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**Chapter III**  
**Empowerment of Urban Local Bodies**  
**and their functioning**

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## **Chapter III**

### **Empowerment of Urban Local Bodies and their functioning**

The 74<sup>th</sup> CAA intended to empower ULBs through devolution of 18 functions specified in the 12<sup>th</sup> Schedule of the Constitution of India. Out of 18 functions, only five functions had been devolved to the ULBs fully and functionally. Two functions to Municipal Corporations and six functions to Municipalities/Nagar Panchayats had not been devolved so far. Though, Act came into force 29 years ago, the Government had not devolved all the functions to ULBs. Inclusion of villages into the Municipalities and upgradation of Municipalities was not properly carried out as per procedures. Government was vested with the powers relating to delimitation of wards and reservation of seats instead of State Election Commission. Councils were not formed as Elections were delayed in ULBs, thereby citizens' representation was missing in the governance. Re-elections were not held where posts of elected representatives fell vacant for various reasons. Ward Secretariats came into force without integration with Ward Committees and thereby the role of the elected representatives was missing in the formation of Ward Secretariats. This diluted the spirit of Constitution as envisaged for local self-governance. Development Plans could not be prepared as DPCs and MPCs had not been formed, though relevant Acts came into force in 2003 and 2007 respectively. State Finance Commissions should be constituted once in every five years to review the financial position of the ULBs and make recommendations for devolution of powers. Fourth SFC was constituted belatedly by eight years and report had not been submitted even after 12 years after its constitution. A Property Tax Board (PTB) as per the Act was to be constituted to assist the ULBs to put in place an independent and transparent procedure for assessing property tax on buildings and lands. The set-up of PTB constituted in the Composite State could not be continued in the Successor State, instead, State Government was issuing orders for assessment and revision of Property Tax. Prior to introduction of the 74<sup>th</sup> CAA, Parastatals such as UDAs, DTCP and APUFIDC had been endowed with the powers relating to high-rise building permissions, urban planning, reforms and financial management. Provisions of 74<sup>th</sup> CAA had not been incorporated in the relevant Acts.

### **3. Empowerment of Urban Local Bodies and their functioning**

#### **3.1 Actual status of devolution of functions**

The 74<sup>th</sup> CAA sought to empower ULBs to perform functions and implement schemes in relation to 18 functions specified in the 12<sup>th</sup> Schedule of the Constitution of India. State Government was expected to enact a legislation to implement the amendment. The State Government, out of 18 functions, devolved 13 functions fully and three

functions<sup>3</sup> partly to Municipal Corporations by incorporating relevant provisions in APMC Act. Two functions viz., town planning and fire services were not devolved. Relating to Municipalities/ Nagar Panchayats, the State Government devolved only seven functions fully and devolved five functions<sup>4</sup> partially out of 18 functions by incorporating relevant provisions in the APM Act. Six functions<sup>5</sup> were not devolved. The status of functions devolved to ULBs is depicted in the **Appendix 3.1**.

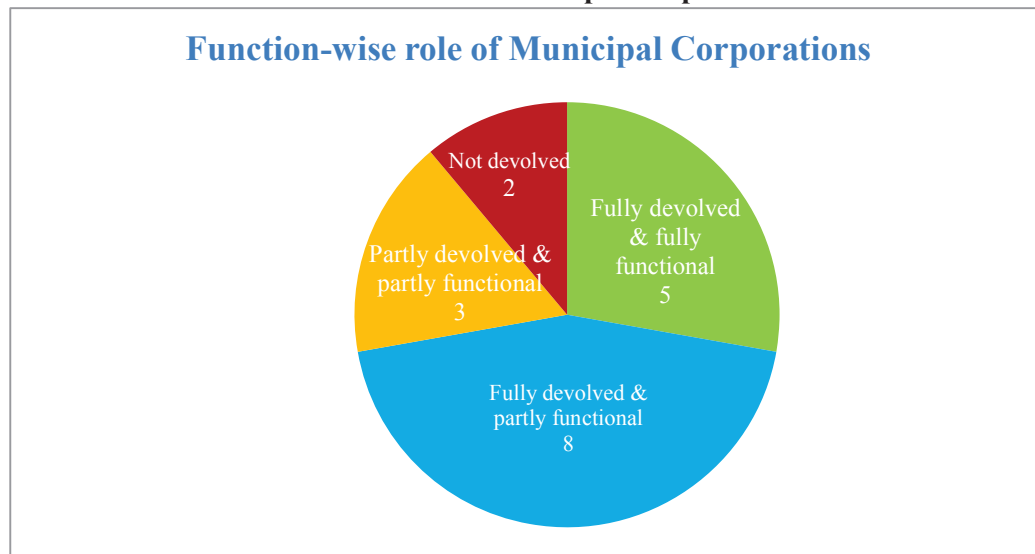
Thus, the Government had not devolved all the functions to ULBs despite a period of 29 years elapsed since the 74<sup>th</sup> CAA came into force.

The Department replied (December 2022) that they would take up the matter with the Government.

### 3.2 Role of ULBs in implementation of functions

Audit observed several overlaps in discharge of the functions between ULBs and Parastatals/Government Departments. Briefly, the extent of role of ULBs in these 18 functions is depicted in the **Chart 3.1** below:

**Chart 3.1: Role of Municipal Corporations**



- Though 16 functions have been devolved to Municipal Corporations, they have full jurisdiction over five functions only.

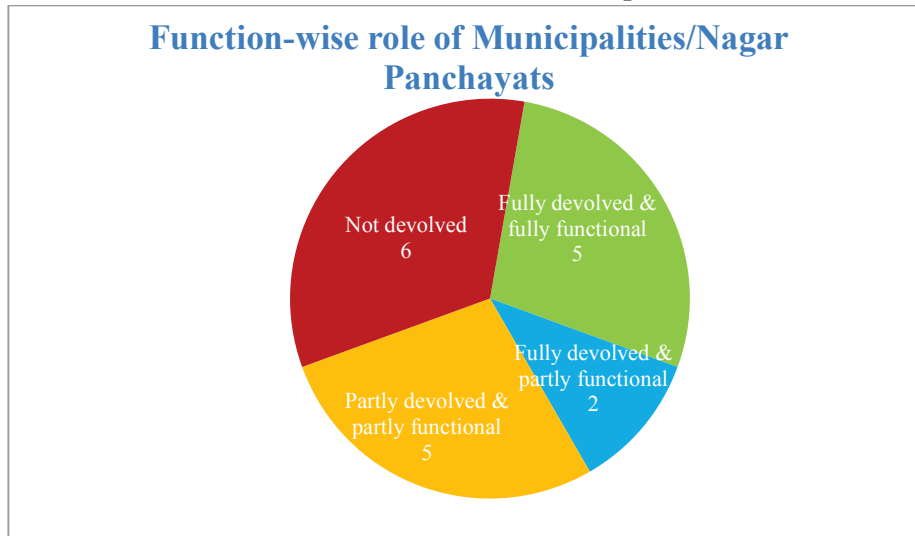
<sup>3</sup> (i) Public amenities including street lighting, parking lots, bus stops and public conveniences; (ii) Regulation of land use and construction of buildings and (iii) Public health, sanitation conservancy and solid waste management(O); are partially devolved

<sup>4</sup> (i) Public amenities including street lighting, parking lots, bus stops and public conveniences; (ii) Regulation of land-use and construction of buildings; (iii) Public health, sanitation conservancy and solid waste management(O); (iv) Urban forestry, protection of the environment and promotion of ecological aspects; and (v) Promotion of cultural, educational and aesthetic aspects; are partially devolved

<sup>5</sup> 1) slum improvement and upgradation, 2) planning for economic and social development, 3) safeguarding of interests of weaker sections of society including handicapped and mentally retarded, 4) Urban Planning including town planning, 5) Urban poverty alleviation and 6) fire services

- The Municipal Corporations were playing partial role in respect of eleven functions, though the State Government devolved these functions by incorporating the provisions in the APMC Act, Parastatals and other State Government departments are involved in discharging of these functions.

**Chart 3.2: Role of Municipalities**



- Though 12 functions were devolved to Municipalities/Nagar Panchayats, they have full jurisdiction over five functions only.
- The Municipalities/Nagar Panchayats were playing partial role in respect of seven functions, though the State Government devolved these functions by incorporating the provisions in the APM Act, Parastatals and other State Government Departments are involved in discharging of these functions.
- The Municipalities/Nagar Panchayats are partially discharging six functions along with Parastatals and other departments though the functions are not devolved by the Government.

Audit observed in 20 test-checked ULBs that the functions devolved and their actual role in implementing devolved functions and the results are as indicated below in **Table 3.1**.

**Table 3.1:**  
**Statement showing the Role of ULBs in implementation of functions and actual status of discharging of functions by ULBs**

Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
<b>Functions where ULB has full jurisdiction</b>			
1	Burials and burial grounds; cremations, cremation grounds and electric crematoriums	Construction and Operation & Maintenance of crematoriums and burial grounds, upgrade them as modern crematoriums and electric crematoriums	All the 20 test-checked ULBs have carried out this function.

Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
2	Cattle pounds; prevention of cruelty to animals	Reduce the stray animal's population, catching strays and handing over to Animal Protection Committees	All the 20 test-checked ULBs have carried out this function.
		Registration of pet animals, cause vaccination	
		Ensuring safety of animals	
3	Regulation of slaughterhouses and tanneries	Ensuring quality of animals and meat	All the 20 test-checked ULBs have carried out this function.
		Prohibit or regulate the slaughter, cutting or skinning of animals	
		Establishment and modernisation of slaughterhouses	
4	Public amenities including street lighting, parking lots, bus stops and public conveniences	Installation and maintenance of street lights, conversion of conventional street lights into energy efficient lighting mode	Public toilets were constructed in eight <sup>6</sup> ULBs out of test-checked ULBs. Only one ULB (Tirupati Corporation) identified parking places out of the 20 test-checked ULBs.
		Development of road junctions, medians and parking spaces. Establishment and maintenance of destitute homes, night shelters and shelters for exigencies, bus stops and bus shelters	
5	Water supply for domestic, industrial and commercial purposes	Water supply	All the 20 test-checked ULBs have been carrying out this function.
		Providing individual tap connections.	
		Operation & Maintenance (O&M), reducing non-revenue water and undertake water audit.	
		Collection of water charges	
<b>Functions where ULB has partial role</b>			
6	Provision of urban amenities and facilities such as	Creation of parks, gardens, community halls and sports complexes	Parks and nurseries were created but no Playgrounds

<sup>6</sup> Tirupati, Hindupur, Tanuku, Bobbili, Kavali, Addanki, Chilakaluripet, Peddapuram; and remaining five ULBs Mangalagiri-Tadepalli Municipal Corporation, Guntur Municipal Corporation, Eluru Municipal Corporation and Visakhapatnam Municipal Corporation did not furnish information

Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
	parks, gardens, playgrounds	Operation and Maintenance	exist in any of 20 test-checked ULBs.
7	Planning for economic and social development	Programme implementation for economic activities Policies for social development	While the State Government issues the guidelines and identifies the beneficiaries, verification is done by all the 20 test-checked ULBs for implementation of Welfare schemes such as housing and other livelihood enhancement programmes.
8	Safeguarding the interests of weaker sections of society including the handicapped and mentally retarded	Identifying/verification of beneficiaries Providing tools/benefits such as tricycles Housing programmes	State Departments such as (i) Scheduled Castes Development (ii) Health, Medical and Family Welfare (iii) Women, Children, Disabled and Senior Citizens and State Engineering Departments are responsible for these functions. All 20 test-checked ULBs were involved only in identification/verification of the beneficiaries.
9	Urban poverty alleviation	Identifying/verification of beneficiaries Livelihood and employment Street vendors	Only identification/verification of beneficiaries is done by all 20 test-checked ULBs. Scheme Implementation is being done by District Rural Development Agencies (DRDAs) and other livelihood <sup>7</sup> activities by Mission for Elimination of Poverty in Municipal Areas (MEPMA).
10	Regulation of land-use and construction of buildings	Ensuring construction and development in accordance with the plan and land use and	Land use and building construction activities are regulated by ULBs. In case

<sup>7</sup> Training in capacity building, soft loans and skilled Development

Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
		regulation of unauthorised buildings Approving building plans/high rises	of the high-rise buildings, various bodies such as UDAs and State Fire Services are involved. The role of 20 test-checked ULBs is restricted to issuance and renewal of building permissions and enforcement of building by-laws.
11	Roads and bridges	Improve or repair the same ensuring public safety or convenience. Divert or close public roads. Widen or expand roads ensuring traffic flow pattern Construction and maintenance of bridges, drains, flyovers and footpaths	While Roads & Buildings Department plays the lead role in construction of roads and bridges, flyovers, all 20 test-checked ULBs are involved in construction and maintenance of internal roads, bridges, drains and footpaths within the jurisdiction.
12	Public health, sanitation, conservancy and solid waste management	Construction of individual household toilets, public toilets, community toilets, SHE toilets, make Municipalities Open Defecation Free (ODF), sewage and sewerage management, faecal sludge and septage management, waste water treatment Prevention and control of infectious, communicable diseases public vaccination Promotion measures for abatement of all forms of pollution, including air pollution Cleaning and disinfection of localities affected by infectious diseases Solid Waste Management Control and supervision of public markets	All the 20 test-checked ULBs only have a limited role in case of public health allied responsibilities, as Department of Health, Medical and Family Welfare plays the major role in maintaining hospitals and dispensaries. The ULBs along with the State Departments/ Parastatal agencies undertake immunization/ vaccination programs and wastewater treatment. ULBs are also responsible for cleaning and disinfecting of localities affected by infectious diseases. Solid waste management and control and supervision of public markets are vested with 20 test-checked ULBs.



Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
13	Urban forestry, protection of the environment and promotion of ecological aspects	Afforestation	All 20 test-checked ULBs undertake Greenification, afforestation and awareness drives along with the Horticulture and Forest Departments and Andhra Pradesh Urban Greening Corporation. Hence, protection of the environment and promotion of ecological aspects is partially vested with all the 20 test-checked ULBs.
		Greenification	
		Awareness drives	
		Protection of the environment and promotion of ecological aspects	
		Maintenance of natural resources like lakes and water bodies protection and development, etc.,	
14	Promotion of cultural, educational and aesthetic aspects	Promotion of cultural activities, music, physical education, sports and theatres and infrastructure therefor	Primary responsibility vest with Department of Education for academic activities. The test-checked ULBs are providing infrastructure to schools. All 20 test-checked ULBs along with the State Departments of Culture, Archaeology & Museums and UDAs undertake allied activities such as public spaces beautification, organizing fairs and festivals.
		Heritage structures/areas	
		Beautification of public spaces	
15	Vital statistics including registration of births and deaths	Coordinating with hospitals	Both ULBs (all 20 test-checked ULBs) and the Department of Health, Medical and Family Welfare maintain database of births and deaths. ULBs register and issue certificates of births and deaths.
		Maintaining and updating Database	
16	Slum improvement and upgradation	Improvement of notified and identified slums	All 20 test-checked ULBs are carrying out only identification of beneficiary for Pradhan Mantri Awaas Yojana (PMAY) scheme.
		De-notification of developed slums	

Sl. No.	Functions	Activities	Actual status of implementation of the devolved functions
<b>Function not devolved</b>			
17	Urban planning including town planning	Preparation of Master Plans	None of the 20 test-checked ULBs have been carrying out this function. Master Plans are being prepared by Urban Development Authorities (UDAs)/ Directorate of Town and Country Planning (DTCs).
		Enforcing implementation of Master Plan regulations	
		Planned development of new areas for human settlement	
18	Fire Services	Providing fire NOC/approval certificate in respect of high-rise buildings	This function is not vested to ULBs. It is vested with Andhra Pradesh State Disaster Response and Fire Services Department.

### 3.3 Inclusion of villages into Municipalities

Andhra Pradesh Municipalities (inclusion or exclusion of areas into/from the limits of Municipalities/Nagar Panchayats) Rules, 2006 prescribed the following procedure for inclusion of villages into adjoining ULBs:-

- Municipal Council, before arriving at an opinion of the proposal shall take into consideration ‘the public interest as the primary motive’ for any inclusion or exclusion and justify its opinion. Then the Municipal Commissioner shall forward the Council’s Resolution on the proposal along with the specific observations on the proposal to the Commissioner and Director of Municipal Administration (CDMA) through District Collector concerned.
- The District Collector shall examine the proposal in consultation with the respective Gram Panchayat/Gram Panchayat Officer and forward the same along with his recommendations to the Government through the CDMA.
- The CDMA shall scrutinise the proposal and with his recommendations forward it to Government. After its examination, if the Government is satisfied to consider the same, forward such proposal to Panchayat Raj & Rural Development (PR&RD) Department for examination and orders.
- On receipt of the acceptance from PR&RD Department, the Government will issue a show cause notice to the Council/Special Officer affording an opportunity for submission of views/objections/suggestions and a copy shall also be fixed on the notice board of the Municipality.
- After receipt of the views of the Council/local people, Government shall examine the representation of the local people and it shall be open to Government to declare

by Notification in the A.P. Gazette for inclusion or exclusion of the area into the limits of Municipality/Nagar Panchayat.

However, in two test-checked ULBs, audit noticed the following lapses in inclusion of adjoining villages into Municipalities:

- (i) The Council of Tanuku Municipality resolved (September 2009)<sup>8</sup> to merge seven adjoining villages<sup>9</sup> which are located within the radius of 3km from town and the resolution was forwarded to District Collector. Out of these villages, only four GPs<sup>10</sup> have given willingness to merge into Tanuku Municipality.

The Panchayat Raj & Rural Development (PR&RD) Department issued (March 2013) notification<sup>11</sup> for inclusion of the four villages and MA&UD Department also issued (March 2013) notification<sup>12</sup> for merger of these villages into Tanuku Municipality. Subsequently, the Hon'ble of High Court of A.P. had suspended (December 2014) two GOs issued for inclusion of these villages into Tanuku Municipality until further orders<sup>13</sup>. The case was still pending in Hon'ble High Court as of October 2021.

However, audit noticed that the Municipality had continued their inclusion into Municipality and has been taking up developmental activities *viz.*, sanitation, collection of taxes, lighting *etc.* Further, the Municipality had completed (March 2021) the delimitation of wards and reservation of seats by including these villages for conducting of General elections while the suspension of Government Orders by Hon'ble High Court was in force. The Municipality had replied that Elections were not conducted due to some legal issues in merger of villages.

- (ii) The Mangalagiri Municipal council resolved (September 2019)<sup>14</sup> to merge five villages (Atmakur, Nowluru, Errabalem, Bethapudi and Chinakakani) into

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<sup>8</sup> vide resolution No.153 dated 15/09/2009

<sup>9</sup> Venkatarayapuram township, Mandapaka, Paidiparru, Chivatam, Kasavaram, Palangi (Survey No. 150, 151, 152 and 153) and Veerabhadrapuram

<sup>10</sup> Paidiparru Panchayat Resolution No.45, dt.14/03/2013; Veerabhadrapuram Resolution No.33dt.14/03/2013 and Venkatarayapuram township area Resolution No.96 dt.23/03/2013; RS No.150 to 153 of Palangi (v) Resolution No.140 dt.23/03/2013

<sup>11</sup> vide G.O.Ms.No.194 dt. 26/03/2013

<sup>12</sup> vide G.O.Ms.No.123 dt. 26/03/2013

<sup>13</sup> vide W.P.No.12157 of 2013 dt.26/12/2014

<sup>14</sup> vide resolution No.222 dt.11/09/2019

Mangalagiri Municipality for upgradation from Grade II to Grade I<sup>15</sup>. The Government issued (February 2020) orders<sup>16</sup> for merger of these villages.

Subsequently, the Commissioner of Mangalagiri Municipality had also submitted proposals to merge another six villages (Peda Vadlapudi, China Vadlapudi, Kaza, Nidamaru, Nutakki and Ramachandrapuram) into Municipality on 7 February 2020. The Government had issued (December 2020) Gazette Notification<sup>17</sup> by merging total 11 (eleven) surrounding villages<sup>18</sup> into Mangalagiri Municipality.

In this connection, during the verification of merger proposals, council resolutions *etc.*, it is observed that Grama Sabha and Panchayat General Bodies of these 11 (eleven) villages resolved to oppose the merger of their villages into Mangalagiri Municipality. However, the Municipality did not consider the resolutions of the merging villages. The Municipality had not communicated the resolutions of villages to the Government.

However, the Government had issued orders for merger of these villages without considering the public opinion.

Thus, inclusion of villages into Municipalities was not properly carried out as per procedure.

### **3.4 Up-gradation of Municipalities**

Rule 3 of Andhra Pradesh Municipalities (Gradation of Municipal Councils and Nagar Panchayats) Rules, 1994, the Government, from time to time, by notification in the Andhra Pradesh Gazette, may declare the grades of Municipalities and Nagar Panchayats on the basis of annual income prescribed in the Rule.

However, audit noticed that four ULBs in the state had not been upgraded as per their eligibility as detailed below:

<sup>15</sup> Nagar Panchayat means a Nagar Panchayat with an annual income rupees one crore or less than one crore; Third Grade Municipality means a Municipality with an annual income of rupees more than one crore and less than two crore; Second Grade Municipality means a Municipality with an annual income of rupees more than two crore and less than four crore; First Grade Municipality means a Municipality with an annual income of rupees more than four crores and less than six crores; Special Grade Municipality means a Municipality with an annual income of rupees more than six crores and less than eight crores and Selection Grade Municipality means a Municipality with an annual income of rupees eight crores and above

<sup>16</sup> vide G.O.Ms.No.98 dated 06/02/2020

<sup>17</sup> vide Ordinance No.17 of 2020

<sup>18</sup> Atmakur, Nowluru, Bethapudi, Yerrabalem, Chinakani, Nidamaru, Nutakki, Kaza, Chinavadlapudi, Ramachandrapuram and Pedavadlapudi

**Table 3.2: List of ULBs upgraded against their eligibility**

S.No.	Name of the ULB	Average Annual income for three years i.e., 2016-17, 2017-18 & 2018-19 (₹ in crore)	Eligible for	Upgraded as
1	Tadipatri Municipality	14.93	Selection grade	Special grade
2	Srikalahasti Municipality	8.58	Special grade	First grade
3	Punganur Municipality	5.64	First grade	Second grade
4	Addanki	3.83	2 <sup>nd</sup> Grade	Nagar Panchayat

Thus, Municipalities had not been upgraded as per Rules. The reply from the department is awaited.

### 3.5 Institutional mechanisms for and in urban local bodies

The State Government transferred 16 functions to Municipal Corporations and 12 functions to Municipalities/Nagar Panchayats. The discharge of these functions can be effective only when appropriate institutions are established and adequately empowered. *Appendix 3.1* details the status of devolution of 18 functions to Urban Local Bodies.

#### 3.5.1 State Election Commission

As per Article 243ZA(1) of 74<sup>th</sup> CAA, the powers of State Election Commission (SEC) include superintendence, direction and control of the preparation of electoral rolls and conduct of all elections to ULBs. For all other matters related to elections to ULBs, the authority lies with the Legislature of the State.

The Second Administrative Reforms Commission (SARC) observed (October 2007) that in Andhra Pradesh, the powers of delimitation of local Government constituencies and reservation and rotation of reserved constituencies have been retained by the State Government. In many cases, particularly in urban areas, the SECs have to wait until a delimitation exercise is completed by the State Governments. The SARC recommended<sup>19</sup> that once delimitation and reservation of seats is carried out by SECs, State Governments cannot delay the conduct of elections on the plea of delimitation exercise and delay in reservation of seats of local constituencies. The recommendation was accepted by GoI.

However, the powers of delimitation of wards and reservation of seats for the council and for posts like Mayor/ Chairperson, Dy. Mayor/Vice-Chairperson and ward members were still vested with the State Government instead of State Election Commission.

##### 3.5.1.1 Status of elections and formation of councils

The election shall be conducted by SEC as stipulated in APMC Act and APM Act read with APM (conduct of election) Rules<sup>20</sup>, Elections to Council of ULBs shall be

<sup>19</sup> Recommendation – Para No. 3.2.1.12

<sup>20</sup> Andhra Pradesh Municipalities (conduct of elections) Rules 1965

completed before expiry of the duration of present Council. Further, Article 243U(3)(a) of the Constitution of India and provisions of APMC and APM Acts stipulate a fixed tenure of five years for the Corporators/Councilors of ULBs from the date of first meeting. The status of elections and formation of councils in the ULBs of the State is depicted in **Table 3.3** given below:

**Table 3.3: Status of elections and formation of councils in ULBs (as of July 2022)**

<b>Total No. of ULBs</b>	123
<b>Newly formed ULBs</b>	15
<b>Term of existing councils completed</b>	July 2019
<b>Delay 20 months</b>	August 2019 to March 2021
<b>Elections held and Councils formed</b>	100
<b>Elections held but councils not formed</b>	1
<b>Elections due during 2019-21 but not held due to court cases/administrative reasons</b>	22 (one is due from 2005, 16 are due from 2019 and five are from 2020)

*Source: Information furnished by CDMA*

It can be seen from the above that there were no Councils for ULBs during August 2019 to March/November 2021. Audit noticed that the State Government appointed Special Officers for these ULBs in July 2019. In the absence of an elected council and non-involvement of elected representatives in decision making and implementation, the element of participatory democracy is missing. Further, a ULB without a council cannot be held accountable to citizens.

The Special Officers discharged the functions of Council till the formation of new councils in March/November 2021.

### **3.5.1.2 Non-conduct of re-elections of Members for Vacant Ward**

As per Section 21 of APM Act, every casual vacancy in the office of an elected member of a Municipality shall be reported by the Commissioner to the State Election Commission within fifteen days from the date it becomes vacant and shall be filled within four months from such date.

During the scrutiny of information provided to audit, it is noticed that 13<sup>21</sup> ward members in five ULBs were disqualified during 2014-19 in the state on various grounds. However, no re-election was conducted to fill these vacancies until the regular elections were held in these ULBs in March 2021. Thus, the wards had been vacant without members representing people ranging from July 2014 to July 2019.

<sup>21</sup> Yalamanchili Municipality (one member on 30/12/2017 due to non-attending the three consecutive council meetings), Machilipatnam Corporation (one member on 30/06/2018 due to non-attending the three consecutive council meetings), Rayachoty Municipality (two members on 04/07/2014 due to disobedience of party whip), Yerraguntla Municipality (eight members on 23/08/2014 due to disobedience of party whip) and Nagiri (one member on 31/07/2014 due to disobedience of party whip)

### 3.5.2 Ward Committee

Article 243S of Constitution provides for constitution of Wards Committees (WCs) in all Municipalities with a population of three lakh or more. As per Section 10 of Andhra Pradesh Municipal Corporations (APMC) Act, 1994<sup>22</sup> and Rule 3 of Andhra Pradesh Municipal Council (Constitution of Ward Committee) Rules 1995<sup>23</sup>, Wards Committees shall be constituted by all ULBs. The term of these bodies will be co-terminus with the Council. The composition of WCs shall consist of Municipal Corporation member (Chairman of WC), representatives (10) from Civil Society and Area Sabha representatives. The Ward Committees were to act as a bridge between the municipal government and citizens and function as institutions of neighbourhood governance and increase proximity between elected representatives and citizens and provide a space for citizen participation in local level planning. They were to perform functions<sup>24</sup> such as sanitation work and drainage maintenance; distribution of water supply; working of the street lights *etc.*

Audit observed that Wards Committees were not constituted in all the test-checked ULBs. Thus, due to non-constitution of Ward Committees, the provision for Ward Committees remained unimplemented which hampered the decentralization in local governance and the objective of facilitating the community participation in local governance is not met.

The Department accepted (December 2022) the non-constitution of Ward Committees.

### 3.5.3 Area Sabhas

As per Section 8B of APMC Act, each ward in a Corporation shall be divided into such number of areas based on the population, so that each area shall consist of not less than two thousand and not more than five thousand population.

There shall be an Area Sabha for each area with all the electors in the jurisdiction of the area. There shall be an Area Sabha Representative for each area to be nominated by the Municipal Corporation from the representatives of the civil society as may be prescribed. The functions to be discharged by Area Sabha are also specified in the Act.

However, audit noticed that Area Sabhas were not formed in all test-checked Municipal Corporations. Resultantly, citizen participation in local governance through Area Sabha had not been ensured and the objective of facilitating community participation in local governance is not met.

The Department accepted (December 2022) the non-formation of Area Sabhas.

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<sup>22</sup> Section 8A of GHMC Act

<sup>23</sup> The Commissioner and Director of Municipal Administration may also constitute Wards Committee for a Municipality having a population of less than three lakh provided the annual income of the said Municipality is not less than rupees 4 crore

<sup>24</sup> the ULBs shall allocate 20 *per cent* of the annual budget for attending these functions

### **3.5.4 Ward Secretariat**

The main objective of the local self-government is self-governance by including the elected representatives and the citizens in the local administration and taking governance closer to citizens.

The Government introduced (July 2019)<sup>25</sup> the system of Ward Secretariats<sup>26</sup> in Andhra Pradesh. According to Government instructions, the delegation of administrative functions to the Ward Secretariat would make ward a unit of administration like the State, District and Urban Local Body and the Ward Secretariat would work in coordination with the Ward Committee. The Ward Secretary would further cater to the needs of two or more contiguous Wards, without disturbing the autonomy of the ULB for administrative convenience. Government constituted<sup>27</sup> 3,786 Ward Secretariats and 37,860 posts of Ward Secretaries at the rate of 10 Ward Secretaries per Ward Secretariat. The existing posts of bill collector, work inspector, Tap Inspector, Fitter and TP Tracer had been absorbed<sup>28</sup> (total 2,434 posts) and redesignated as Ward Administrative/Amenities/TP&R Secretaries. The remaining posts were filled with direct recruitment process by State Selection Committee.

Government deployed<sup>29</sup> the system of Ward Volunteers in Urban Areas to ensure delivery of timely and transparent services to eligible households to eliminate the corruption at all levels of administration. Accordingly, instructions<sup>30</sup> were issued to ULBs to position the Ward Volunteers on Performance based honorarium in a Ward. Volunteers were selected through interviews by a Selection Committee consisting of Municipal Commissioner and others. As of September 2019, 70,888 posts of volunteers existed in ULBs.

Subsequently Government created<sup>31</sup> Department of Gram Volunteers and Village Secretaries and Ward Secretaries (DGVVW & VSWS) to manage the working of Ward Secretariats.

During the years 2019-20 and 2020-21, the Government spent ₹303.94 crore and ₹887.01 crore towards the salaries/honorarium of these Ward Secretariats and expenditure was met from the Consolidated Fund of the State.

As such, creation of new set up at ward level was not consistent with 74<sup>th</sup> CAA and the Municipal Acts. As per Constitutional provisions, Ward Committee with elected representatives is the Constitutional set up at ward level. The institution of Ward Committee was made irrelevant, and the purpose was defeated with the introduction of

<sup>25</sup> vide G.O.Ms.No.217 dated 20/07/2019 & G.O. Rt. No. 650 dated 3/10/2019 of MA&UD(UBS) Department

<sup>26</sup> a platform created by State Government to provide 10 functional assistants of line departments to be called as 'Ward Secretaries' to be placed under the administrative control of the Municipal Commissioner of the respective ULB through the administrative hierarchy and to deliver the services to the citizens.

<sup>27</sup> G.O. Rt. No. 650 dated 3/10/2019 of MA&UD(UBS) Department

<sup>28</sup> G.O.Ms.No. 286 dated 7/11/2019 of MA&UD(UBS) Department

<sup>29</sup> G.O. Ms. No.201 dated 23/06/2019 of MAUD (UBS) Department & G.O. RT No.8 dt 1/4/2021 of DGVVW & VSWS Department

<sup>30</sup> G.O. Ms. No.254 dated 09.09.2019 of MAUD (UBS) Department

<sup>31</sup> G.O. Ms.No.156 dated 21.12.2019 of General Administration (Cabinet II) Department



Ward Secretariats. Government could have integrated these Ward Secretariats with the Constitutional setup by making them accountable to the Ward Committees and Area Sabhas.

Thus, formation of Ward Secretariat at ward level diluted the constitutional provisions and purpose of Ward Committee as envisaged in the Constitution as a bridge between citizens and governance.

Department stated (December 2022) that creation of Ward Secretariat is an administrative functionary at Ward level to deliver the services and the Ward Secretaries were responsible to the elected council through the Municipal Commissioner. The reply of the Department is not acceptable as there is no participation of Elected Representatives or Civil Society Members as envisaged in bodies like Ward Committees/ Area Sabhas.

### **3.5.5 Annual Administrative Report**

As per Section 34 of APM Act, Council shall submit Annual Administrative Report to the Government and furnish information relating to its plan schemes to Zilla Parishad<sup>32</sup>. As per Section 180 of APMC Act, the Commissioner shall as soon as may be after each first day of April, cause to be prepared a detailed report of the Municipal Administration of the City during the previous financial year<sup>33</sup> and shall submit the same to the Standing Committee. The report and the statement, after examination by the Standing Committee shall also be laid before the Corporation for its approval. The Commissioner shall forward a copy of each of the report and statement prepared by him under Section 180 together with a copy of the Committee's review to the Department for the purpose of being laid before the Legislative Assembly of the State.

However, Audit observed that Annual Administrative Report was not prepared and forwarded to the District Collector for onward submission to Government/placing before the Legislative Assembly during 2016-21 in test-checked ULBs.

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<sup>32</sup> (a) as soon as may be after day of 1st April, in every year and not later than such date as may be fixed by the Government through the District Collector a report on the Administration of the Municipality during the preceding year in such form and with such details as the Government may direct.

(b) the Commissioner shall prepare the report and submit it to the Council. The Council shall consider the report and forward it to the Government with its resolution, there on if any.

(c) the report and the resolutions thereon, if any, shall be published in the manner on the council, subject to the approval of the Government.

(d) the Council shall furnish to the Zilla Parishad concerned such information relating to the plan schemes of the Municipality as may from time to time, be required by Z.P.

<sup>33</sup> together with a statement showing the (amounts of income and expenditure, assets and liabilities, and receipts and payments of the) Municipal Fund during the said year and the balance at the credit of the Fund at the close of the said year

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### 3.5.6 Monitoring of functions by Mayor/Chairperson

Section 47 of APM Act 1965 and Section 112 of APMC Act specified the powers and functions<sup>34</sup> of Chairperson. Notwithstanding any other provisions in the Act, the Chairperson shall perform the functions of the Municipality as per Act provisions.

Audit noticed from the minute books of the selected ULBs, the evidence of inspections conducted by Mayor/Chairperson to ensure effective implementation of the functions assigned at ground level during the period 2016-19 is not made available in the records.

Further,

- We observed that, no mechanism existed to follow-up the implementation of Council resolutions in test-checked ULBs and
- The State Government had not defined the duties and responsibilities of Chairperson/ Mayor and Ward Members (Councilor or Corporator) in the relevant Acts like other State Governments. The Telangana State Government had defined the specific duties and responsibilities for Chairperson (Section 23) and Ward Members (Section 56) in Telangana Municipalities Act 2019.

### 3.5.7 District Planning Committee

Article 243ZD provides for the constitution of a District Planning Committee (DPC) for consolidation of plans prepared by the panchayats and the municipalities in the districts. Accordingly, the State Government formulated the Andhra Pradesh District Planning Committees Act 2005 which came into force w.e.f. 30<sup>th</sup> December 2003 (as mentioned in the Act). According to Section 14 of the Act, the Government may make rules to carry out the purposes of the Act. However, audit noticed that no rules had been formulated to enforce the Act.

Further, as per Section 7 of above Act every Municipality, Municipal Corporation and Nagar Panchayat shall prepare a Development Plan before the beginning of the financial year taking into consideration the tax levied by them and the non-tax revenue received by them and the funds likely to be received from the Government and other departments or Agencies during the financial year and such plan shall also include the human development or disaster mitigation initiatives proposed to be undertaken during the financial year.

Audit observed that DPCs were not constituted in the districts and development plans were not prepared by test-checked ULBs. The Department accepted (December 2022) non-constitution of DPCs.

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<sup>34</sup> maintain proper sanitation, water supply, street lighting and scientific process and disposal of solid and liquid wastes; ensure 100 *per cent* households and commercial establishments in the Corporation segregate the waste and handover to person/agency authorised by the Municipality; Ensure 100 *per cent* removal of encroachments on Government/Municipal lands in the Municipality; Ensure no unauthorised constructions in the Municipality; develop and maintain parks and play grounds in the Municipality; Ensure construction of Rain Water Harvesting System (RWHS) in the Municipality; ensure proper tree plantation, survival and maintain Green coverage in the Municipality

### 3.5.8 Metropolitan Planning Committee

Article 243ZE mandates that there shall be constituted in every Metropolitan area<sup>35</sup>, a Metropolitan Planning Committee (MPC) to prepare a draft development plan for the Metropolitan Region as a whole. The State Government also formulated The Andhra Pradesh Metropolitan Planning Committee Act 2007, which came into force on 22 October 2007.

In test-checked ULBs only Greater Vishakhapatnam Municipal Corporation (GVMC) met the criteria of having one million population for formation of MPC. However, the GVMC has not constituted the MPC to prepare draft development plan in accordance with the provisions.

Department replied (October 2022) that master plans were being prepared by UDA, which is about town planning and not relevant to MPC. The Department accepted (December 2022) non-constitution of MPCs.

### 3.5.9 State Finance Commission

Article 243I of the Constitution of India makes it mandatory for the State Government to constitute a Finance Commission within one year of the commencement of the CAA and thereafter on expiry of every five years. The mandate of the State Finance Commission (SFC) is to review the financial position of the Local Bodies and to make recommendations to the Governor for devolution of funds. State Government provided for constitution of SFC in APMC and APM Acts. Accordingly, three SFCs were constituted as detailed in *Table 3.4*.

**Table 3.4: Status of constitution of State Finance Commissions (SFCs)**

SFC	To be constituted	Actually constituted	Delay	Date of submission of Report	Period covered
First	By 31/03/1994	22/06/1994	3 months	Not available	1997-98 to 1999-2000
Second	1999-2000	08/12/1998	-	Not available	2000-01 to 2004-05
Third	2004-05	29/12/2004	-	Not available	2005-06 to 2009-10

*Source: Information furnished by CDMA office*

The fourth SFC, to cover the period 2010-11 to 2015-16 which was constituted in May 2018 belatedly after eight years instead of in 2009-10, had not submitted report to Governor as of September 2021. The dates of submission of SFC recommendations/report are not available with the Government/Department. Delay in constitution of SFCs, thus, indicated the disregard for this process. This is explained at *Para 5.1.1.2*.

The Department accepted (December 2022) delay in constitution of 4<sup>th</sup> SFC.

<sup>35</sup> a metropolitan area is defined as an area having a population of one million

### 3.5.10 Property Tax Board

The 13<sup>th</sup> Finance Commission mandated constitution of a Property Tax Board (PTB) to assist all Municipalities and Municipal Corporations in the State to put in place an independent and transparent procedure for assessing property tax. Section 85A of APM Act and Section 197A of APMC Act also provided for constitution of PTB with a Chairperson, who has held the office of Judge of a High Court and members having knowledge and experience in the fields of valuation of properties for assessment of property tax. The State Government constituted (March 2011) Property Tax Board (PTB) appointing the Commissioner & Director of Municipal Administration (C&DMA) as a Chairman to discharge the functions<sup>36</sup> till the regular Chairman is appointed.

Audit observed that –

- After bifurcation of State, the Expert Committee, formed for demerger of erstwhile PTB, has recommended to seek deletion of PTB from the Schedule-IX (Item No.62) by addressing to the GoI, as it was a Government Body to serve the MA&UD Department of both successor states. Government accepted (January 2018) the proposal to seek the deletion of item from IX<sup>th</sup> schedule by addressing to the GoI on demerger of Andhra Pradesh Property Tax Board (APPTB). However, Audit observed that, APPTB had not been re-constituted to provide assistance and technical guidance for proper assessment of Property Tax.
- After bifurcation of combined State, the Telangana State Government had constituted (October 2015) the Telangana State Tax Board. But the Andhra Pradesh State Government did not take steps to constitute the PTB as of September 2021.
- The Government had issued (November 2020)<sup>37</sup> Rules for Levy and Assessment of Property Tax by amending the respective Municipal Acts<sup>38</sup> to change the system of levying property tax from existing Annual Rental Value (ARV) system to Capital Value (CV)<sup>39</sup> system with effect from April 2021.

This indicated that the ULBs in the State lacked technical guidance for assessment and revision of Property Tax. Thus, the provisions in the respective Acts were put forth to fulfil the conditions for obtaining the Performance Grant as per the 13<sup>th</sup> CFC award.

The Department stated (December 2022) that PTB was formed with Departmental officials and is functioning. However, PTB was not formed as per the Act provisions (adhering to the qualification of chairperson and members), the present constitution of

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<sup>36</sup> to make arrangements for preparation of data base of property tax, for proper maintenance of records and registers; to make arrangements for assessment of property tax on all buildings and lands situated in the Municipalities; to monitor that the assessment books shall be completely revised by the Commissioner once in five years *etc.*

<sup>37</sup> vide G.O.Ms.No.198, dated 24/11/2020.

<sup>38</sup> vide Act No.44 of 2020

<sup>39</sup> the capital value of lands and buildings fixed by the Stamps and Registration Department for the purpose of registration as per Andhra Pradesh Revision of Market Value Guidelines Rules 1998, shall be deemed to be the guideline value for fixation of property tax

PTB was a cosmetic exercise to fulfil the conditions for obtaining Performance Grant as per the 13<sup>th</sup> CFC award. The CDMA accepted audit contention and stated that Government would take action in this regard.

### 3.6 Powers of the State Government over ULBs

Constitution of Municipalities and their sustenance is the responsibility of the State Government as per Article 243Q of the Constitution of India. Audit observed that the State Government had overriding powers over ULBs, which was against the spirit of Constitutional Amendment. A few provisions are indicated in **Table 3.5** below:

**Table 3.5: State Government powers over ULB**

S. No.	Subject	Provisions in the Municipal Acts
1	Power to frame Rules	The State Government, may by Notification in the Gazette, make rules for carrying out all or any of the purposes of the Acts after approval of the State Legislature (Section 585 of APMC Act, 1955 and Section 326 of AP Municipalities Act, 1965) even after implementation of 74 <sup>th</sup> CAA e.g., Property Tax
2	Power to cancel or suspend a resolution or decision taken by ULBs	The State Government may cancel or suspend a resolution or decision taken by ULBs, if the State Government is of the opinion that it is not legally passed or in excess of the power conferred on Municipal Corporation and Municipalities Acts, any other law or likely to endanger human life, loss to Municipality, public safety, health, or communal harmony or in violations of orders issued by Government (Section 59 of AP Municipalities Act 1965 and Section 679A of APMC Act)
3	Power to dissolve ULBs	The State Government, by Notification, may dissolve the ULBs, if ULBs fail to perform or default in performance any of the duties imposed on them, after giving reasonable opportunity. The order of the dissolution of the ULB shall be laid before both the Houses of State Legislature with a statement of reasons therefor (Section 62 of AP Municipalities Act 1965 and Section 679D of Corporation Act).
4	Sanction of by-laws by Government	The Acts empower the ULBs to make by-laws. However, the by-laws shall be confirmed by the Government (Section 589 of APMC Act and Section 330 & 330A of AP Municipalities Act 1965)
5	Sanction to deposit and invest surplus funds	ULBs are empowered to invest or deposit surplus money but only after prior approval of the Government (Section 178 of APMC Act)
6	Sanction to borrow money	ULBs are allowed to borrow money but with the prior sanction of the Government (Section 149 of APMC Act)
7	Lease and sale of property	The ULBs are allowed to lease or sell movable and immovable property belonging to them, but with certain restrictions and prior sanction of the Government (Section 148 of GHMC Act and Section 42 of APM Act 1965)

In contravention of the envisaged provisions of the 74<sup>th</sup> CAA, the State Government retains the powers to call for the records of the ULBs and take action against any Municipal Authority, if it fails to perform its duty. The State Government also enjoys the power to cancel the resolution passed by the Council. Further, the Government has power to dissolve the council. The power to borrow money, sanction of by-laws, lease and sale of property, allow works to be taken up also vests with the Government.

### 3.7 Formation and Functioning of SMART Cities in Andhra Pradesh

The Government of India introduced ‘100 SMART Cities Mission’ on 25 June 2015 with the objective to promote cities that provide core infrastructure and give a decent quality of life to its citizens, a clean and sustainable environment and application of ‘SMART’ Solutions. In Andhra Pradesh, four cities were selected for development as SMART Cities. The four SMART Cities in Andhra Pradesh are Visakhapatnam, Kakinada, Amaravati and Tirupati. The works done by the SMART Cities under the mission guidelines are related to construction of roads, construction of houses, development and maintenance of Parks, renovation of Heritage Sites, *etc.* Further, with the concept of Area Based Development, certain areas had been allocated to the SMART Cities Mission. For example, in Visakhapatnam, the ‘R K Beach’ and in Tirupati, ‘Tirupati Town Centre (TTC)’ are being developed by SMART Cities Mission. Funds amounting to ₹1000 crore and ₹520.06 crore were spent in Visakhapatnam and Tirupati respectively during the period 2016-21.

Functions of SMART Cities include promoting land use, housing, road, water supply, solid waste management, creation of parks and developing open spaces, which were otherwise functions that have been devolved on the Urban Local Bodies in Andhra Pradesh. As shown above, SMART Cities are getting significant funds for executing their functions, which could have otherwise been utilised by Urban Local Bodies concerned.

Further, as per the SMART City Mission Guidelines, the functions and responsibilities of the SMART Cities also include determination and collection of the user charges, collection of taxes, surcharges, *etc.*, as authorised by the Urban Local Bodies. This functional deviation has the potential to further curtail the revenue of the ULBs and participation of people’s representatives at decision making level.

The advent of SMART Cities has further eroded the space of Urban Local Bodies.

### 3.8 Parastatals, their functions and impact on Urban Local Bodies

The objective of the 74<sup>th</sup> CAA was to entrust delivery of major civic functions to ULBs. However, the functions of urban planning including town planning, regulation of land use and Urban Poverty Alleviation are continued to be delivered by parastatals as already indicated in **Table 3.1**. These parastatals are controlled by the Government and have their own governing bodies which would not include elected representatives of

ULBs. They are directly accountable to the State Government rather than ULBs. The details of Parastatals and their functions are given in *Appendix 1.4*.

The role of parastatals and their impact on the devolved functions in the test-checked ULBs is discussed below:

- (i) The function of Urban Planning including town planning is not devolved to ULBs by State Government. The functions of Urban Planning and regulation of land use are discharged by the Urban Development Authorities (UDAs) established for the planned development of important urban areas falling within their jurisdiction under the Andhra Pradesh Urban Area Development Act 1975, Andhra Pradesh Metropolitan Region and Urban Development Authorities Act 2016 and Andhra Pradesh Capital Region Development Authority Act 2014. In Andhra Pradesh, 18 UDAs<sup>40</sup> are functioning covering the area of 94 ULBs out of 123 ULBs. The UDAs are responsible for preparation of master plans, zoning of land use for residential, commercial, industrial, agricultural, recreational, educational and other purposes together with zoning regulations.

The UDAs are also involved in issuing of building permissions for high rise buildings for urban areas falling within their jurisdiction as per State Government delegation issued<sup>41</sup> in December 2017.

- (ii) The Directorate of Town and Country Planning (DTCP) is involved in preparation of Master Plans for towns in Andhra Pradesh State, revision of Master Plans for the ULBs other than those covered under UDAs. In Andhra Pradesh, 29 ULBs were covered under DTCP. The DTCP gives technical approval of layouts, group housing, commercial complexes, preparation and approval for type of designs for community and public buildings for urban areas falling within its jurisdiction.

The DTCP is also acting as Nodal Agency for online monitoring of Layout Regularisation Scheme (LRS) and Building Penalisation Scheme (BPS) across all ULBs in the state. The amounts so collected under these schemes are credited into DTCP Account.

- (iii) The Andhra Pradesh Urban Finance and Infrastructure Development Corporation (APUFIDC) provides financial and technical assistance to ULBs and to act as channelising agency for funds released by Central and State Government and other External Aided Projects. The ULBs approach APUFIDC with a loan/grant proposal to support its potential investment. In this context, ULBs enter into an agreement specifying the terms and conditions of loan with APUFIDC. It acts as State Mission Directorate for all 32 AMRUT ULBs in the state. Its role is to monitor/review the periodical progress of implementation, fund management, capacity building for urban development and implementation of reforms.

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<sup>40</sup> including Capital Region Development Authority (CRDA)

<sup>41</sup> vide G.O.Ms.No.443 dt.18/12/2017

Given the backdrop, devolution of functions like urban planning including town planning and regulation of land use to ULBs assumes prominence not only for raising own financial resources but also for overall planning purposes to meet the needs for growing urbanisation by ULBs. However, it is evident from the **Table 3.1** that the State Government had not devolved functions relating to urban planning and land use to ULBs. The Urban Development Authorities along with DTCP play a major role in these functions thereby restricting the autonomy of ULBs despite adequate provisions in the Constitution.

The parastatal agencies were established before and after enactment of 74<sup>th</sup> CAA through issue of notifications and are governed by the respective State Acts. The Government should have amended these Acts to comply with the provisions of 74<sup>th</sup> CAA thereby making them accountable to ULBs.

Without complete devolution of the functions, the ULBs cannot be strengthened in the state. These parastatal bodies without including or having elected representatives of ULBs also deprive of urban governance of citizen participation.

Department replied (December 2022) that parastatals were created for effective functioning of ULBs and are supplementing the ULBs but not undermining the functioning of ULBs. It was further stated that by providing technical support to the ULBs, parastatals are directly supporting the Government. The reply of CDMA is not acceptable as the 74<sup>th</sup> CAA requires ULBs to have complete functional autonomy/jurisdiction over devolved functions. The State Government is responsible to empower the ULBs to perform in these devolved functions.

### **Conclusions:**

- *Out of the 18 functions listed in the 12<sup>th</sup> Schedule of the CoI, only 16 are devolved to the Municipal Corporations while only 12 are devolved to the Municipalities and Nagar Panchayats. Even in the functions devolved, the ULBs do not have complete functional autonomy/jurisdiction. The state had created multiple parastatals which are undermining the role of ULBs in the functions supposed to the exclusive domain of the ULBs.*
- *The conduct of elections is not regular, leading to administration by special officers, defeats the spirit of 74<sup>th</sup> CAA. The SEC does not have role in other election related activities such as delimitation and reservation of seats, which leaves the pre-election exercise to the discretion of the State Government.*
- *State Government constituted the fourth SFC belatedly after eight years. However, funds were released to the ULBs during the meantime without relevant recommendations.*
- *Inclusion of villages into Municipalities was not properly carried out as per procedure with regard to test-checked two Municipalities.*
- *The CoI had envisaged institutional mechanisms – like Area Sabha, Ward Committee - to engage citizens in the planning and functioning of ULBs.*



*Government has also created a parallel bureaucratic setup viz., Ward Secretariat to provide services at the ground level. This dilutes the representative principle and roles of Area Sabha and Ward Committees.*

- *The Acts providing for MPCs and DPCs are not implemented at the ground level. The municipal acts still provide for overarching powers to the State over the ULBs in administrative and financial aspects.*
- *ULBs are to take technical guidance in assessing and revising Property Tax from Property Tax Board. Instead, Government was issuing orders for assessment and revision of Property Tax.*

***Recommendations:***

- *Government should assign powers with respect to urban planning, sanitation etc., to ULBs instead of Parastatals.*
- *Government should form Ward Committees and integrate Ward Secretariats with Ward Committees and Area Sabhas to realise self-governance.*
- *Government should constitute District Planning Committees and Metropolitan Planning Committees under the guidance of ULBs to prepare development plans based on local needs.*
- *The Property Tax Board needs to be constituted in compliance with Act provisions.*