

CHAPTER I

THE STRUCTURE AND FINANCE OF PANCHAYATI RAJ INSTITUTIONS

1.1 Panchayati Raj Institutions -Introduction

Article 243B of the Constitution envisages a three tier system of Panchayat: Village Panchayat (VP) at the village level, District Panchayat (DP) at the district level and Taluka Panchayat (TP) at intermediate level between the village and the district levels (at the Taluka level).

1.2 Status of PRIs in Gujarat

A three-tier system Panchayat was envisaged in the Gujarat Panchayat Act, 1961 (GP Act), which came into force in April 1963. This Act was amended in April 1993 to incorporate the provisions of the 73rd Constitutional Amendment Act, 1992. The first general election for the DPs, TPs and VPs were held in 1963. Since then the general election for the Panchayats have been held every five years and the last election of 25 DPs and 208 TPs was held in the month of October 2010.

1.3 Area and population covered

The GP Act extends to the whole of Gujarat in areas other than Municipalities/ Municipal Corporation / Notified Areas. Gujarat has geographical area of 1,96,024 Sqkms and accounts for 6.19 percent of the total land area of the country. According to the population census 2001, the population of the State stood at 5.07 crore with density of 258 persons per Sqkm. The rural population of 3.17 crore (62.64 *per cent* of the total population) belonging to 58.86 lakh households thus, was under the purview of the GP Act.

1.4 Organisational structure of the PRIs

There are 26 DPs, 224 TPs and 13788 VPs in the State. Panchayat, Rural Housing and Rural Development Department headed by Additional Chief Secretary exercises administrative control over the PRIs. The department is responsible for framing of policies pertaining to formulation and implementation of developmental schemes and administration. The Department also ensures implementation of above through issues of orders, guidelines and control and monitoring mechanism by the office of the Development Commissioner, Gandhinagar. The GP Act envisages the functioning of the DPs, TPs and VPs through functional Standing Committees having elected representatives as members and chairman. The

numbers of Committees prescribed under the GP Act are seven¹, two², and two³ for DP, TPs and VPs respectively. In addition, the Panchayats may, with the prior approval of the State Government, constitute Committees (s) for specific purpose.

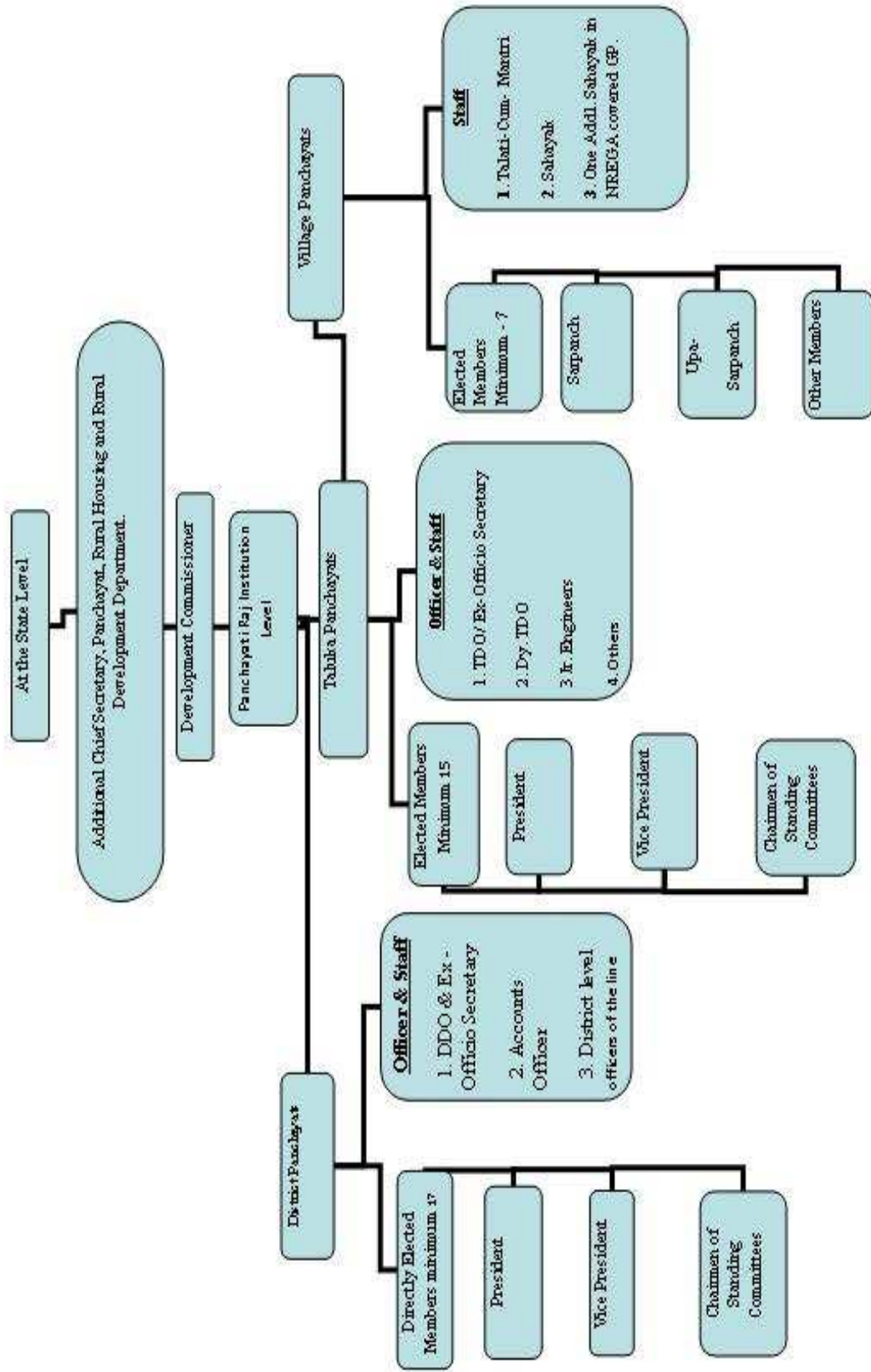
The organisational set up of the panchayati raj system in Gujarat is as shown in next page.

¹ (i) Executive Committee (Finance, Home guards, Village defence and for functions not assigned to any committee) (ii) Social Justice Committee (social justice for weaker Sections / SCs / STs) (iii) Education Committee (Education, Literacy and Cultural activities) (iv) Public Health Committee (Public Health, Hospitals, Health Centres, Sanitation, Water supply, Vaccination and family planning). (v) Public Works Committee (Public Works, Communications, Buildings, Rural Housing, Relief against Natural Calamities). (vi) Appeal Committee. (viii) Twenty Point Programme Implementation and Review Committee.

² (i) Executive Committee. (ii) Social Justice Committee.

³ (i) Executive Committee. (ii) Social Justice Committee.

The Organizational set up of the Panchayati Raj System in Gujarat:



1.5 Powers and functions

The 11th Schedule of the Constitution lists 29 functions to be devolved to the Panchayats. Article 243-G of the Constitution had empowered the State Legislature to decide and confer powers and responsibilities to the PRIs. As per section 180 (2) of the GP Act, the State Government may entrust to Panchayats 29 functions as mentioned in the 11th Schedule of the constitution. Out of these 14 functions⁴ are fully devolved, 5 functions⁵ are partially devolved and 10 functions⁶ are yet to be devolved in the State. Fourteen functions were devolved to the amendment in the GP Act, which was done in April 1993, since then no revision in the list has been made with the purpose to devolve the rest functions to these Institutions. The GP Act also vests a PRI with the following powers and duties: (i) to prepare development plan / annual action plan, (ii) to implement schemes for economic development and social justice as may be drawn up by or entrusted to it in pursuance of 11th Schedule of the Constitution, (iii) to manage or maintain any work of public utility and (iv) to collect revenue for utilisation of such funds for developmental work.

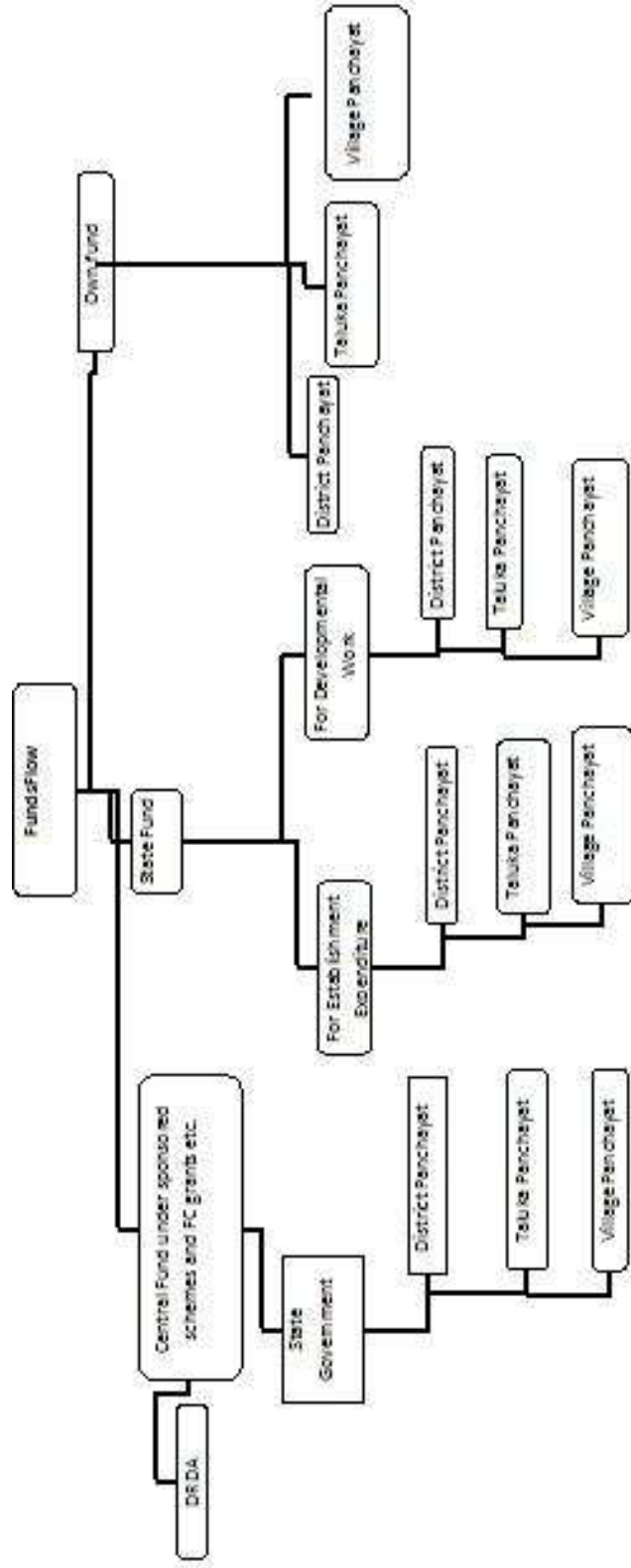
1.6 Flow of funds

The funds for DP and TP as shown in fund flow chart given below are deposited in the District Treasury in Deposit Account which is operated as non interest bearing banking account. Centrally Sponsored Scheme (CSS) funds are kept in the banks/Post offices in Saving Accounts according to guidelines of the respective schemes. The funds for VPs are required to be kept in Saving Bank Accounts at the nearest Post Office or a Scheduled Bank.

⁴ (I) Agriculture, including agricultural extension (II) Minor irrigation; (III) Animal Husbandry; (IV) Rural housing; (V) Drinking water – water distribution; (VI) Roads, culverts, bridges, ferries, waterways; (VII) Fuel (Energy) and fodder; (VIII) Minor forest projects; (IX) Poverty alleviation programmes; (X) Fair and markets; (XI) Health and sanitation, including PHCs dispensaries; (XII) family welfare; (XIII) Women and Child Development; (XIV) welfare of weaker sections particularly of the SCs and STs.

⁵ (I) Primary and Secondary Education – Primary; (II) Adult and non – formal education; (III) Cultural activities; (IV) Social welfare, including welfare of handicapped and mentally retarded; (V) Maintenance of community assets.

⁶ (I) Land improvement, implementation of Land Reforms; (II) Fisheries; (III) Social Forestry and Farm Forestry; (IV) Small scale industry; (V) Khadi, Village and cottage industries; (VI) Rural electrification including distribution of electricity; (VII) Non – conventional source of energy; (VIII) Technical training and vocational education; (IX) Libraries (X) Public distribution system



1.7 Creation of Database and Maintenance of Accounts

Receipt & payment accounts of PRIs are consolidated by Development Commissioner, Government of Gujarat. Pursuant to the recommendations of the Eleventh Finance Commission (EFC), Government of India, Ministry of Finance had issued guidelines for utilisation of funds related to local bodies which envisage that the Comptroller and Auditor General (C&AG) of India should prescribe the formats for preparation of budget and for keeping the accounts. The format prescribed by the C&AG of India for maintenance of accounts and database on finances of PRIs has been accepted by the Government of Gujarat in September 2004 and August 2007. However, the formats have not been operationalised so far (December 2010). The reasons for non-operationalisation of the accepted forms were not furnished by the GoG.

For creation of database on finances, PRIs were allotted ₹ 34.24 crore during 2005-09, which were spent by PRIs on maintenance and management of database for finances including implementation of Double Entry accounting system in PRIs and in survey and valuation of assets of PRIs.

1.8 Revenue and Application of fund

The sources of revenue of PRIs, mainly, are grants⁷ from State/Central Governments, Finance Commission Grants, Own Revenue and Loans and Advances.

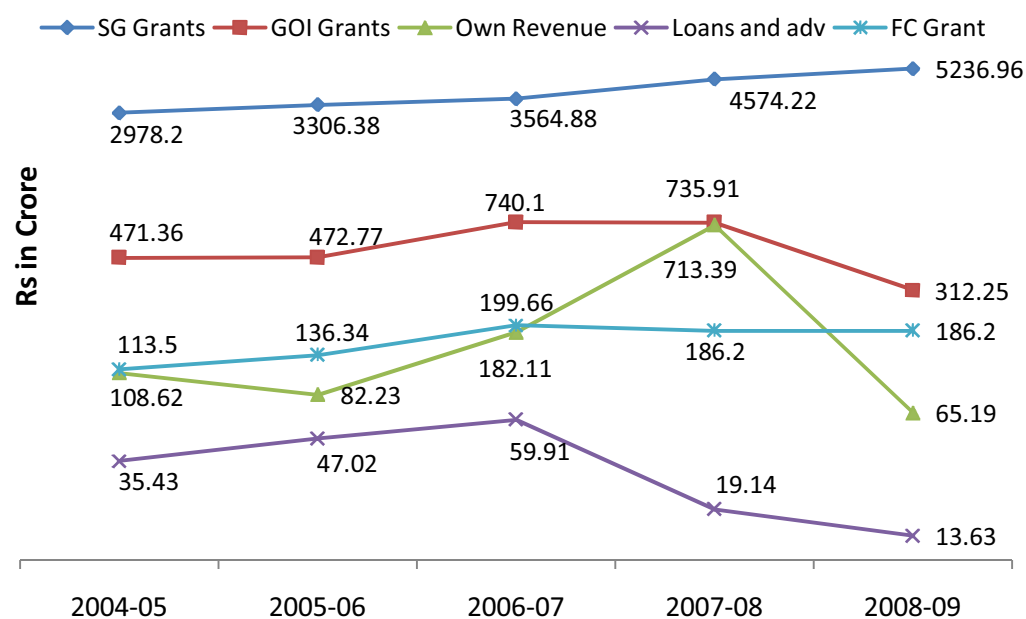
1.8.1 Sources of Revenue

The receipt of PRIs from all sources during the last three years ending 2008-09 is given in table No.1 and chart below:-

Description	2004-05	2005-06	2006-07	2007-08	2008-09
State Government Grant	2978.20	3306.38	3564.88	4574.22	5236.96
Govt. of India Grant	471.36	472.77	740.10	735.91	312.25
Own Revenue	108.62	82.23	182.11	713.39	65.19
Loans and advances	35.43	47.02	59.91	19.14	13.63
EFC/TFC Grant	113.50	136.34	199.66	186.20	186.20
Total	3707.11	4044.74	4746.66	6228.86	5814.23

(Source: Budget publications and figures received from the Department).

⁷ Grants are given on basis of population



1.8.2 Sectoral Receipts and expenditure

The sectoral allocation of receipts and expenditure incurred there against is as given in Table No. 2 below:

Table No.2: Sectoral receipt and expenditure (₹ in Crore)

Description		General Services	Social Services	Economic Services	Loans	Total
2004-05	Receipt	98.78	2295.28	1277.62	35.43	3707.11
	Expenditure	47.29	2239.59	1197.22	35.65	3519.75
2005-06	Receipt	77.43	2802.86	1118.21	46.24	4044.74
	Expenditure	62.59	2608.02	824.22	40.21	3535.04
2006-07	Receipt	191.82	3043.26	1451.77	59.81	4746.66
	Expenditure	112.07	2606.63	1027.12	35.05	3780.87
2007-08	Receipt	554.29	3499.27	2156.16	19.14	6228.86
	Expenditure	896.95	3594.08	1499.89	21.24	6012.16
2008-09	Receipt	610.83	3180.07	2009.70	13.63	5814.23
	Expenditure	911.07	3543.22	2115.59	10.00	6599.88

(Source: Budget publications).

It would be seen from the table above that:

- The total receipts increased from ₹ 3707.11 crore in 2004-05 to ₹ 6228.86 crore in 2007-08. However, it decreased to ₹ 5814.23 crore (7.5 per cent) during 2008-09 mainly on account of less receipts of grants from the Government of India (GoI) and decrease in own revenue due to poor recovery of various taxes by PRIs.

- There was excess of receipt over expenditure by ₹ 965.79 crore (20.4 per cent) and ₹ 216.70 crore (3.5 per cent) during 2006-07 and 2007-08 respectively. However, there was excess of expenditure over receipts by ₹ 785.65 crore (13.5 per cent) during 2008-09 which was incurred out of unspent balances available with the PRIs. As regards the receipts under social services, the same decreased from ₹ 3499.27 crore in 2007-08 to ₹ 3180.07 crore (9.1 per cent) in 2008-09 as against increase of 15 per cent during 2007-08. Similarly the receipts under economic services have decreased from ₹ 2156.16 crore in 2007-08 to ₹ 2009.70 crore (6.8 per cent) in 2008-09.

1.9 District Planning Board / Committee

With a view to ensure effective planning in coordination with the planning of the State, the State Government had constituted (1973) District Planning Boards (DPB) for each district, to be headed by Minister in-charge of the concerned District. The DPB had further constituted, Taluka Executive Planning Committees for comprehensive development and for making plan for ensuring availability of basic amenities to every village. The works under district plan framed were sanctioned by the DPB and allocated to the PRIs for the implementation.

The state Government under the provision of Article 243 Z D of the Constitution had constituted (July 2006 and January 2009) District Planning Committees (DPC) in all the districts by a Government Resolution. Minister in-charge of the district is Chairperson of the DPC in each district consisting of such number of elected, nominated and permanent invitee members (not less than 15 and not more than 30) as may be determined by the Collector of the district.

The DPC consolidates the annual plans prepared by the LBs in the district and prepares an annual Draft Development Plan (DDP) for the district as a whole on the matters of common interest of the LBs keeping in view the available resources, whether financial or otherwise and forwards the DDP to General Administration Department in GoG with recommendations to General Administration Department in Government of Gujarat (GoG). The DPCs in the state are working as envisaged in the Constitution.

1.10 State Finance Commission

Article 243 I of the Constitution had made it mandatory for the State Government to constitute a State Finance Commission (SFC) within one year from the enactment of the Constitutional Amendment Act and thereafter on expiry by every five year to review the financial condition of the PRIs and to make recommendations to the Governor for devolution of funds to PRIs on the following aspects:

- (i) The distribution of net proceeds of taxes, duties, and fees between the State and the PRIs.
- (ii) Taxes, duties, fees, and tolls to be assigned and appropriated by the PRIs.
- (iii) Release of grants in aid to the PRIs from Consolidated Fund of the State.
- (iv) Measures needed to improve the financial conditions of the PRIs.

Government of India guidelines (June 2005) for release of funds recommended by XI FC stipulated that State Government was to act, within six months of SFC's recommendations.

1.10.1 Non –constitution of SFCs

As the Constitutional Amendment Act, 1992 came into effect on 20 April 1993 the constitution of the first SFC was due by 19 April 1994. The State Government has so far constituted only two SFCs as against the four already due as given in **Table No-3** below:

Table No-3 : State Finance Commission

Finance Commission	Due Date of Constitution by State Govt	Actual Date of Constitution	month of submission of reports by SFC	Date of placement in Assembly
1 st FC	19 April 1994	15 Sept1994	October 1997	28 August 2001
2 nd FC	19 April 1999	19 Nov 2003	Not available	Not Submitted
3 rd FC	19 April 2004	Not constituted	NA	NA
4 th FC	19 April 2009	Not constituted	NA	NA

It would be seen from the above table that the State Government constituted first and second SFCs with delay of 5 months and 55 months respectively and the 3rd and 4th SFCs which were due to be constituted by 19 April 2004 and 19 April 2009 have not been constituted. The 1st SFC submitted its report to the Government in October 1997 which was placed in Assembly in August 2001, with delay of 45 months.

The 2nd SFC was constituted on 19th November 2003 as against due date of 19th April 1999. The details with respect to date of submission of the 2nd SFC report and further steps taken by the State Government for its placement on the table of Legislature were not made available. It can be seen that the mandatory provisions in respect of timely constitution of the SFCs have not been adhered to by the State Government and there also have been delays in placement of the reports on the table of Legislature of the State.

1.10.2 Implementation of SFC recommendation

Some of the major recommendations made by the 1st SFC were related to merger of District Rural Development Agency (DRDA) with DP, resource mobilization of LBs, transfer of revenue earning source to LBs, increase of the share of LBs in

various taxes, levies, fees etc. Out of total 63 recommendations of the Report on PRIs 42 have been fully accepted by the State Government eight have been partially accepted and 13 including that of merger of DRDA with DPs have not been accepted. However, large numbers of accepted recommendations were still to be implemented. Assignment of entertainment tax, surcharge on stamp duty, land acquisition charges, fee collected from minor minerals, local cess, entertainment tax on cable TV, building maintenance grant etc. were not made to PRIs due to non -amendment of relevant Acts or non action by various departments although recommendations for assignment and implementation of all these functions to Local bodies have been accepted by the State Government.

1.11 Twelfth Finance Commission Grants

During the period 2005-09, on the recommendation of Twelfth Finance Commission (TFC), ₹ 744.80 crore (₹ 186.20 crore each year) was released to the State Government by Government of India, which was in turn released by the State Government to the PRIs. A matching grant of ₹ 44.16 crore was also released by the State Government to the PRIs during 2005-06. The amount was spent by PRIs on water supply and sanitation: ₹ 213.16 crore; solid waste management: ₹ 213.16 crore; data base on finances ₹ 34.24 crore and other works: ₹ 284.24 crore.

1.12 Audit arrangement for PRIs.

Under provisions of the Gujarat Local Fund Audit (GLFA) Act, 1963, and as per section 121,143 and 166 of the G.P. Act, Audit of VPs, TPs and DPs respectively were required to be conducted every year by the Director Local Fund Audit (DLFA). The Audit by DLFA was in arrears as detailed in Table No.4 below:

Table No.4

PRI	No. of Auditee	Audit completed upto	Audit in arrears	Total No. of Auditable units in arrears	Total
DPs	26	2004-05	2005-06 onwards	18 (2005-06), 25 (2006-07), 25 (2007-08), 26 (2008-09)	94
TPs	224	2004-05		06 (2005-06), 110 (2006-07) 201 (2007-08), 224 (2008-09)	541
VPs	13788	2005-06	Partially 2006-07 onwards	15401 up to 2007-08 and 12628 for 2008-09	28,029
Total	14038				28,664

It would be seen from the above table that audit of 28664 auditee units was in arrears from 2005-06. Further, it was observed that the report on audit of PRIs by DLFA for the period 2004-05 was laid on the table of legislature in October 2010 with delay of five years.

DLFA attributed (November 2010) reasons of arrears in audit to shortage of staff. Audit being in arrears for a long period not only defeats the very purpose but also

dilutes the compliance process. Arrears in audit are also fraught with the risk of non detection of irregularities having serious consequences such as fraud and misappropriation.

1.13 Audit observations of Inspection Reports.

1.13.1 Inspection Reports of DLFA

As per section 7 of the GLFA Act, DLFA should conduct audit of PRIs and prepare and send the Inspection Reports (IRs) to the local authorities immediately after completing the audit work and this process should not take more than three months. The IRs should be replied by the local authority within one month from the date of its receipt. It was, however, noticed that as on 31st March 2010, 14,22,560 paragraphs issued by DLFA up to March 2010 were pending. Age wise pendency of IR paragraphs is given in Table No.5 below:

Table No.5 Pendency of IR paragraphs of DLFA

PRI	Pending for the period up to 2000-01	Pending for the period 2001-05	Pending from 2006 onwards	Total
DP	24,644	8,897	584	34,125
TP	64,119	28,201	11,307	1,03,627
VP	7,21,443	1,70,468	3,92,897	12,84,808
Total	8,10,206	2,07,566	4,04,788	14,22,560 ⁸

It is evident from the above table that out of 14,22,560 outstanding paragraphs 8,10,206 (57 percent) and 2,07,566 (15 percent) were outstanding for more than ten and five years respectively. Huge number of outstanding paragraphs for an abnormal long period indicated that the auditees were not serious in complying with the audit observations. DLFA stated (December 2010) that to get the compliance of the paras the matter is reviewed by Development Commissioner and Principal Secretary, PRHRDD and special drive would be made for compliance of these paras.

1.13.2 Outstanding paragraphs of IRs of Accountant General

As on 31st March 2010, 10893 paragraphs of 3432 Inspection Reports up to the year 2007-08, issued by AG (Civil Audit),Gujarat, Rajkot and by Sr. DAG (LBAA), Ahmedabad, remained outstanding for want of proper compliance by auditee units. The year-wise break up of these paragraphs is as given in Table No.6 below:

⁸ Prior to 2000-01: 810206, 2001-02: 48512, 2002-03: 45178, 2003-04: 52275, 2004-05: 61601, 2005-06: 110817, 2006-07: 142125 and 2007-08: 151846.

Table No.6: Pendency position of Paragraphs of AG/SrDAG office

	Up to FY 01	Additions during the years									Total
		FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	
IR	547	98	144	158	66	125	274	233	448	1339	3,432
Para	1780	411	461	545	309	350	860	509	801	4867	10,893

Increasing trend of outstanding paras each year indicated lack of efforts by concerned authorities in furnishing compliance to these paragraphs.

1.14 Audit Coverage

Accounts of 13 DPs, 83 TPs and 399 VPs for the year up to 2006-07 were audited during the year 2008-09 under section 20 (1) of CAG's DPC Act, 1971. Results of the audit are given in succeeding chapters.

1.15 Conclusion

The State Government has not devolved all the functions envisaged in the 11th Schedule of the Constitution. Neither the prescribed periodicity for constitution of SFCs, as per Constitutional provisions, was maintained nor action was taken by the State Government on recommendations of the belatedly constituted SFCs. Long pendency of audit by DLFA and arrears in settlement of outstanding Inspection Report paragraphs of DLFA and that of AG (Civil Audit), Rajkot and Sr. DAG (LBAA), Ahmedabad, indicates weak internal control system in PRIs.

1.16 Recommendations

Following measures are recommended for ensuring better accountability system in PRIs.

- Functions envisaged in the 11th Schedule of the constitution may be devolved to the PRIs with transfer of adequate funds and functionaries by State Government.
- SFCs should be constituted as per Constitutional provision and recommendation made by the SFC be implemented.
- DLFA should devise a plan for clearance of arrears of audit in consultation with the state Government.
- A high level committee consisting of senior officers of PRHRDD, UH&UDD and DLFA should be constituted to review the paras and their pursuance by the field offices for reducing the huge outstanding audit objections.