

## SECTION A

### CHAPTER II

#### RURAL DEVELOPMENT AND WATER CONSERVATION DEPARTMENT

##### Performance Review Transfer of Functions, Funds and Functionaries to Panchayati Raj Institutions

###### Highlights

In accordance with the 73<sup>rd</sup> Amendment, 29 functions listed in the XI Schedule under Article 243G of the Constitution were required to be transferred to Panchayati Raj Institutions (PRIs). The Government of Maharashtra has devolved only 15 functions to the PRIs.

*(Paragraph 2.1 and 2.5.1)*

The activity mapping as specified by Central Task Force, for devolution of powers and functions among the three tiers of PRIs had not been completed.

*(Paragraph 2.5.3)*

In eight ZPs, funds amounting to Rs 142.13 crore could not be drawn and utilized due to non-receipt of release orders from Administrative Departments before closing of the financial years.

*(Paragraph 2.6.2)*

Transfer of posts of the Agriculture Department to PRIs was not implemented which resulted in non-transfer of agriculture-related functions to PRIs.

*(Paragraph 2.7.1)*

#### 2.1 Introduction

Democratic decentralization in the Indian context means the establishment of self-Government at the local level and transfer of functions, functionaries and funds from the State Government to elected local bodies. The administrative control over staff and freedom to take administrative and financial decisions were also to be transferred to the local bodies. The 73<sup>rd</sup> Constitutional Amendment Act left the extent of devolution to the wisdom of the State Legislatures.

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With the enactment of the 73<sup>rd</sup> amendment to the Constitution in April 1993, schemes relating to 29 functions were to be transferred to PRIs. The transfer of functions, funds and functionaries to PRIs was reviewed by Audit during January to March 2008 and the findings are discussed below.

## **2.2 Audit Objectives**

The audit objectives were to evaluate whether

- Functions envisaged to be transferred to PRIs were actually transferred
- Adequate funds were allocated to PRIs to perform these functions
- Proportionate number of functionaries were transferred to PRIs to ensure effective performance of the functions transferred
- There exists proper co-ordination among the different tiers of PRIs
- There was a proper internal control mechanism

## **2.3 Audit Criteria**

The audit criteria used for assessing the effective devolution of transfer of functions, funds and functionaries included

- provisions and schedules of the Maharashtra Zilla Parishads and Panchayat Samitis Act (MZP&PS) and the Bombay Village Panchayat(BVP) Act relating to transfer of functions.
- Government orders transferring functions, funds and functionaries, *etc.*
- Government Guidelines and fixation of norms for transfer of functions to PRIs.

## **2.4 Audit Methodology and Scope**

The performance audit covering the period from 2002-03 to 2006-07 was conducted during January to March 2008 in eight ZPs<sup>12</sup> selected by the stratified sampling technique, using IDEA software, 16 PSs<sup>13</sup> and 32 VPs<sup>14</sup> were selected from the respective ZP. Entry and Exit Conferences were held with the officers/representatives of State Government as well as the PRI functionaries in December 2007 and September 2008 respectively. The State

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<sup>12</sup> Aurangabad, Kolhapur, Nashik, Parbhani, Solapur, Thane, Wardha and Yavatmal

<sup>13</sup> Kagal, Karanja, Malshiras, Maregaon, Nashik, Paithan, Parbhani, Pandharpur, Radhanagari, Seloo, Soygaon, Sinner, Selu,; Shahapur, Umardhed, Vasai,

<sup>14</sup> Bakudjalgaon, Baradwadi, Bastawade, Bhandishegaon, Bhatsai, Bilalpada, Bondarthana, Borgaon, Bori(Ko), Bori(Najikhatari), Borwand(Bk), Botoni(Chi), Brahmangaon(P), Chas, Devhari, Dewargaon, Nagapur, Rajur bahula, Susundra, TaraleKhurd, Teltumba, Thangaon, Thergaon, Tungat, Umari(Ma), Usgaon, Vadgaon, Vanojadevi, Varaskol, Vithalwadi, Wadgaon(Ka) and Warkhed budruk

Government agreed to re-examine the issues raised by audit during the Exit Conference.

## **2.5 Audit Findings**

The audit findings are discussed in the succeeding paragraphs:

### **2.5.1 Functions not transferred as per 73<sup>rd</sup> Constitutional amendment**

Although the State Government accepted the recommendations of the Second Maharashtra State Finance Commission (MSFC), for devolution of all the functions listed in the 11<sup>th</sup> schedule of the Constitution to the PRIs, the same was not implemented in full.

Till March 2008, the Government had transferred only 15 functions to the PRIs. The department-wise position of schemes transferred to PRIs by State Government as of March 2008 under the 15 functions is detailed in **Appendix V**.

Remaining 14 functions were not transferred to the PRIs as of March 2008 (**Appendix VI**) there by not achieving the democratic decentralization as envisaged by 73<sup>rd</sup> Constitutional amendment. It was however observed that the Government had issued a statement of conclusion (June 2007) stating that remaining 14 functions will be transferred within six months.

### **2.5.2 Non-transfer of schemes**

The Government of Maharashtra issued notifications (February 2001) transferring 45 schemes under two functions (37 schemes under Agriculture and eight schemes under Minor Irrigation, Water Management and Watershed Development) to PRIs.

These schemes were however, not transferred to the PRIs due to non adoption of the new staffing pattern by the Government which envisaged transfer of functionaries alongwith the transfer of schemes. The new staffing pattern could not be implemented as there was a demand from the public representatives to reconsider its adoption. However, no action has been taken by the Government to reconsider the new staffing pattern even after lapse of seven years (April 2008).

The Department of Agriculture had incurred an expenditure of Rs 683.55 crore on the aforesaid 37 schemes relating to agriculture during 2002-03 to 2006-07.

### **2.5.3 Activity Mapping**

Co-existence of various tiers of PRIs pre-supposes balanced distribution of powers and functions among them. The basic criteria for such distribution being that a function should be performed by a tier to which it belongs and a mechanism for inter-tier co-ordination to exist in case of overlapping

functions. In order to operationalise administrative decentralisation of funds, functions and functionaries among PRIs, the Ministry of Rural Development, GOI constituted (July 2001) the Central Task Force (CTF) for suggesting the manner of transfer to each tier of PRIs so that devolution of all the 29 functions enlisted in the XI<sup>th</sup> Schedule of the Constitution can be completed by March 2002. The inter-tier allocation of functions was also to be specified by the CTF in an activity map prepared by them.

The CTF had accordingly suggested (August 2001) a model Activity Mapping to ensure a balanced distribution of powers and functions between the three tiers of PRIs. The State Government is however, yet to revise their existing activity map in accordance with the map suggested by CTF. On being pointed out, the State Government stated (March 2008) that additional activity mapping was in progress to clarify the demarcations of the responsibilities of each tier of PRIs.

**2.5.3.1** According to the CTF, the activity of procurement and supply of material and equipments under the function ‘Non-conventional Energy Sources’ was to be implemented by PSs. However, the procurement of material was done by an outside agency *viz.* MEDA (Maharashtra Energy Development Agency) to which funds were released by the State Government. Expenditure of Rs 1.10 crore was incurred by this agency from 2002-03 to 2006-07 which should have been incurred by the PRIs.

**2.5.3.2** The activity of selection of beneficiaries and supply of milch animals under the function ‘Animal Husbandry, Dairy and Poultry’ was required to be performed by PSs. However, expenditure of Rs 4.89 crore during the period 2002-03 to 2006-07 was incurred by eight<sup>15</sup> test-checked ZPs towards procurement and supply of milch animals which should have been done by the PSs. It was also noticed that selection of beneficiaries was done by the District Level Committee in two test checked districts<sup>16</sup> without involving the elected representatives of the PSs.

Thus performing of lower tier activities by the higher tier breached the principle of subsidiarity.

#### **2.5.4 Schemes though transferred but implemented by the State Government**

**2.5.4.1** As per the Government’s Resolution dated 21 October 2000, schemes providing grants-in-aid for cultural institutions and organization of State Drama competitions were transferred to ZPs. It was, however, observed that the Social Justice and Cultural Affairs Department incurred an

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<sup>15</sup> Aurangabad(Rs 0.11 crore), Kolhapur(Rs 0.68 crore), Nashik(Rs 1.95 crore), Parbhani (Rs 0.27 crore), Solapur (Rs 0.09 crore), Thane(Rs 0.29 crore), Wardha (Rs 0.08 crore), Yavatmal(Rs 1.42 crore)

<sup>16</sup> Solapur and Kolhapur

expenditure of Rs 7.70 crore and Rs 22.67 lakh respectively on these two activities during 2002-03 to 2006-07. On being pointed out, the Directorate stated (May 2008) that there was no proposal to implement the scheme at the ZP level even though the Government had issued the order.

**2.5.4.2** The Coaching scheme was introduced by the Government to provide coaching facilities to post-graduate students belonging to backward classes to enable them to appear for the Civil Services Examination. The scheme was transferred to the ZPs in November 2000. However, it was observed that this scheme was being implemented through the University of Pune by incurring expenditure from grants received from the Ministry of Social Justice without the involvement of ZP Pune. The expenditure incurred by the University of Pune on the scheme was Rs 14.07 lakh during the period from 2002-03 to 2004-05.

Even though the Government had issued orders for implementation of the schemes by ZPs, the funds had not been released to the PRIs and implementation was being done at State level.

Thus implementation of schemes transferred to PRIs by the State Government were not in conformity with the 73<sup>rd</sup> Constitutional amendment.

### **2.5.5 Scheme taken back by Government from PRIs**

The management of 168 Government hostels for economically backward class and Scheduled Caste boys and girls at the Taluka level were transferred to the ZPs in November 2000. However, these hostels were taken back by the Government in May and September 2004 respectively. It was seen from the minutes of the meetings of Members of Parliament and the Chief Minister held on 14 November 2003 that the performance of these hostels was poor which prompted the Government to take back the transferred functions. There were approximately 14151 beneficiary students as of May 2004 and the Government incurred an expenditure of Rs 61.70 crore during 2004-05 to 2006-07 without involving the PRIs at any stage. The Director of Social Welfare attributed (June 2008) the poor performance to the delays in drawal of funds from treasuries which delayed payment of maintenance allowances, payments to diet suppliers, electricity charges, rent to landlords *etc.* This was due to the fact that the Chief Accounts and Finance Officer (CA&FO) of ZP had become the Drawing and Disbursing Officer after transfer of the hostels to the ZP and accordingly all bills were required to be routed through Social Welfare Department and to the CA&FO causing the delay.

Similarly, schools at Pune and Nagpur for children whose parents were working in unclean occupations were transferred to the respective ZPs in November 2000. However, these schools were taken back by the Government in September 2004. During the period 2004-05 to 2006-07, Government provided Rs 1.32 crore in the State Budget for running these schools, against

which the department incurred an expenditure of Rs 1.25 crore. The ZPs, thereafter, had no role either in the selection of the students or in the school management, which was against the spirit of decentralization. The Director of Social Welfare gave the same reasons as stated above for taking over the scheme.

According to Article 243G of the Constitution, these functions had to be transferred to the PRIs and in cases of deficiencies in implementation by PRIs, Government should have re-considered the process of payment rather than taking back the function from ZPs as the later goes against the spirit of decentralisation of powers to PRIs.

## **2.6 Devolution of Funds**

### **2.6.1 Decline in transfer of funds to PRIs**

During 1995-2000, 120 schemes were implemented in PRIs and the percentage of average devolution of funds from the State's own revenue was 23.23. After transferring 94 new schemes related to 12 functions enlisted in the Eleventh Schedule during November 2000 to September 2002, the percentage of average devolution of funds from the State's own revenues declined to 18.74 as indicated below.

*(Rupees in crore)*

<b>Year</b>	<b>State's own total revenue (Tax &amp; Non tax)</b>	<b>Funds transferred to PRIs</b>	<b>Percentage</b>
1995-96	13710	2863.70	20.89
1996-97	15470	3456.48	22.34
1997-98	17363	3924.79	22.60
1998-99	17776	4335.64	24.39
1999-00	21200	5283.23	24.92
<b>Total</b>	<b>85519</b>	<b>19863.84</b>	<b>23.23</b>
2002-03	27316.93	6453.82	23.63
2003-04	28711.10	5784.58	20.15
2004-05	34724.59	6300.48	18.14
2005-06	39475.29	7472.84	18.93
2006-07	47617.49	7321.27	15.38
<b>Total</b>	<b>177845.40</b>	<b>33332.99</b>	<b>18.74</b>

### **2.6.2 Non-drawal of funds for want of release orders**

Funds were made available to PRIs through ways and means advances for implementation of schemes. The grants were released by the Government to the ZPs as the functions had been transferred to them. In the eight test-checked ZPs, it was noticed that though funds amounting to Rs 895.04 crore during 2004-05 to 2006-07 were provided through ways and means advances, an amount of Rs 142.13 crore could not be drawn by them due to non-receipt of release orders from the Administrative Departments before the closure of financial year as shown in **Appendix VII**.

It was noticed that in Parbhani, Aurangabad, Solapur and Yavatmal ZPs, the sanction orders for drawal of funds from ways and means advances were received in the months of June and July due to which the amounts could not be drawn in time.

The delays in sanctioning the amount by the Administrative Departments delayed the implementation of schemes thereby depriving the beneficiaries of the intended benefits.

### **2.6.3 Weak financial position of Village Panchayats (VPs)**

It was observed that out of the 32 test-checked VPs, only 17 VPs had income of their own above Rupees one lakh during the period 2002-03 to 2006-07.

As per Section 45 of the BVP Act, 79 activities were transferred to the VP. However, it was noticed that the number of activities at the VP level ranged from 14 to 32 only.

## **2.7 Transfer of functionaries**

Devolution of funds and functions to the PRIs required the functionaries also to be transferred at all levels for effective discharge of these functions. The State Government had transferred 78 schemes to the PRIs (September 2002) with 1609 Group A and B and 13562 Group C and D staff members from six departments on deputation basis and 16 schemes without any staff. The posts were to be filled from feeder posts and the pay and allowances were to be paid by the respective heads of departments. A review of the system of transfer of functionaries to PRIs revealed the following deficiencies.

### **2.7.1 Revised staffing pattern**

The Agriculture Department decided (March 2001) to surrender 5425 posts and approved a new staffing pattern for ZPs and State Offices at the District/Taluka/Circle level.

As per the revised staffing pattern, 479 technical posts and 627 ministerial posts were proposed to be transferred to the ZPs', 1414 technical posts and

1616 ministerial posts at Grade I Blocks, 1029 technical posts and 1176 ministerial posts at Grade II Blocks and 16 posts at the Circle level. However, the revised staffing pattern was not made operational. On being pointed out, Deputy Secretary Agriculture stated (April 2008) that the staffing pattern sanctioned in February 2001 had been deferred and a revised staffing pattern was under consideration of the Government. The fact remains that the new staffing pattern has not been implemented even after seven years and the PRIs are not being able to effectively discharge their functions due to shortage of staff.

Similarly, Government had transferred 14 schemes under the function 'Non-Conventional Energy Sources' to PRIs in October 2000. Though one Project Officer was earmarked for each ZP, Government had transferred only 11 posts as of October 2000. It was noticed that the vacant posts were not filled up. On being pointed out, the State Government stated (April 2008) that the matter regarding transfer of the remaining posts was under consideration. The fact remains that due to non-transfer of the required functionaries, the PRIs would not be able to effectively discharge their functions.

### **2.7.2 Functionaries taken back by Government**

In November 2000, 1353 posts relating to 168 Government Hostels for Scheduled Caste Boys and Girls, Economically Backward Class Girls and two Schools<sup>17</sup> for children whose parents were working in unclean occupation were transferred to the PRIs. The transferred posts were taken back by Government in May and September 2004 since the hostels and schools were taken back by the State Government as already stated in Paragraph 2.5.5.

Instead of taking back the transferred posts, Government should have considered better means for implementation of the functions.

## **2.8 Capacity Building**

Capacity building of the staff members of the PRI was one of the objectives under IT enabled e-governance. Accordingly, rules were framed by the Government vide a notification dated 25 January 1999. Under the rules, a two-year time limit was prescribed for acquiring knowledge of computers for both existing employees and newly recruited employees. The time limit was extended from time to time and finally it was extended upto December 2007. The Second MSFC also recommended that knowledge of computers should be made mandatory for PRI employees. As of March 2008, the number of employees to be trained and those actually trained in seven test checked ZPs is as follows :

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<sup>17</sup> Pune and Nagpur



Name of Zilla Parishad	Total employees	Number of employees trained	Number of employees not trained	Percentage of untrained employees
Wardha	4260	1942	2318	54.41
Yavatmal	1762	929	833	47.27
Parbhani	1337	551	786	58.79
Aurangabad	824	492	332	40.29
Nashik	15436	1612	13824	89.56
Thane	12633	1635	10998	87.06
Kolhapur	9688	3138	6550	67.61
<b>TOTAL</b>	<b>45940</b>	<b>10299</b>	<b>35641</b>	

It is clear from the above table that the percentage of untrained employees in the ZPs remained very high even after eight years of the introduction of the policy of e-governance. It was also seen that the percentage of untrained employees in Thane and Nashik was above 80. While attributing this to their reluctance to send employees for training due to deficiencies in managing day to day work in their absence, ZP Nashik stated (March 2008) that steps would be taken to train the staff. However, fact remains that training is essential for implementation of e-governance and ZP should have planned and provided training to all their employees in batches during the last eight years.

## 2.9 Conclusion

Out of 29 functions listed in the Eleventh schedule of the constitution, the State Government has so far devolved only 15 functions to PRIs. The State Government could also transfer functionaries relating to 78 schemes out of 94 schemes transferred under 15 functions. The State Government has not revised their activity map in accordance with the model prescribed by CTF. Schemes under the Agriculture, Minor Irrigation, Watershed Management and Watershed Development which were proposed to be transferred to PRIs had not been transferred due to non adoption of revised staffing pattern. Activities transferred to PRIs were taken back by the State Government because of poor performance by PRIs.

## 2.10 Recommendations

- Government should consider the transfer of remaining 14 functions specified in the Eleventh Schedule of the Constitution.
- Government should consider the transfer of adequate funds and functionaries corresponding to the transferred functions.
- Government may consider amendments to the MZP&PS Act & BVP Act to incorporate clear demarcation of activities for each tier of PRI.

- Government should adopt the revised staffing pattern for schemes related to Agriculture and Minor Irrigation and transfer these functions to PRIs.

