

CHAPTER -1

ACCOUNTS AND FINANCES OF URBAN LOCAL BODIES

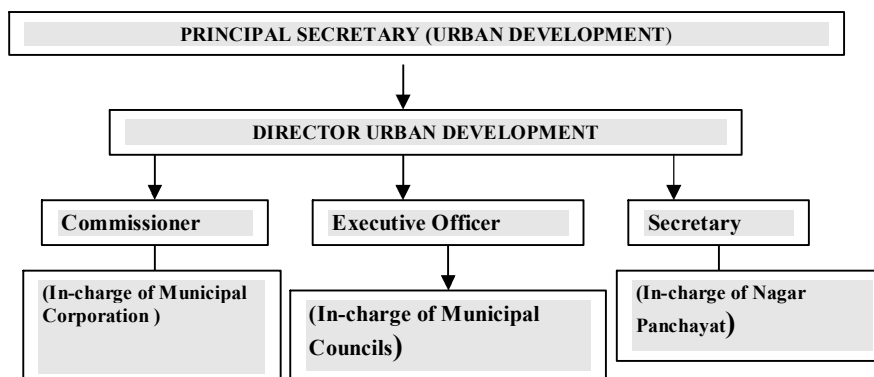
1.1 Introduction.

The 74th Constitutional Amendment paved way for decentralization of powers and transfer of 18 functions as listed in the 12th schedule of the Constitution alongwith funds and functionaries to the Urban Local Bodies. To incorporate the provision of the 74th Constitutional Amendment, the Himachal Pradesh Government (Local Self Government) enacted the Himachal Pradesh Municipal Corporation Act, 1994 and Himachal Pradesh Municipal Act, 1994. Prior to enactment of these Acts, the functions listed in the 12th schedule of the Constitution were not devolved upon the ULBs. However, the obligatory and discretionary functions were with ULBs.

The Eleventh Finance Commission (EFC) recommended that the Comptroller and Auditor General of India (CAG) shall be responsible for exercising control and supervision over the proper maintenance of accounts and their audit for all the three tiers/levels of Panchayati Raj Institutions and Urban Local Bodies (ULBs). The State Government accordingly through an executive order allowed (*April 2004*) the Principal Accountant General (PAG) to conduct the audit of accounts of ULB in such manner as he deems fit and issue audit/inspection reports since all ULBs were in receipt of grants from the consolidated fund of the Centre/State. Formal notification for entrustment was also issued by the State Government in October, 2008.

1.2 Organizational Set up.

The Organizational set up of ULBs is as under:-



There is one Municipal Corporation, 20 Municipal Councils (MCs) and 28 Nagar Panchayats (NPs) in the State.

The Mayor heads the Municipal Corporation whereas the President heads both MCs and NPs.

1.3 Powers and functions.

To function as institution of self-government and to carry out the responsibilities conferred upon them, the ULBs exercise their powers and functions in accordance with the provisions of the Constitution. Some obligatory functions of the ULBs are as follows:-

- Water supply for public and private purpose;
- Construction and maintenance of sewage and drainage system;
- Collection and disposal of solid waste;
- Construction and maintenance of streets, bridges, culverts etc;
- Construction and maintenance of public latrines, urinals and similar conveniences;
- Lighting of public streets and other public places;
- Construction and maintenance of markets;
- Preventing and checking spread of dangerous diseases including immunization;
- Town planning and development including preservation of monuments, places of historical, artistic and other importance;
- Overall administration including survey, removal of encroachment, dangerous buildings, registration of births and deaths and pollution control of all kinds.

Further, the ULBs may at their discretion provide the following services either wholly or partially out of its property and fund:

- Education;
- Sanitation;
- Music and other entertainments in public places;
- Houses for deaf, dumb, disabled and destitute persons;
- Public works relating to relief, care of sick, medical service;
- Measure to promote public safety, health, convenience or general welfare;

The State Government may impose or transfer any such functions and duties of the Government to the ULBs including those performed by the departments.

1.4 Audit Coverage.

Test check of the records of Municipal Corporation, Shimla, seven¹ Municipal Committees (MCs) (out of 20 MCs) and nine² Nagar Parishads (NPs) (out of 28 NPs) was conducted during 2008-09 and a review of the execution of Integrated Development of Small and Medium Towns (IDSMT) scheme for the period 2003-08 was also conducted in 16 MCs and seven NPs during April-June 2008. The important audit findings of the annual inspection are incorporated in Chapter-II and findings of the review on IDSMT scheme are in Chapter-III.

1.5 Sources and allocation of Funds.

For execution of various developmental works, the ULBs received funds mainly from the Government of India and the State Government in the form of grants. The Government of India grants also include grants assigned under the recommendations of EFC and Twelfth Finance Commission (TFC). The State Government grants are received through devolution of net proceeds of the total tax revenue under the recommendation of the State Finance Commission (SFC). Besides, the source includes the revenue mobilized by the ULBs in the form of taxes, rent, fees, issue of license, etc.

Position of funds released to the ULBs during 2005-08 is given below:-

Year	Receipts				Total expenditure incurred ³
	State Govt.	Central Govt.	Own revenue	Total	
2005-06	27.02	0.28	36.48	63.78	64.84 ⁴
2006-07	44.11	0.82	41.35	86.28	82.23
2007-08	54.37	12.15	44.26	110.78	85.90

Sectorwise details of expenditure for the period 2005-08 was as under:-

Year	(Rs. in crore)		
	Housing	Education	Sanitation
2005-06	--	--	9.51
2006-07	--	--	11.30
2007-08	--	--	23.99

The Department had shown nil expenditure under Housing and Education Sectors.

¹ Chamba, Dalhousie, Dharamshala, Naina Devi, Nalagarh, Palampur & Una.

² Baddi, Ghumarwin, Jawalamukhi, Nagrota Bagwan, Nadaun, Sarkaghat, Santokhgarh, Sujanpur & Talai.

³ The department has no separate detail of expenditure incurred under revenue and capital.

⁴ Expenditure was more than receipt as the ULBs received grants from other departments.

The grants were allocated among the Municipal Corporation, MCs and NPs on the basis of total population and revenue earned by them from their own resources.

1.6 Utilisation of TFC grants.

The position of funds released and utilized under TFC during the period from 2005-06 to 2007-08 was under:-

(Rs. in crore)			
Year	Funds allocated to ULBs	Funds released	Expenditure incurred
2005-06	1.60	---	---
2006-07	1.60	3.20	1.26
2007-08	1.60	1.60	---
Total	4.80	4.80	1.26

Evidently the funds released during 2005-08 could be utilized only to the extent of 26.25 percent. As such the objectives were not achieved.

1.7 Audit Arrangement.

The recommendations of EFC stipulate that the CAG shall be responsible for exercising control and supervision over proper maintenance of the accounts of ULBs and their audit.

The audit of ULBs is being conducted by the Director Urban Development through Local Audit Department. The PAG also conducts test audit under Technical Guidance and Supervision (TGS) as per recommendations of EFC. For this purpose the State Government has issued (October 2008) a notification for amendments in the relevant Act.

1.8 Pending Audit objections.

The Commissioner/Executive Officer/Secretary of the Municipal Corporation, MC and NP respectively having administrative powers are required to comply with the observations contained in the Inspection Reports (IRs) issued by this office and rectify the defects/omissions and report their compliance to settle the observations. The detail of IRs and paragraphs issued, settled and outstanding as on 31st March 2009 was as under:-

Year issue	of	No. of IRs/Paras issued		No. of IRs/Paras Settled		No. of IRs/Paras outstanding	
		IRs	Paras	IRs	Paras	IRs	Paras
2006-07		15	183	1	59	14	124
2007-08		17	207	0	11	17	196
2008-09		17	219	--	--	17	219

1.9 Internal Audit of ULBs.

Under the provisions of Municipal Corporation and Municipal Committees Acts, 1994, the accounts of Local Bodies shall be audited by a separate and independent agency.

The Local Audit Department conducts internal audit of ULBs. All the ULBs are required to be audited annually. It was noticed that coverage of audit by the local audit department was between 18 and 96 percent during the last three years as shown below:-

Sr. No.	Year	Total units/units to be audited	Numbers of units actually audited	Percentage of units audited
1.	2005-06	49/49	18	37
2.	2006-07	49/49	09	18
3.	2007-08	49/49	47	96

The Director stated (*May 2009*) that due to shortage of staff, audit of all the local bodies could not be conducted.

1.10 Budget Estimates.

The budget estimates of ULBs are prepared as per Himachal Pradesh Municipal Code, 1975 in the prescribed form keeping in view the budget estimates of expected income and expenditure for the next financial year and placed before the house of the committee for approval. After approval of the budget by the house of the committee it is submitted to the Director Urban Development for approval. The budget provisions and the expenditure there against for the test checked Municipal Corporation, seven MCs and nine NPs for the year 2005-06 to 2007-08 were as under:- **(Unit-wise position in Appendix-1):-**

(Rs. in crore)

Year	Budget Estimate	Actual Expenditure	Savings (-) Excess (+)	Percentage over all utilization
2005-06	48.04	34.96	(-)13.08	73
2006-07	48.89	42.32	(-)6.57	87
2007-08	50.85	50.02	(-)0.83	98

Perusal of above table would indicate that the budget estimates were not realistic as the expenditure during 2005-08 was ranging between 73 and 98 percent of the budget estimate. No reasons for less utilization of budget had been furnished.

1.11 Non-Certification of Accounts.

With no specific provision in the State Acts/Rules, certification of accounts by any agency was not in existence in the ULBs. In the absence of provisions for certification, the authenticity of the final accounts can not be vouchsafed and no audit opinion on the true and fair view of the accounts of ULBs could be given.

1.12 Awaited Utilisation Certificates.

Utilisation Certificates (UCs) are required to be sent on annual basis in respect of grants utilised.

Test check of records relating to Grants-in-aid, maintained in the Directorate, Urban Development revealed that UCs amounting to Rs. 50.59 lakh pertaining to various grants released during 2007-08 were awaited (*June 2009*) from three⁵ ULBs. No specific reasons were advanced for non submission of UCs by concerned local bodies.

1.13 Devolutions of funds, functions and functionaries.

Introduction.

The spirit of 74th constitutional amendment and philosophy of decentralization which recognizes the grassroots level participation and implementation is the very essence of good governance. Article 243W of the Constitution authorized the State Legislative to enact laws to endow the local bodies with powers and authority in this regard.

Consequent upon the 74th constitutional amendments Act 1992, the State Government, through legislation had enacted the Himachal Pradesh Municipal Corporation Act 1994 and Himachal Pradesh Municipal Committees Act 1994 by repealing the existing Acts to establish a three tiers ULB system and incorporating all the 18 functions enshrined in the eleventh schedule of the Constitution. The audit findings are discussed in the succeeding paragraphs.

1.13.1 Devolution of functions.

The State Government was required to transfer all the 18 subjects listed in the 11th schedule of the constitutions to ULBs. Following deficiencies were however noticed in the transfer of functions:-

⁵ NP Sujampur Rs. 28.93 lakh, NP Jawalji Rs. 14.78 lakh & NP Joginder Nagar Rs. 6.88 lakh.

1.13.2 Inadequate transfer of functions.

The State Government through its notifications (August 1994) entrusted only 16 functions (**Annexure-2**) out of the 18 functions listed in the schedule to the ULB. Two functions namely (i) Fire Services and (ii) Regulation of land use and construction of buildings were not transferred though mandated for transfer under the Acts. The Director, Urban Development Department stated (February 2008) that the function of 'Fire Service' was a centralized facility both for Urban and Rural area and as such there was no proposal to transfer this function. The reasons for non-transfer of function "Regulation of land" were awaited as of July 2009.

1.13.3 Withdrawal of forestry function from Municipal Corporation, Shimla.

The Municipal Corporation Shimla was managing forestry function since 1892 with four forest areas under its jurisdiction and Urban forestry was also included in sixteen devolved functions. The Corporation was having two Rest Houses and three nurseries. The Corporation was meeting the requirement of timber and wood out of its forest. However, the State Government resumed (April 2006) the forestry functions alongwith functionaries from the Corporation and timber/wood lying in the depot of Corporation was also taken over. Due to transfer of the above functions the Corporation had to spend Rs. 30.00 lakh (Appx.) annually for the procurement of timber and wood, besides being deprived of the recurring income of Rs. 11.00 to 15.00 lakh every year derived from forest of Corporation area, Rest Houses and forest nurseries. The reasons for resumption of the forestry function by State Government were called for (May 2009), reply to which was awaited as of June 2009.

1.13.4 Non entrustment of major schemes to ULBs.

The cardinal principle behind devolution of functions to the local bodies is that the implementation of the devolved functions should also be entrusted to these bodies.

Jawaharlal Nehru National Urban Rural Mission (JNNURM) was announced by the Hon'ble Prime Minister on 3rd December, 2005 with the objective of developing basic amenities in urban areas. Shimla city was also included under JNNURM. Four projects costing Rs. 50.13 crores (Solid Waste

management for Shimla town: Rs. 16.04 crore; Widening and lowering of existing tunnel near Auckland House School, Shimla : Rs. 10.09 crore; Housing scheme for urban poor at Tutu (Shimla) 252 flats : Rs. 9.99 crore and Housing scheme for Urban poor of Shimla town (Dhalli): 384 flats: Rs. 14.01 crore) were sanctioned for Shimla town under JNNURM. It was noticed that instead of entrustment of these works to Shimla Municipal Corporation, the State Government had entrusted these works to Himachal Urban Development Agency (HIMUDA) and funds of Rs. 9.47 crores have also been placed at the disposal of the above agency during 2006-07 and 2007-08 out of which an expenditure of Rs. 1.67 core has been made as of May 2009. The entrustment of the major scheme like JNNURM to HIMUDA instead to the Shimla Municipal Corporation by the State Government was against the spirit of devolution envisaged in the constitutional amendment. As the degree of success of ULBs as an institution of self government essentially depends on the extent of administrative and financial devolution coupled with the autonomy within the constitutional frame work, entrustment of the implementation of JNNURM to Shimla MC would have been appropriate.

1.13.5 Lack of co-ordination between two agencies in performing the function.

Water supply to Shimla town is being handled by two agencies i.e. Shimla Municipal Corporation and the State Irrigation and Public Health Department (IPH). The work of distribution of water within the city is with the Corporation while all other work beyond the jurisdiction of Shimla city including pumping of water is with the State IPH Department.

The total requirement of water for Shimla city is 41.28 Million liters of water per day while the Corporation could supply only between 27.36 to 29.86 Million liters per day during 2003-08 thereby leaving a gap ranging between 13.92 and 11.93 Million liters in demand and supply. This gap further increases in the summer months of April of July every year with influx of tourists. Thus the water shortage has become a perennial problem to the local people of this city.

While the people of the city perpetually reel under acute shortage, a huge amount of water is wasted daily due to leakage, which both the Corporation and State IPH Department have not been able to plug at time end.

In one such instance, test check or records revealed that during the year 2007-08, 11,13,28,489 KL quantity of water have been supplied by the IPH department but the Corporation Shimla had received 11,09,02,330 KL quantity of water thereby a difference of 4,26,159 KL quantity of water.

This agreement has led to a blame game whereby both the agencies shift the responsibilities to each other which in turn resulted in not providing even the available quantity of water to the people of the city. It was, however, imperative that both the agencies should perform the functions in coordinated manner for ensuring the delivery of service as well as accountability.

1.13.6 Non-legislation to amend the laws for the transferred functions.

For empowering the ULBs to execute the transferred functions as envisaged in the constitutional amendment, the State Government has to amend the laws by legislation, frame rules or guidelines as a follow up measure. However, no legislations to amend the laws for the scheduled area were enacted (June 2009). No amendments were also made in codes, manuals and departmental instructions in respect of functions like roads and buildings, public health, veterinary hospitals, primary health centers and hospitals etc. The devolved functions is being carried out by the concerned line departments. Thus the Government Departments was directly exercising the functions and control over the ULBs functions including its resources and the devolution remained only on paper.

1.13.7 Devolution of functionaries.

Empowerment of the ULBs can not be considered as meaningful unless accompanied by the requisite devolution of functionaries. The State Government was therefore to provide required administration structure and support to make the institutions and functionaries of the developed functions accountable to ULBs.

1.13.7.1 Inadequate devolution of functionaries.

It was noticed that the State Government has not ensured the manpower required for devolved functions as in 20 MCs against 1671 sanctioned posts in different categories, available manpowers was 1499 resulting in shortage of 172 (10 percent) and in 28 NPs, against 704 sanctioned posts, available manpower was only 496 resulting in shortage of 208 posts (30 percent) as of March 2009. As such the available manpower in

ULBs was not sufficient to execute the transferred functions. Action taken to fill up the vacant posts was called for (April 2009), from Director (UDD), the reply is awaited.

1.13.8 Devolution of funds.

In order to perform the devolved functions properly, these institutions require the matching funds/resources. The State Government was, therefore, required to release the whole assigned funds to the ULBs to enable them to perform the assigned functions effectively.

1.13.8.1 Non devolution of funds as per recommendations of the SFC.

The Second SFC recommended (24th October 2002) different provisions for establishment expenditure and aggregate maintenance provisions for services like constructing/providing roads, streets, drains, streetlight points and public toilets in Municipal Corporation, MCs, and NPs for the years 2003-2007. The third SFC in its interim Report also recommended similar provisions during 2007-08. The details of provisions recommended and actual release there against is given below:-

(Rs. in crore)

Year	Recommended Provisions for		Total	Actual provisions and payments made	Difference Excess (+) Less (-)
	Establishment	Aggregate maintenance provisions			
2003-04	34.94	4.22	39.16	13.01	(-) 26.15
2004-05	37.49	4.64	42.13	21.15	(-) 20.98
2005-06	40.23	5.11	45.34	23.38	(-) 21.96
2006-07	43.18	5.62	48.80	23.37	(-) 25.43
2007-08	32.39	9.10	41.49	30.52	(-) 10.97
Total	188.23	28.69	216.92	111.43	(-) 105.49

The table indicates that non-devolution of funds as per recommendations of the second and third SFCs resulted in short release of Rs. 105.49 crore to ULBs during 2003-08 which was about 49.80 percent less than the recommendations of the SFCs.

1.13.8.2 Withdrawal of powers from Municipal Corporation Shimla for issuing road permits.

All restricted roads in Shimla town are maintained by Municipal Corporation Shimla. For plying vehicles on these roads, Municipal Corporation Shimla was issuing permits after charging fees. The income of the Corporation on this account ranged between Rs.1 lakh to Rs. 6.00 lakh every year.

However, the State Government took over (2006-07) powers of the Corporation Shimla to issue permits as per provisions contained in Shimla Road Users and Pedestrians (Public Safety and Convenience) Act, 2007. Thus the Corporation was deprived of the income so generated despite the fact that these roads are being maintained by it.

1.14 Conclusion.

Preparation of budget estimates were found to be un-realistic. The relevant Acts/Rules to incorporate provisions of certification of accounts by the statutory auditors were not amended. Though the State Government had amended the relevant Acts in 1994, it had devolved only 16 functions out of the 18 functions mandated for devolution in the 74th amendment Act.. The State had also not assigned the funds to ULBs as per the recommendations of the SFCs and also not entrusted the implementation of the major scheme like JNNURM. No action has been taken by the ULBs to get the Inspection Reports and paras settled.

1.15 Recommendations.

- ❖ Internal control and monitoring mechanism should be strengthened to ensure realistic preparation of budget estimates and timely submission of UCs.
- ❖ The Government should suitably amend the Acts/Rules to incorporate the provision for certification of accounts by the statutory auditors.
- ❖ Government should consider transfer of all functions to ULBs as mandated in the Constitution 74th amendment.
- ❖ The State Government should assign the entire funds recommended by the State Finance Commission enabling the ULBs to discharge their functions effectively.
- ❖ Implementation of the major schemes of devolved functions should also be entrusted to the ULBs.