1,439.91	1,482.40	713.57	268.21	823.00	3,903.70	506.60	669.92	1176.52	10,490.52	11.22

(Source: Data furnished by H&UD Department)

⁷¹ Devolution of fund is the funds recommended by the State Finance Commission as a right of local bodies from State resources on certain agreed proportion and principles and to be used as per the own priority and decision of the local bodies.

⁷² Assigned Revenue is the revenue assigned by the State to the ULBs out of the Entry Tax collected by the State Government.

5.4.1.1 Fiscal Transfer to Urban Local Bodies

Funds were devolved to ULBs through transfer by the Central and State Governments in the form of grants. As can be seen from the above table, fiscal transfers from the Government comprised the major portion of the funds of ULBs (averaging 88.78 *per cent*) in the state, during the period from FY 2015-16 to FY 2019-20. Shortcomings under fiscal transfers are as discussed below:

(i) Low generation of own revenue

The consolidated year-wise figure of the total funds position in all ULBs was not furnished to Audit. However, data furnished by the H&UD Department revealed that the own revenue of the ULBs in the State was only ₹1,176.52 crore, as against the total funds availability of ₹10,490.52 crore. This constitutes only 11.22 *percent* of the total funds during FYs 2015-16 to 2019-20. Own revenue generation by ULBs varied from a meager 10.27 to 13.60 *percent* of the total funds available during the said period. This was mainly due to lack of adequate manpower for collection of taxes, lack of timely revision of taxes, laxity in assessment of tax revenue and inadequacies in the collection of non-tax fees as discussed in **Paragraphs 5.3.3.5** and **5.6.2.1**.

Further, in absence of an effective Central Property Valuation Board in the State, as per the recommendation of the 4th SFC, the revenue potential of the ULBs could not be increased by means of periodic revaluation of properties, which has been pending for a long time.

In reply, Government stated (May 2022) that for collection of own revenue H&UD Department is taking different actions such as (i) organising Municipal Premier League on collection of own revenue in competitive manner with commendation and award for best performing ULBs, (ii) allocation of certain percentage against the collected revenue to Jalasathi & other SHGs and (iii) establishment of a valuation organisation to assist all ULBs in the State to assess the property tax. However, fact remains that own revenue constituted a mere 11.22 *per cent* of the total funds during 2015-16 to 2019-20.

Recommendation:

- 7. ULBs need to assess and explore ways for generating own revenue for their self-sustenance.**

(ii) Response of the State Government to SFC recommendations

As per the Action Taken Report (ATN) on SFC recommendations, published by the Finance Department, GoO, recommendations and suggestions pertaining to institutional and structural strengthening, resource generation and legal hurdles, as well as general issues, were being examined by the State Government in detail. The respective Departments were to examine such recommendations and suggestions on merit and take appropriate follow-up action, within a stipulated time period, in consultation with a High Level Monitoring Committee. As such, the State Government may accept the recommendations of the SFC *in toto* or with certain modifications.

Audit observed, in this regard, that the State Government had accepted some of the recommendations with modifications, while action was yet to be initiated on other recommendations. The SFC-wise important recommendations and actions

taken by the State Government, in regard to transfer of funds, are given in **Appendix-5.12**.

In reply, Government stated (May 2022) that the State Government has accepted all the recommendations, which are practicable for implementation and act on the basis of suggestions made by the different State Finance Commissions from time to time. However, the fact remained that Government had accepted some of recommendations of SFC with modification and taken no action in respect of other recommendations.

(iii) State Finance Commission Grants - Short release of funds

As per the 74th CAA, the SFC has to be constituted by the State Government. SFC, in its report, recommends the quantum of funds to be released to the ULBs. Thereafter, the State Government is required to consider the recommendations for its acceptance and, upon acceptance, release grants to the ULBs. Grants released on the recommendations of SFC constitute one of the sources of finances of ULBs.

It was, however, noted that the State Government had not been releasing the SFC grants in full. Short release of funds, under SFC grants, is indicated in the Table below:

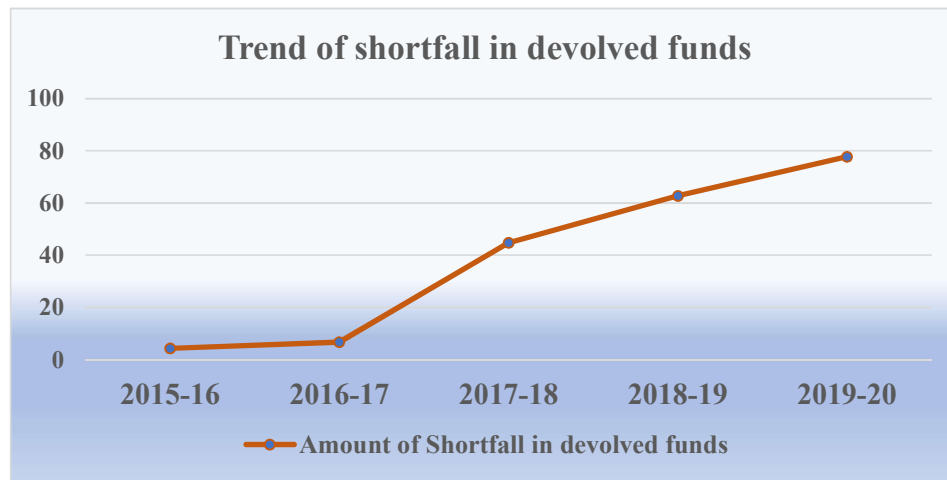
Table.5.2: Short release of funds by the State Government to ULBs under SFC grants
(₹in Crore)

Financial Year	Devolution of Funds, as per the recommendations of SFC				
	Total net tax revenue of the State	Devolution of funds recommended by SFC (0.75 per cent of net tax revenue of the State)	Amount of Funds disbursed to ULBs	Shortfall of funds devolved	Percentage of shortfall
2015-16	22,526.96	168.95	164.60	4.35	2.57
2016-17	22,852.39	171.39	164.60	6.79	8.63
2017-18	27,913.81	209.35	164.60	44.75	21.38
2018-19	30,318.33	227.39	164.60	62.79	27.61
2019-20	32,315.18	242.36	164.60	77.76	32.08
Total	1,35,926.67	1,019.44	823.00	196.44	19.27

(Source: Director of Municipal Administration & State Finance Commission Report)

Thus, during the period from FY 2015-16 to FY 2019-20, despite the recommendations of the SFC, the State Government released funds uniformly to ULBs, without assigning any reason. The short fall in devolution of funds to ULB by the State Government was in an increasing trend as shown in chart below:

Chart: 5.2 Short fall in devolution of funds to ULB by the State Government



In reply, Government stated that 4th SFC had recommended for transfer of fixed amount of ₹164.60 crore per annum. Accordingly, Government transferred the amount for the period of 2015-20.

The reply is not acceptable as the SFC had recommended devolution of fund to ULBs at the rate 0.75 per cent of net tax revenue of the State and the State Government had also accepted the recommendation.

(iv) Fourteenth Central Finance Commission- Short release of Performance Grants and Basic Grants

The 14th Central Finance Commission (CFC) had recommended Performance Grant of ₹354.51 crore to the ULBs in Odisha, subject to the following issues being addressed: (i) making available reliable data on the receipts and expenditure of local bodies, through audited accounts and (ii) improvement in generation of own revenue. In addition, ULBs were required to measure and publish service level benchmarks for basic services.

Table 5.3: Release of grants recommended by the 14th CFC

(₹in Crore)

Year	Grant Recommended		Grant Received		Grant Released to ULBs		Short receipt of Grants by ULBs	
	Basic	Performance	Basic	Performance	Basic	Performance	Basic	Performance
2015-16	170.10	Nil	162.44	Nil	162.44	Nil	7.66	Nil
2016-17	235.54	69.52	231.26	68.26	231.26	68.26	4.28	1.26
2017-18	272.14	78.67	258.84	Nil	258.84	Nil	13.30	78.67
2018-19	314.82	89.34	292.73	Nil	292.73	Nil	22.09	89.34
2019-20	425.39	116.98	425.39	Nil	426.38	Nil	Nil	116.98
Total	1,417.99	354.51	1,370.66	68.26	1,371.65	68.26	47.33	286.25

(Source: Director of Municipal Administration)

Against the recommendation for Performance Grant of ₹354.51 crore, during 2016-17 to 2019-20, the State received only ₹68.26 crore during the financial year 2016-17, resulting in short receipt of central grant of ₹ 286.25 crore. This was due to stagnant 'own revenue' generation and non-fulfillment of other conditions like holding of elections to the ULBs, furnishing of audited accounts

and achievement of service level benchmarks in water supply connections, solid waste management and sewerage connections.

In reply, Government stated (May 2022) that the claim of Performance Grant of ULBs had been submitted to GoI for release of grants. However, response in this regard had not been received yet. The reply is not acceptable as only few of the 114 ULBs were eligible for the Performance Grant.

Recommendation:

8. **Government may consider timely release of balance SFC grants and take necessary steps to obtain the Performance grants from the Central Government in order to augment the financial resources of ULBs, for meeting their expenditure.**

(v) Pending collection of holding tax

As per Section 131 of OMA, 1950, holding tax is a tax levied on the owner of a property (building) situated within the Municipality, assessed based on its annual value. Details of holding tax collections in regard to the test checked ULBs during FY 2015-16 to FY 2019-20, is given in the Table below:

Table 5.4: Demand and Collection of Holding tax

(₹ in Crore)

Year	Demand	Collection	Balance	Percentage of Collection
2015-16	84.95	42.35	42.60	49.86
2016-17	90.86	60.91	29.95	67.04
2017-18	102.21	87.23	14.98	85.34
2018-19	132.14	74.27	57.87	56.21
2019-20	143.99	111.11	32.88	77.17
Total	554.15	375.87	178.28	67.83

Source: Data from test-checked ULBs

It was noted that, as against the demand of ₹554.15 crore, an amount of ₹375.87 crore had been collected, leaving a balance of ₹178.28 crore, due to shortage of tax collectors during FYs 2015-16 to 2019-20. Collection of holding tax varied from 49.86 per cent to 85.34 per cent during the above period. The ULB-wise demand, collection and balance of holding tax is given in *Appendix-5.13*.

In reply, Government stated (May 2022) that for collection of municipal revenue H&UD Department is taking different actions such as (i) organising Municipal Premier League on collection of own revenue in competitive manner with commendation and award for best performing ULBs, (ii) allocation of certain percentage against the collected revenue to Jalasathi & other SHGs and (iii) unified revenue collection method on pilot basis in Puri municipality. However, the fact remained that the collection of Holding Tax was only 67.83 per cent of the demand during 2015-16 to 2019-20.

Recommendation:

9. **Government may issue instructions to ULBs for effective collection of Holding Tax.**

5.4.2 Estimation of requirement of funds / expenditure

In accordance with OMA and OMCA, each ULB is required to prepare its budget and present it to the Governing Council for approval. After approval by the Governing Council, ULBs are required to forward their budgets to the DMA and the State Government.

The 74th CAA did not make any provision for submission of the budget to the State Government/ DMA, by the ULBs. Contrary to the principles of decentralised governance, both the Acts (*i.e.* OMA and OMCA) specifically mention the role of the State Government in modifying/approving the budgets of the ULBs.

In test checked ULBs, it was seen that the Governing Councils of the ULBs had forwarded their budgets to the DMA and the State Government for scrutiny and final approval.

In reply, Government stated (May 2022) that ULBs are free in preparation of Annual Budget. The reply is not acceptable as Governing Councils of the ULBs had forwarded their budgets to State Government for scrutiny and final approval.

5.4.2.1 Unrealistic preparation of Budgets by ULBs

ULBs are expected to prepare their budgets, based on the expected allocation of funds by the State Government. Expenditure estimation depends on the services to be provided by the local government and the costs associated with the provision of these services.

In the 20 test-checked ULBs, there were significant gaps between the budget estimates prepared by the ULBs, the actual receipt of funds from the State Government and the corresponding expenditure as detailed in *Appendix-5.14*. It was further observed that huge closing balances of previous years were available with the ULBs. The actual receipts to budget estimates varied from 1.59 to 266.59 *per cent* and the actual expenditure to the budget estimates varied from 0.45 *per cent* to 230.50 *per cent*. As there were wide variations between the budget estimates and the actual figures of receipts and expenditure, it is evident that the budget estimates for municipal services during the financial years 2015-16 to 2019-20, had not been prepared on a realistic basis.

In reply, Government stated (May 2022) that it is not intervening in the detailed preparation of annual budget of the ULBs.

Recommendation:

- 10. Since receipt of grants from Government still constitute the major chunk of revenue of the ULBs, the Department may make it more predictable, to enable ULBs to streamline their budgeting process.**

5.4.2.2 Blockage of accumulated funds

Details of revenue, grants received and expenditure incurred thereof, by 20 test-checked ULBs, during the period FY 2015-16 to FY 2019-20, are given in the table below (data for all ULBs was not furnished by DMA).

Table 5.5: Receipts and expenditure incurred by the test-checked ULBs

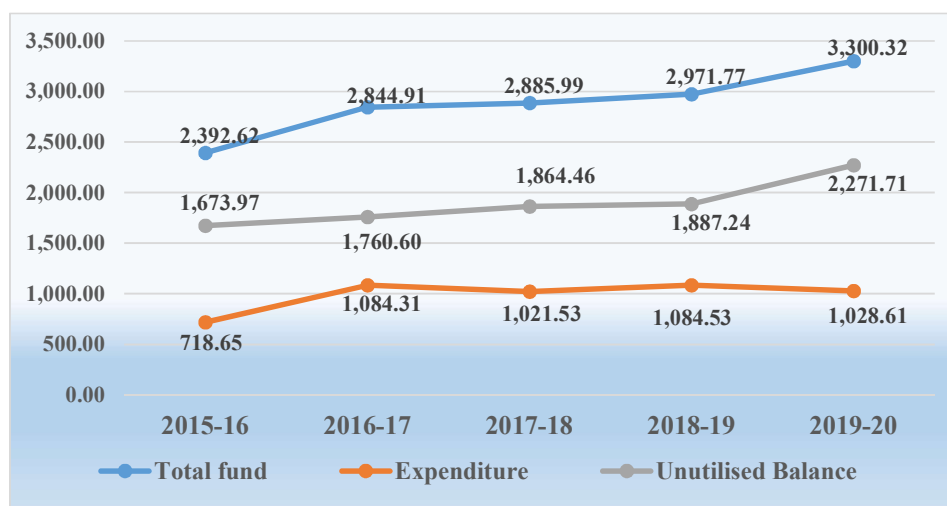
Year	OB	Receipt	Total funds	Expenditure	Balance	Percentage of expenditure to total funds
2015-16	1,585.16	807.46	2,392.62	718.65	1,673.97	30.04
2016-17	1,673.97	1,170.94	2,844.91	1,084.31	1,760.60	38.11
2017-18	1,760.60	1,125.39	2,885.99	1,021.53	1,864.46	35.40
2018-19	1,864.46	1,107.31	2,971.77	1,084.53	1,887.24	36.49
2019-20	1,887.24	1,413.08	3,300.32	1,028.61	2,271.71	31.17
Total		5,624.18		4,937.63		

(₹ in Crore)

(Source: Compiled by Audit, from the data collected from the records of test-checked ULBs)

As such, an amount of ₹2,271.71 crore remained **unutilised** as of March 2020, as detailed in **Appendix-5.15**. The trend of availability of funds, expenditure and unutilised balance in test checked ULBs has been shown in **Chart 5.3** below.

Chart:5.3 Trend of availability of funds, expenditure and unutilised balance in test checked ULBs

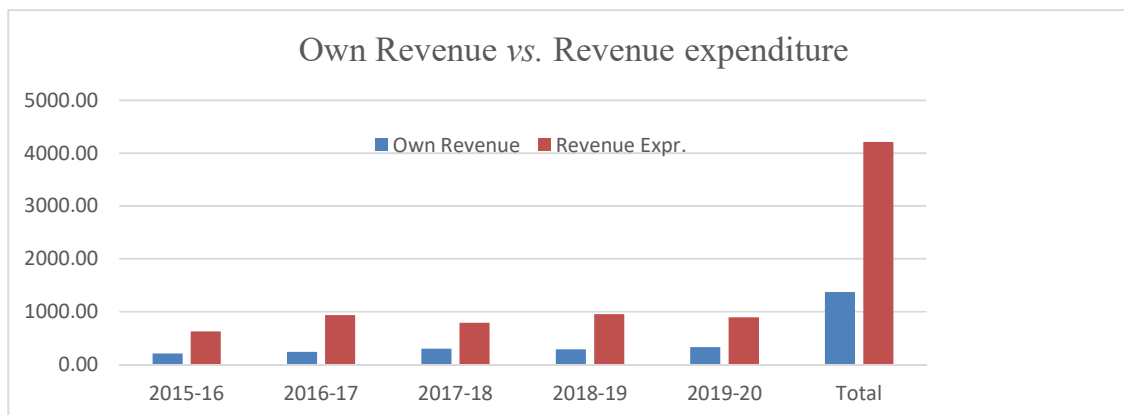


In reply, Government stated (May 2022) that through constant review the unutilised funds are being utilised and UCs have been submitted. The reply is not acceptable as Government had not furnished any documentary evidence in support of stated utilisation of funds.

5.4.2.3 Resource-expenditure gap

Eighteen ULBs were able to generate own revenue only to the extent of 35 *per cent* of the revenue expenditure during the period from FY 2015-16 to FY 2019-20 as detailed in **Appendix-5.16**. A comparison of the 'own revenue' of these ULBs, to their revenue expenditure, showed the presence of large gaps as depicted in Chart 5.4, which the ULBs need to address.

Chart 5.4: Own Revenue vis-a-vis Revenue Expenditure



It is evident from the above that the test-checked ULBs had failed to achieve fiscal autonomy during the above period.

In reply, Government stated (May 2022) it had taken many steps to increase the own revenue in a competitive manner. However, the fact remained that there were large gaps between own revenue and the revenue expenditure of the ULBs.

5.4.2.4. Analysis of financial data of Urban Local Bodies

The funds available and expenditure thereof in the test-checked ULBs, were analysed, to evaluate the extent of their fiscal autonomy. Details in this regard for the period from FY 2015-16 to 2019-20, are given in the Table below:

Table 5.6: Fiscal autonomy of ULBs

(₹ in crore)

Year	Total Funds available	Own revenue out of total funds	Total expenditure	Revenue expenditure out of total expenditure	Percentage of own revenue to total funds	Percentage of revenue expenditure to own revenue
OB	1585.16					
2015-16	807.46	115.84	757.60	592.96	14.35	511.88
2016-16	1170.94	147.02	1,164.5	841.81	12.56	572.58
2017-18	1125.39	226.3	1,130.1	710.10	20.11	313.78
2018-19	1107.31	175.11	1,194.6	834.20	15.81	476.39
2019-20	1413.08	224.48	1,109.8	830.23	15.89	369.85
Total	7209.34	888.75	5,356.70	3,809.30	12.33	428.61

(Source: Compiled by Audit from Data collected from test checked ULBs)

Table 5.6 reveals that:

- On an average, own revenue constituted only 12 per cent of the total revenue, in the test-checked ULBs, which indicated that the ULBs were not self-reliant as a form of local self-government.
- The test-checked ULBs were mainly dependent on fiscal transfers, which were 88 per cent on an average of the total funds available.
- Revenue expenditure, in comparison to own revenue, was in excess of 428.61 per cent on an average in the test-checked ULBs, as detailed in Paragraph 5.4.2.3.

Government did not furnish any reply to the Audit observation.

Part -V

This part deals with the role of parastatals and their impact on the functioning of ULBs. The existence of parastatals significantly eroded the autonomy of the ULBs in the implementation of functions, especially in regard to urban planning, slum improvement and water supply and sewerage.

5.5 Role of Parastatals

5.5.1 Parastatals and their functions and impact on Urban Local Bodies

Parastatals are institutions/organisations which are wholly or partially owned and managed by the Government (formed as autonomous bodies or through a specific legislation) and they⁷³ discharge some of the functions of ULBs such as urban/town planning, regulation of land use, water supply & sanitation and slum development. They are directly accountable to the State Government rather than ULBs. The Government has not amended these Acts to ensure that they are compliant with the 74th constitutional amendment, as also to make the parastatals accountable to ULBs. The system of assignment of functions that should be performed by ULBs, to parastatals, undermines the *raison d'être* of decentralisation. As such, the existence of parastatals significantly eroded the autonomy of the ULBs.

In reply, Government stated that due to non-availability of technical persons/resource persons in ULBs, the parastatal agencies are executing the technically complex projects of ULBs with approval of concerned Municipal Council. The reply is not acceptable as the parastatals undertaking functions of ULBs are controlled by Government and are directly accountable to the State Government rather than ULBs.

The role of parastatals and their impact on the devolved functions in the test checked ULBs are discussed in the subsequent paragraphs.

5.5.1.1 Directorate of Town Planning (DTP) & Urban Development Authorities- Urban Planning, Town Planning and regulation of land use

The DTP was established with the purpose of promoting planned physical development of urban areas and is the nodal agency for all urban planning related activities. With continuous exodus of rural population to urban areas, there is a need to ensure planned development of cities/ towns into liveable, economically vibrant and sustainable units. There are nine Development Authorities, 20 District TPAs, seven Regional Improvement Trusts (RITs) and 56 Special Planning Authorities (SPAs), in Odisha. The DTP is headed by the Director, Town Planning. Major duties and responsibilities of the DTP are:

- Planning of town development all over the state and advising the government on policy matters regarding town & country planning, legislation thereof.
- Regulating the planning of building construction and approving the blueprint of plan as per Town/Map/Master Plans.

⁷³ 1.DTP & UDA, 2. PHEO & WATCO, 3. OWSSB 4. OLHM

- Earmarking land use, as per the master plan, in urban areas, for housing, non-residential zone, government institutions and industrial areas/market areas.
- Matters relating to proper transport plans, planning for bus terminals, parking places etc.

Further, the State Government issued order (March 2010), wherein it was directed that all the Development Authorities of the State may delegate the functions of Urban Planning, including town planning and regulation of land use and construction of buildings, to the Urban Local Bodies concerned. However, Audit observed in the test-checked ULBs that:

- Master Planning/Development Plans/Zonal Plans/Enforcing Master Planning regulations, which are to be performed by the ULBs, were being performed by the Development Authorities and District TPAs, in all 20 test-checked ULBs.
- Matters pertaining to land use continued to be vested with the Development Authorities and District TPAs, in all the test-checked ULBs.
- As far as matters relating to building licenses/approvals of building plans/high rises, were concerned, out of 20 test-checked ULBs: (i) in three Municipal Corporations, the related activities were being undertaken by both ULBs and Development Authorities (ii) in four ULBs, these activities were carried out by the TPA (iii) in the other 13 ULBs, these activities were being dealt with by the ULBs themselves.
- Demolition of illegal buildings was being undertaken by only three ULBs, viz. BMC, CMC and BeMC. In all the other 17 ULBs, it was being done by the Development Authorities/TPAs.

This implied that the ULBs were deprived of the opportunity to carry out comprehensive planning/strategic urban planning for areas under their jurisdiction. Thus, the ULBs either had no role or had a limited role in discharging functions related to urban planning and regulation of land use. Despite issue of orders by the State Government, many activities under “Urban Planning including Town Planning & Regulation of Land use & Construction of Building” were not being carried out by all ULBs, as they had not been transferred by the concerned Urban Town Planning Authorities & Urban Development Authorities.

In reply, Government stated that based on the capability of the ULBs, functions of urban planning including town planning are being delegated to ULBs in phased manner. However, fact remained that the ULBs as self-government institutions were deprived of the opportunity to carry out comprehensive planning/strategic urban planning for areas under their jurisdiction.

5.5.1.2 PH Engineering and WATCO - Urban Water Supply

As per the 74th CAA, water supply for domestic, industrial and commercial purposes is one of the important functions to be discharged by ULBs. OMA and OMCA stipulate the provision of proper and sufficient water supply within the cities for public and private purposes by ULBs.

It was noticed that the PHEO (established in 1956) under the H&UD Department, was to plan, execute, operate and maintain the urban water supply systems of the State. In spite of devolution of the water supply function to ULBs, another organization, viz. WATCO, was established (July 2015) for carrying out the above activities. At present, water supply to eight ULB areas is provided by WATCO and water supply to 106 ULB areas is provided by PHEO. As such, both PHEO and WATCO are discharging the function of urban water supply in the State.

Check of records and information made available to Audit revealed the following:

- ***PH Engineering Organisation***

- i) Laxity in utilisation of funds for urban water supply***

Out of ₹345 crore, received under the 4th SFC grant, during FYs 2017-18 to 2019-20, for urban water supply, expenditure of ₹125 crore (36 *per cent*) was incurred. As such, the organisation failed to utilize the funds allocated for the purpose of water supply schemes in urban areas.

CE, PHEO, was provided with an amount of ₹1,790.83 crore, under the AMRUT Scheme, during FYs 2015-16 to 2019-20. CE, PHEO, incurred expenditure of ₹1,173.51 crore there against which constituted 66 *per cent* only of the available funds.

In reply Government stated (May 2022) that the concerned PH Divisions have been intimated to submit the utilization certificate for the balance amount.

- (ii) Non-installation of water meters by PHEO***

PHEO has not taken any action for installation of water meters. It charges water tariff as fixed by the State Government. It also incurs expenditure on maintenance of water supply, in excess of the water charges collected from public. In the absence of water meters, a flat rate of water charge has been imposed, despite unrestrained use of water by the public.

In reply Government stated (May 2022) that installation of water meters for the households of ULBs have already been taken up by WATCO which is in progress.

- (iii) Non-imposition of penalties for illegal/unauthorized connections***

PHEO does not have any mechanism to identify illegal/unauthorised connections by the public and loss of water due to leakage *etc.* No penalty has been levied for illegal/unauthorized connections.

In reply, Government stated (May 2022) that PHEO has an inbuilt vigilant mechanism to keep strict vigil on illegal/unauthorized connections and take appropriate action. The reply is not acceptable as Government has not furnished any document for such mechanism or data on amount of penalty imposed for illegal/unauthorized connections.

- **WATCO**

- (i) **Non-completion of Projects**

WATCO took over the jurisdiction of CMC, Cuttack and Puri Municipality in March 2020, for water supply. In the CMC area, PHEO transferred (March 2020) 24 water supply projects to WATCO and WATCO undertook three water supply projects⁷⁴ on its own. Of these, 12 water supply projects were under progress with an expenditure of ₹228.28 crore and delays ranging from one to 38 months from the stipulated date of completion. The remaining 15 projects were completed with an expenditure of ₹148.25 crore (as of August 2021). The completed projects were yet to be commissioned, with delays ranging between four to 48 months from the stipulated date of completion (as of August 2021) due to delays in transfer of staff from PHEO to WATCO. This resulted in non-supply of water to public, despite the lapse of over a year since the date of taking over by WATCO.

In reply, Government stated (May 2022) that all 27 projects have since been completed and commissioned. The fact, however, remained that Government did not furnish any documentary evidence in support of completion and commissioning of the projects.

- (ii) **Parking of Water Charges in WATCO's bank account**

WATCO, a wholly owned company set up by GoO is required to collect water service charges on behalf of ULBs and these charges are to be remitted to the Government Treasury as Government revenue. However, an amount of ₹15.64 crore collected by WATCO towards water charges from June 2019 to March 2020 was not transferred either to the ULBs or to the Government Account, but instead, retained in WATCO's account, thereby affecting the State exchequer adversely.

As ULBs are neither providing water supply in their jurisdiction nor collecting water charges, it impacts adversely, insofar as increase of their 'own revenue' is concerned.

In reply, Government stated (May 2022) that WATCO was authorised by the H&UD Department to retain the water charges in its bank account to meet the expenses towards operation and maintenance of the drinking water supply. The reply is not acceptable as the Odisha Treasury Code stipulates that all money received on account of the revenue of the State without undue delay is to be paid in full into the treasury and shall be included in the Public Account of the State. Moneys received as aforesaid shall not be appropriated to meet departmental expenditure. Thus, the action of WATCO was in violation of Odisha Treasury Code.

⁷⁴ (i) Improvement of Water Supply to the residence of Hon'ble judges of Odisha High Court with some adjoining areas 24x7 with drink from tap quality at Cantonment Road.
(ii) Laying of water supply pipe line in uncovered areas of different wards (7 nos) of CMC under Store P.H. Section No.I, Cuttack.
(iii) Laying of water supply pipe line in uncovered areas of different wards (42, 43, 46(p), 47, 48, 49, 54 & 55) of CMC under Store P.H. Section No.II, Nayabazar, Cuttack.

5.5.1.3 Odisha Water Supply & Sewerage Board - Management of Sewerage in urban areas

As per OMA and OMCA, the obligatory duties of ULBs include that of making adequate provision for collection, removal, treatment and disposal of solid wastes and sewage. OWSSB under the H&UD Department was the agency assigned with responsibility for management of sewerage in urban areas in the State. However, Government set up (July 2015) another Company *i.e.* WATCO, to oversee operations relating to water supply, as well as sewerage treatment & disposal. As per Gazette Notification (July 2015), WATCO took over the functions of PHEO in three ULBs and was to take over any other ULB assigned by H&UD Department. At present, WATCO was undertaking only water supply in eight ULBs.

Check of records revealed the following relating to construction, and operation & maintenance of the sewerage system by OWSSB, during FYs 2015-16 to 2019-20.

- OWSSB had taken up six sewerage system projects (four in Bhubaneswar, one in Sambalpur and one in Rourkela), between January 2017 and February 2018 at an agreement cost of ₹1,258.41 crore, scheduled to be completed between January 2020 and November 2020. The projects had, however, not been completed, though four projects in Bhubaneswar were stated to have partially commissioned in December 2020, while the other two projects (at Sambalpur & Rourkela) were ongoing (as of March 2021).
- It was further noticed that, out of 860.96 km of Sewerage laying to be taken up, 514.92 km had been completed (60 *per cent*) and the remaining 346.04 km was yet to be completed. Out of 44 Sewerage Pumping Stations (SPSs), 41 were ongoing and three had not been taken up.
- Further, out of six Sewerage Treatment Plants (STPs), one STP had been commissioned in Bhubaneswar and the remaining five STPs were ongoing. Out of ₹881.88 crore received during FYs 2009-10 to 2019-20 for six sewerage system projects, an amount of ₹700.39 crore had been utilised. The projects and unspent balance were handed over (October/ December 2019) to WATCO for further work. As such, the sewerage system projects remained incomplete for more than two years despite involvement of two parastatal organisations.
- It was also observed that, ULBs had not taken up the activity of sewerage treatment and had also not undertaken collection of sewerage cess, resulting in lack of generation of 'own revenue'.

In reply, Government stated (May 2022) that out of the six sewerage systems one at Bhubaneswar has been completed and fully functional. Other sewerage systems would be completed by September 2022. However, Government may ensure timely completion of the remaining sewerage systems.

Recommendation:

11. **Government may ensure stringent implementation of timeframes for execution of work.**

5.5.1.4 Odisha Liveable Habitat Mission (OLHM)- “JAGA”

As per OMA and OMCA, ULBs have to perform the function of slum improvement and up gradation. Under the Odisha Land Right to Slum Dwellers Act, 2017, land rights are to be provided to identified slum dwellers. However, it was noticed that OLHM – “JAGA”, a society which aims to transform slums into liveable habitats in all ULB areas, had been formed (May 2018) by H&UD Department and registered under the Societies Act, 1860. The Governing Body of the Society comprises of Chief Secretary as Chairman and Development Commissioner cum Additional Chief Secretary/ Principal Secretary/ Secretary/ DMA of other Departments as nine members. The mission also aims at leveraging and converging various schemes/ programmes/ funding opportunities by strengthening collaboration among various departments/ urban bodies/ non-government organisations/ financial institutions/international agencies/trusts/communities and stakeholders. In addition, it also provides advisory support to GoO to examine options for policy reforms required for sustainable transformation of the lives of urban poor.

As revealed from the Standard Operating Procedure for Slum Up-gradation and Delisting which came into force from September 2020, the JAGA mission had: (i) completed the survey and mapping of 1,725 slums (ii) conducted door-to-door surveys for 1,68,141 households (iii) facilitated issue of Land Rights Certificate *in-situ* by Government for 60,000 families and (iv) provided support to 20,000 slum households for housing under the Pradhan Mantri Awas Yojana. Thus, the society is acting as an agency for improvement of slums in the state.

However, in the ULBs, no specific officers were engaged for slum improvements, although construction of roads and houses (Rajiv Awas Yojana) for slum dwellers was being carried out by their Engineering wings. For the purpose of liaising with the OLHM, for slum upgradation and delisting one Ward Officer had been designated as the Nodal Officer, in each ULB, to liaison with the OLHM.

From the above it is evident that instead of strengthening the ULBs, by providing them funds and functionaries, the GoO had instead created another agency for slum improvement in deviation from the objective of decentralised governance.

In reply, Government stated (May 2022) that JAGA mission is constituted to provide handholding support to ULBs for discharging their function and provide liveable habitat to the slum dwellers in a mission mode. However, the fact remained that instead of strengthening the ULBs, Government had created another agency for slum improvement.

Recommendation:

- 12. *Government may take action to ensure that ULBs enjoy an adequate degree of autonomy in regard to the functions assigned to them, without the intervention of other agencies/parastatals, in order to achieve effective decentralisation.***

Part-VI

This part discusses issues relating to Human Resource management in ULBs. The State Government vested with itself the powers to regulate the classification, method of recruitment, conditions of service and pay and allowances of ULB staff, as also to initiate disciplinary action on them and to transfer them across ULBs or to other Government Departments.

The sanctioned strength decreased, despite increase in population over a decade, in all the test-checked ULBs.

Large vacancies existed across all cadres, specifically in crucial technical posts, affecting delivery of services.

5.6 Human Resources Management and Capacity Building of Urban Local Bodies

5.6.1 Limited control over manpower

Adequate and qualified manpower is essential for the empowerment of ULBs. The assessment of manpower requirements can best be done by ULBs themselves, considering various criteria, such as the extent of geographical area to be covered, population/nature of population, number and type of properties existing *etc.*

However, in terms of the Odisha Municipal Administrative Service (OMAS) Rules, 2016, ULBs had no powers to assess the requirement, recruitment and transfer of staff. Powers for assessing the requirement of staff in different categories of ULBs, as well as the recruitment and transfer of staff in the ULBs, are vested with the State Government. The State Government did not, however, consider the manpower assessment of ULBs realistically, leading to huge shortfalls, as detailed in **Paragraph 5.6.2.1**.

In reply, Government stated (May 2022) that it has established dedicated Municipal Service Cadre and recruitment is being done centrally.

5.6.1.1 Recruitment of staff

In accordance with the Acts governing ULBs, the State Government regulates the classification, method of recruitment, conditions of service, pay and allowances, as well as the discipline and conduct of staff and officers of ULBs. The OMAS Rules, 2016, list out the Appointing Authorities for various categories of posts, as indicated in the Table below:

Table 5.7: Statement showing the appointing authorities for recruitment

Category of Post	Appointing Authority
Group A	State Government
Groups B and C	Director of Municipal Administration (DMA)
Group D	Deputy Commissioner in Corporation and Executive Officer in Municipality and NAC

5.6.1.2 Control over staff

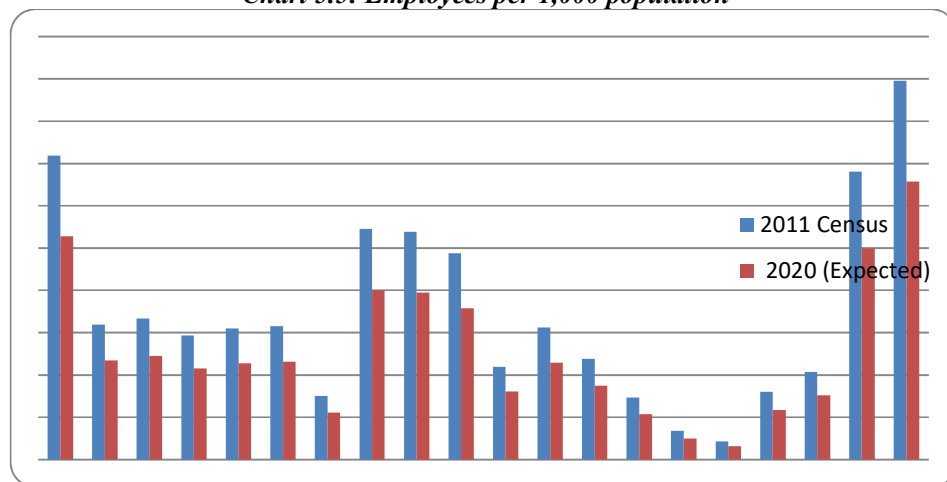
The powers to promote officials, initiate disciplinary action, impose penalties *etc.*, in respect of the officials of ULBs, other than on deputation have also not been delegated to ULBs and are vested with the State Government.

In reply, Government stated (May 2022) that the appointing authority is the disciplinary authority of the staff. The reply of Government confirms that the ULBs had limited control over the staffs because as per Odisha Municipal Manual, the Director, Municipal Administration is the appointing authority for all categories of posts under Odisha Municipal Services.

5.6.1.3 Civic Staff not commensurate with the population of ULBs

As per the 2011 Census, the urban population of Odisha was 0.70 crore. It was projected to grow to 0.95 crore as of 2020. Analysis of data pertaining to human resources in the 20 test-checked ULBs showed that the sanctioned strength in the ULBs was not commensurate with the population. The number of employees per 1,000 population (as per Census 2011 data) in the test-checked ULBs, ranged between 0.22 and 3.59. However, this has declined to range between 0.16 and 2.64 as per the projected population of 2020, as indicated in the Chart below:

Chart 5.5: Employees per 1,000 population



(Data as per census 2011 compared with data derived by Audit for 2020 in 20 test checked ULBs)

OMAS Rules, 2016, were deficient since they failed to specify the function-wise requirement of staff in the ULBs of the States. Audit also noticed insufficiency of staff in the test checked ULBs as discussed in subsequent paragraph.

In reply, Government stated (May 2022) that due to usage of ICT in municipal governance and outsourcing of staff for sanitation, the strength of employee for the ULB has been decided on the basis of category of ULB from Category I to VIII as per OMAS Act, 2015. The reply is not acceptable as Government has not furnished any documentary evidence in support of categorising the ULBs and fixing of sanctioned posts and men in position of each category.

5.6.2 Sufficiency and functioning of Staff

5.6.2.1 Insufficient staff in urban local bodies

Scrutiny of the staff position of ULBs, in the test-checked ULBs, revealed that, as against the sanctioned strength of staff of 5,617, the actual MIP was 3,466, leaving a vacancy of 2,151 staff in various categories viz., Municipal Engineer, Medical Officer, Junior Engineer, Sr/Jr. Asst, Tax Collector etc., constituting 38 per cent of the sanctioned strength. The percentage of vacancies in the test-checked ULBs ranged from 15 per cent in the Rayagada Municipality to 72 per cent in the Puri Municipality, as detailed in *Appendix-5.17*. As per the Odisha Municipal Services Act, 2015, the number of posts is prescribed for each category of ULB and the categories of ULBs are based on the population. Hence, when population increases, the posts should also be increased, as per the revised status of the municipal body. However, although the population was increasing, the sanctioned strength and MIP for catering to the needs of ULBs, were not commensurate with the population. The sanctioned strength per thousand population in 2011 and 2020, in the 20 test-checked ULBs, were a meagre 1.68 and 1.24 respectively. The impact of shortfall in staff strength is discussed in *Paragraphs 5.3.3.8(i)* and *5.6.2.2*.

Accepting the Audit observation, Government stated (May 2022) that steps are being taken to rationalise the existing sanctioned strength of ULBs and for filling up all the vacant posts in phased manner.

5.6.2.2 Filling up of posts in ULBs on the basis of Deputation/ Contract/ Foreign Service etc.

The OMAS Act, 2015 and OMAS Rules, 2016, regulate the method of recruitment and conditions of services of persons appointed to the Odisha Municipal Administrative Services.

Audit noticed that a number of posts in the ULBs were filled up through deputation, especially in the Group A and Group C cadres, impacting the effective functioning of the ULBs. Due to filling of posts through deputation, there was a scarcity of regular staff in the ULBs. Further, the deputed staffs were discharging their functions in the ULBs, in addition to their duties in their parent departments. This affected the accountability of such personnel, as ULBs had no direct administrative control over them.

Instances of filling of posts in ULBs, on the basis of deputation/foreign service/contract/deployment from other departments of GoO are given below:

- There was no cadre post of Health Officer in any of the test-checked ULBs. The Health Officers posted were borne in the cadre of the Health & Family Welfare Department. Moreover, no Health Officer was posted in the test-checked NACs.
- Environment Officers had been posted on deputation basis in BMC.
- An Assistant Executive Engineer had been posted in the Jajpur Municipality on deputation (Foreign Service) basis, while an Assistant Engineer had been posted, with additional charge in the Vyasagar Municipality from DRDA, Jajpur.

- A Junior Engineer (JE) had been posted as part-time JE in the Vyasagar Municipality by Collector, Jajpur, from the Kalinga Nagar Development Authority (KNDA), Vyasagar.
- An Executive Engineer had been posted in RMC, on deputation basis, from the Works Department, GoO.
- A Junior Engineer and an Assistant Engineer had been posted in RMC, on deputation basis from the Water Resources Department.
- A Sanitary Expert had been posted on deputation basis, in the Vyasagar Municipality and four Sanitary Experts had been posted in the Rayagada Municipality on deputation basis from Department of Health & Family Welfare, GoO.
- An Accountant and two Community Organisers had been posted in the Vyasagar Municipality on contractual basis. One post for MIS had also been filled up on contractual basis in the Municipality.

Accepting the Audit observation, Government stated (May 2022) that due to shortage of quality human resources in Municipal Cadre, officers from other services being deployed on deputation basis. This practice would be ceased after full-fledged recruitment of the officers of Municipal Cadre starts, which may take time.

Recommendation:

13. Government may arrive at a desired sanctioned strength of ULB officials, based on population nature of population geographical area etc. and take appropriate steps for filling up the vacant posts.

5.6.3 Capacity Building

Capacity building of the personnel and elected representatives of ULBs is important for efficient and effective delivery of services. The State Urban Development Agency (SUDA) was entrusted (December 1990) as the Resource Training Institution for the entire capacity building programme for ULBs. SUDA has since been carrying out training activities for municipal employees and elected representatives. The year-wise arrangement of training slots by SUDA, during FYs 2015-16 to 2019-20 is as below.

Table 5.8: Trainings conducted during 2015-20

(₹ in lakh)

Year	No of slots	Participants nominated	Participants attended	Expenditure
2015-16	24	1,551	Not provided	69.70
2016-17	47	3,027		46.63
2017-18	21	1,797		25.85
2018-19	34	3,887		59.98
2019-20	19	1,866		16.65
Total	145	12,128		218.81

(Source: Information furnished by SUDA)

Out of the total 145 slots, 39 slots with 2,659 participants were either review meetings or meetings held in SUDA and hence, were not training oriented. Poor utilisation of training facilities implied that the personnel and elected representatives of the ULBs were unable to acquire skills which were essential

for enhanced service delivery/more efficient discharge of their functions and the effectiveness of the ULBs was likely to have been impacted to that extent.

Government furnished no specific reply on poor utilization of training facilities.

5.6.3.1 Absence of evaluation

Training is a continuous process and needs to be continuously reviewed through evaluation. Evaluation is necessary to ascertain whether or not the desired expectations were met as to revise and redefine the course curriculum to make it more effective. Audit observed that there was no mechanism (including evaluation of the training by obtaining feedback from the trainees) in existence for evaluating the impact of the training imparted to the staff of ULBs.

Thus, while the existing vacancies in some ULBs were up to 72 percent of their sanctioned strength, the ULBs had not been vested with powers to exercise adequate control over their human resources. This had an adverse effect, insofar as the effective discharge of their mandated functions was concerned, directly hampering the collection of 'own revenue', utilisation of devolved funds and carrying out functions (to the extent they were devolved), as discussed in the preceding paragraphs.

Government stated (May 2022) that process was going on to recruit and fill up all the vacant posts of urban cadre. As regards to impact of the training imparted to the staff of ULBs, Government furnished no specific reply.