

**REPORT OF THE
COMPTROLLER AND AUDITOR
GENERAL OF INDIA**

on

**EFFICACY OF IMPLEMENTATION OF THE
74th CONSTITUTION AMENDMENT ACT**

**GOVERNMENT OF KERALA
Report No. 3 of the year 2022**

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2021 has been prepared for submission to the Governor of the State of Kerala under Article 151(2) of the Constitution of India.

The Report contains the results of the Performance Audit on 'Efficacy of Implementation of the 74th Constitution Amendment Act' covering the period 2015-20.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

Audit wishes to acknowledge the cooperation received from the Local Self Government Department, Government of Kerala, Directorate of Urban Affairs and all test-checked Urban Local Bodies at each stage of audit process.



***EXECUTIVE
SUMMARY***

EXECUTIVE SUMMARY

The Constitution (Seventy-Fourth Amendment) Act, 1992 (74th CAA) inserted Part IX A (The Municipalities) consisting of Articles 243P to 243ZG, thereby imparting constitutional status to Urban Local Bodies (ULBs). Article 243W authorized the State Legislatures to enact laws to endow local bodies with powers and authority as may be necessary to enable them to function as institutions of self-government and make provisions for devolution of powers and responsibilities. A Performance Audit on 'Efficacy of Implementation of the 74th Constitution Amendment Act' was conducted to assess the extent of effectiveness of implementation of the Amendment Act. The major findings of the Performance Audit are presented below:

Empowerment through Institutional Mechanism

Though 17 of the 18 matters enumerated in the Twelfth Schedule of the Constitution have been transferred, there was no documented mapping correlating the items listed under General, Mandatory and Sector-wise functions in the First Schedule of KM Act with the Twelfth Schedule of the Constitution. Urban Local Bodies had full responsibility of only seven out of 17 functions transferred. As regards the remaining 10, the State Government still had a significant role in the execution of schemes, etc., either directly or through parastatal agencies.

(Paragraph 2.3)

Parallel implementation of schemes by Government resulted in beneficiary selection by departmental officers for departmental schemes implemented in ULBs. These beneficiary lists prepared by departmental officers were not subject to scrutiny by Ward Sabhas and for that reason, such selection was vulnerable to the risk of inclusion of ineligible beneficiaries/duplication of beneficiaries.

(Paragraph 2.4.2)

Though Government constituted Delimitation Commission in the State in 2015 and 2020 and issued Delimitation guidelines, delimitation was not conducted in the State. Consequently, the fixing of number of seats for councillors and number of wards for the elections to ULBs held in 2015 and 2020 was done on the basis of population figures of 2001 census, except for 29 Municipalities and two Municipal Corporations. As the number of seats for councillors was based on census figure of 2001, there was an overall shortage of 60 Councillors as on date in the State (Corporations: 01, Municipalities: 59)

(Paragraph 2.5.1)

Of the 406 recommendations offered by the five State Finance Commissions constituted in the State, 325 recommendations were accepted by Government. Out of these, 200 recommendations (61.54 *per cent*) were yet to be implemented.

(Paragraph 2.5.3)

Though the DPC is to prepare the draft development plan for the whole district for the next financial year before 30 September of every year, and the Chairman of the Committee is to forward the same to the Government for approval, the District Plan was prepared only once in 2017-18 during the audit period.

(Paragraph 2.7)

Efficacy in Devolution of functions

Kerala Municipality Act provides that Government, from the date specified by notification in the Gazette, transfer all assets, all water supply and sewerage service, execution of works, conduct of water supply, distribution, fixing water charge, collection etc., to the Municipality. However, such a notification has not been issued by Government. Consequently, the assets, liabilities, etc., with regard to water supply and sewerage services continue to be vested in the parastatal, KWA which is indicative of non-devolution of even basic core functions required as per the Act.

(Paragraph 3.1.1)

The KWA had not furnished Utilisation Certificates for deposit works amounting to ₹33.94 crore to the test-checked ULBs.

(Paragraph 3.1.1)

Despite being the parastatal playing key role in discharging the function of water supply in ULBs, Kerala Water Authority (KWA) neither adopted the performance measurement of benchmarking nor reported the details of assessment of Service Level Benchmarks (SLB) relating to Water supply to ULBs. Consequently, ULBs had to prepare the SLBs in the absence of specific data relating to the actual implementation of the function from KWA.

(Paragraph 3.1.2)

Revision of water charges was last effected by KWA in October 2014. The water charges as fixed by KWA to be paid by ULBs for each public tap was ₹7884 per year. The test checked ULBs paid ₹9.66 crore to KWA for public taps during the audit period.

(Paragraph 3.1.3)

The Municipalities were not fully equipped to handle the wastes being generated in their jurisdiction, raising concerns about the efficacy of implementation of the devolved function of Solid Waste Management. Of the 21 test-checked ULBs, the capacity to handle wastes was not in conformity with the quantum of wastes generated, in nine ULBs in the case of Bio-wastes and nine and eleven ULBs in the case of non-bio-recyclable and non-bio-non-recyclable wastes respectively.

(Paragraph 3.2.1)

The percentage of expenditure incurred on solid waste management by test-checked ULBs out of the allotted funds varied from 1.58 to 45.16 only, during the audit period (2015-2020).

(Paragraph 3.2.1)

Though the Kerala Public Health Ordinance 2021 was promulgated to endow the health functionaries of the State, District and Local Self Government Institutions with necessary powers and authority for the enhancement of the administration of public health in the State, it has not been enacted till date thus depriving the State of a unified Health Act for over half a century.

(Paragraph 3.3.1)

The opinion of Council of ULB which was against availing loan facility due to difficulty in repayment, was not considered while sanctioning projects under AMRUT. Though a selected ULB (Kannur Corporation) with annual plan fund allocation of ₹30 crore had expressed inability to set aside ₹33 crore for

AMRUT as it would result in non-implementation of developmental projects, the opinion of the Municipality was overridden by the State.

(Paragraph 3.4.2)

Devolution of financial resources

On scrutiny of financial data for the year 2019-20, it was observed that out of the 21 test-checked ULBs, only in one ULB the ratio of own revenue to total revenue was higher than 40 *per cent*. In two ULBs the ratio was in the range of 30-40 *per cent*. This is indicative of the urgent need to effectively tap the potential sources of revenue to ULBs, to facilitate self-reliance in local finances.

(Paragraph 4.1.3)

The percentage of own revenue to total revenue of ULBs ranged from 17.42 to 26.65 *per cent* during the period 2015-16 to 2019-20. This shows the need for effective tapping of potential sources for enhancing own revenue.

(Paragraph 4.2.1)

As per the system of drawal from Consolidated fund through contingent bills, the bills presented to treasuries at the end of March every year were to be shifted to treasury queue and cleared in the subsequent financial year. However, bills presented as early as in the month of June in previous year, were also kept in queue at treasury. Consequently, the test checked ULBs could not utilise ₹447.74 crore out of SFC grants during the period 2017-18 to 2019-20.

(Paragraph 4.2.3)

There was no mechanism to monitor timely collection and transfer of pension contribution by ULBs to the Central Pension Fund (CPF) maintained by the Director of Urban Affairs (DUA). As a result, the payment of pension to the retiring employees of ULBs could not be assured from the CPF. Information furnished by 14 out of 21 test checked ULBs revealed that the funds for Death-cum-retirement-benefits were sourced from the Own fund/ General Purpose Fund of ULBs during the audit period. As of March 2020, ₹542.81 crore remained to be paid out of CPF to 75 ULBs in the whole State.

(Paragraph 4.2.4)

As per Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011, assessment of property tax on Plinth area basis was to be made applicable for new buildings from 14 January 2011 and for existing buildings (assessed on annual value basis) from 01 April 2011. The date of coming into effect of plinth area method of assessment for existing buildings was extended by Government initially upto 01 April 2013 (in March 2013), and further till 01 April 2016 (in March 2019). Consequently, the existing method and rate of assessment for existing buildings on 14 January 2011 continued to be in force.

(Paragraph 4.2.5.1)

Though plinth area based tax rates came into force on 14 January 2011 for new assesseees, and the rates of taxes had to be revised after five years in 2016, rate revision did not happen even after a period of ten years (March 2021). Since Government failed to revise the maximum and minimum rates of basic property tax, the ULBs could not revise the rates of property tax.

(Paragraph 4.2.5.1)

The Property Tax Board was to take action to ensure collection and imposition of property tax on all taxable properties, by enumerating all properties within the jurisdiction of ULBs and offer suggestions for a suitable basis for assessment and valuation of properties and periodic revisions. The Board was not constituted in the State till date.

(Paragraph 4.2.5.1)

Due to the absence of a proper database of all categories of professionals, traders and businessmen, employees and workers in the unorganized sector and self-employed persons, and failure to conduct a survey on professionals practising within the jurisdiction of Local Governments concerned with the help of Ward Members/Councillors so as to bring them into the net of profession tax, the tax base of profession tax w.r.t ULBs could not be widened.

(Paragraph 4.2.5.2)

Entertainment tax was not collected as revenue by ULBs in the State during the period from 01 July 2017 to 10 June 2019. For compensating the loss in this regard, though Government paid compensation to ULBs for the period 2017-18, no compensation was paid for the period April 2018 to May 2019 which resulted in loss of revenue to ULBs.

(Paragraph 4.2.5.4)

The time period for implementing the Kerala Municipality (Issue of Licence to Dangerous and Offensive Trades, other Trades and Factories) Rules, 2011 was continually extended through a series of Government orders issued during the period from 2011 till January 2017. Thus, the licence fees continued to be levied at rates which prevailed before the commencement of the Rules, thereby depriving the ULBs of a potential source of revenue during the period 2011 to 2018.

(Paragraph 4.2.5.6)

Human Resources

Though the Municipalities were graded in 2014 as I, II and III, based on revenue and population, no such categorization of Municipal Corporations was attempted and no new posts created in existing ULBs consequent upon the grading exercise, except for the newly created 27 Municipalities and Kannur Corporation, and two Corporations. Even among Municipalities belonging to the same grade, there was wide variation in the number of staff in various posts such as Junior Health Inspector Grade II, Senior Clerk, Office Assistant, etc.

(Paragraph 5.1.1)

Analysis of working strength in 21 test-checked ULBs in terms of the number of employees per 1000 population as per the projected population for 2020 showed that it ranged between 0.3 and 2.74. While Aluva Municipality had a working strength of 2.74 employees per 1000 population, 17 ULBs had less than one employee for every 1000 population. Only three ULBs had employees between one and two per 1000 population.

(Paragraph 5.1.1)

As on 31 March 2021, of the 6619 posts (excluding the posts in Engineering wing) in the ULBs in the State, 859 posts remained vacant, revealing insufficiency in recruitment. There were only 994 men in position as against the sanctioned strength of 1117 in the Engineering wing of ULBs.

(Paragraph 5.1.2.1)



CHAPTER I
INTRODUCTION

CHAPTER I

INTRODUCTION

The Constitution of India provided a clear mandate for democratic decentralization through the 74th Amendment. It sought to create an institutional framework for ushering in democracy at the grassroots level through self-governing local bodies in urban areas of the country. The Constitution (Seventy-Fourth Amendment) Act, 1992 (74th CAA) inserted Part IX A (The Municipalities) consisting of Articles 243P to 243ZG, thereby imparting constitutional status to Urban Local Bodies (ULBs)¹. Article 243W authorized the State Legislatures to enact laws to endow local bodies with powers and authority as may be necessary to enable them to function as institutions of self-government and make provisions for devolution of powers and responsibilities. The 74th CAA also introduced the Twelfth Schedule and the matters enumerated therein were identified as functions which could be entrusted to ULBs.

1.1 Decentralisation in Kerala

The State of Kerala laid emphasis on decentralisation through devolving substantial development funds to Local Self Government Institutions (LSGIs) for implementing locally appropriate development projects and programmes through initiatives such as the People's Planning Campaign (1996). The Kerala Municipality Act (KM Act) 1994 was enacted in line with the 74th CAA, endowing ULBs with necessary powers and authority to enable them to function as institutions of self-government.

1.2 Organizational structure of urban governance in Kerala

The Local Self Government Department (LSGD), headed by the Additional Chief Secretary to Government, is the nodal department for the governance of all ULBs. The Directorate of Urban Affairs (DUA), established in 1962, is concerned with the responsibility of administration of the Municipalities and Municipal Corporations in the State.

There are 87 Municipalities / Municipal Councils and six Municipal Corporations in the State categorised on the basis of population. The Municipal Corporations and Municipalities are governed by the KM Act, 1994 which came into force on 30 May 1994. There were 3527 wards² in 93 ULBs in the State with number of councillors varying from 25 (Koothattukulam Municipality) to 100 (Thiruvananthapuram Corporation). In the test-checked ULBs, the number of wards ranged from 26 (Aluva Municipality) to 100 (Thiruvananthapuram Corporation).

In addition to ULBs, there are agencies that support, deliver or facilitate urban infrastructure and services such as Kerala Water Authority (KWA),

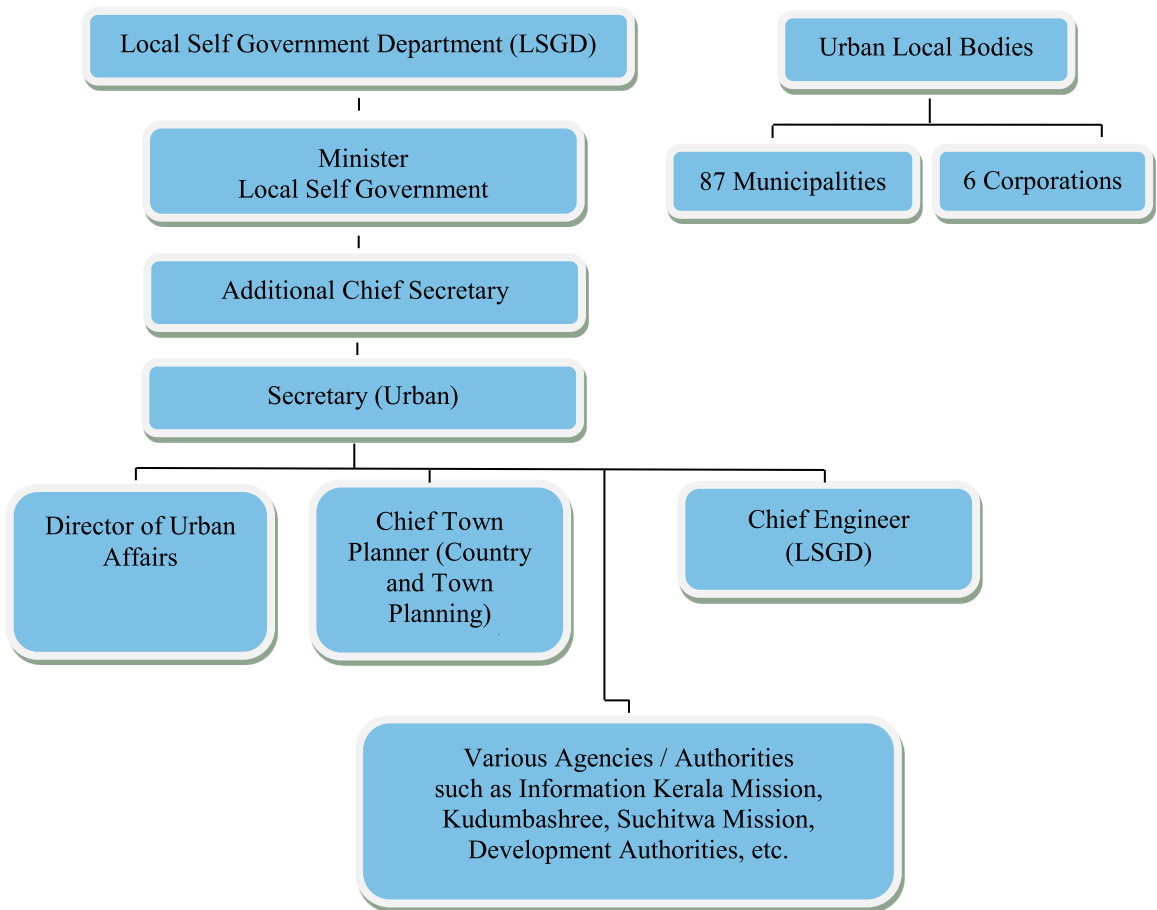
¹ The Statement of Objects and Reasons appended to the Constitution (73rd Amendment) Bill, 1991 recorded that it was considered necessary that provisions relating to ULBs are incorporated in the Constitution for putting on a firmer footing the relationship between the State Government and ULBs with respect to the functions, taxation powers, arrangements for revenue sharing, for ensuring regular conduct of elections and timely elections in the case of supersession, and for providing adequate representation for the weaker sections.

² 3113 wards in Municipalities and 414 in Corporations.

Kudumbashree, Suchitwa Mission, Trivandrum Development Authority (TRIDA), Greater Cochin Development Authority (GCDA), Goshree Islands Development Authority (GIDA), IMPACT Kerala Ltd., Atal Mission for Rejuvenation and Urban Transformation (AMRUT), Smart City Thiruvananthapuram Limited (SCTL), Cochin Smart City Mission Limited (CSML), etc.

The organisational set up of urban governance in the State is presented in **Chart 1.1:**

Chart 1.1: Organisational set up of Urban Governance in the State



The Audit Objectives, criteria, scope and methodology are as detailed below.

1.3 Audit Objectives

The Performance Audit (PA) sought to ascertain

- whether the ULBs have been empowered by the State Government to discharge their functions/responsibilities effectively through creation of appropriately designed institutions/institutional mechanisms and their functioning thereof;
- the effectiveness of devolution of functions stated to have been devolved;
- whether the ULBs have been empowered to access adequate financial and human resources for discharge of functions stated to be devolved to them.

1.4 Audit criteria

Audit observations were benchmarked against the criteria derived from the following:

- i) The Constitution (74th Amendment) Act, 1992
- ii) The Kerala Municipality Act, 1994
- iii) Reports of Central/State Finance Commissions
- iv) State Government Orders, notifications, circulars and instructions issued from time to time.

1.5 Audit scope and methodology

The Performance Audit covering the period from 2015-16 to 2019-20³ was carried out from August 2020 to March 2021. Twenty-one ULBs were selected through simple random sampling with population as per 2011 census as the basis (**Appendix 1.1**). Out of the 18 matters listed in the 12th Schedule, activities relating to following were selected for test check.

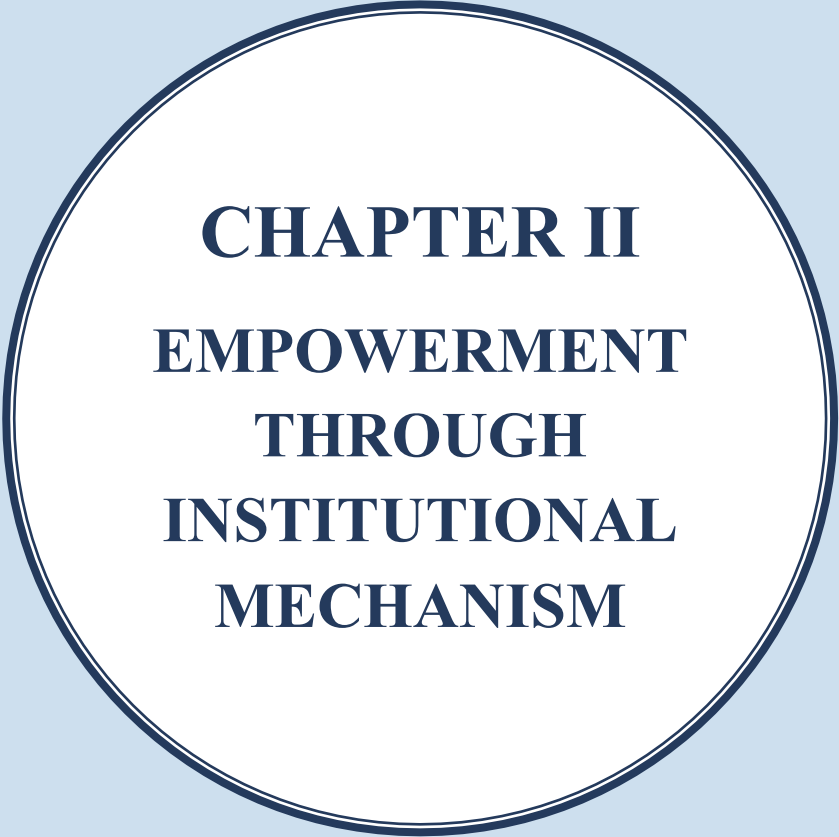
- a) Water Supply
- b) Public Health and Sanitation
- c) Solid Waste Management
- d) Property Tax
- e) Water tax/ charges

The Entry Conference was held on 22 October 2020 with the Principal Secretary, LSGD in which the audit methodology, scope, objectives and criteria were explained and agreed upon. The Exit Conference of the PA was conducted with the Additional Chief Secretary, Local Self Government Department (ACS LSGD) on 05 November 2021, wherein the observations in the report were discussed in detail. The audit methodology involved analysis of records, discussion with Government/ULB staff and eliciting responses of audited institutions through audit queries.

1.6 Acknowledgement

Audit acknowledges the co-operation and assistance extended by the Local Self Government Department, Government of Kerala, Directorate of Urban Affairs and all test-checked ULBs in the smooth conduct of the performance audit.

³Though the five year period from 2015 to 2020 was reckoned as the audit period, the updated position as of March 2021 pertaining to the facts discussed in the report have been obtained and included wherever made available.



CHAPTER II
EMPOWERMENT
THROUGH
INSTITUTIONAL
MECHANISM

2.1 Enactment of State Legislation

As the Kerala Municipalities Act, 1960 and the Kerala Municipal Corporations Act, 1961 were not in conformity with the provisions of Part IXA of the Constitution of India inserted by the Constitution (Seventy Fourth Amendment) Act, 1992 (74th CAA), they had to be replaced by a comprehensive enactment in line with the 74th CAA. The Kerala Municipality Act, 1994 (KM Act) was enacted with effect from 30 May 1994, for securing a greater measure of participation of the people in planned development and local Governmental affairs by constituting Municipal Councils and Municipal Corporations and through endowing the Urban Local Bodies (ULBs) with powers and authority to function as institutions of self-government.

2.1.1 Best practices

Audit observed the following achievements of the State towards effective devolution:

- The People's Planning Campaign, initiated in 1996 in Kerala, sought to decentralise powers to local governments with focus on local planning, involving active participation of all sections of people for the formulation and implementation of programmes for the overall development of Local Self Government Institutions (LSGIs).
- Government has complied with the provisions⁴ regarding constitution of Ward Committees and Standing Committees as well as reservation of seats for direct election in Municipal areas. The Secretaries of 21 selected ULBs confirmed to Audit that Ward Committees and Ward Sabhas were constituted during the five year period (2015-20), as envisaged under Section 20 of KM Act. The three test checked Municipal Corporations had eight Standing Committees⁵ and 18 Municipalities had six Standing Committees⁶ each. The Municipal Secretary acted as the executive officer of ULB.
- The State has taken a unique initiative to vest the District Planning Committee (DPC) with powers of vetting and approval of the Local Self Government plans, on account of the high extent of devolution to local governments. The DPC is also to ensure the compliance of these plans with State and Central Guidelines and priorities, including alignment with centrally sponsored schemes, sectoral and inter sectoral integration and convergence between local governments.

⁴ Article 243S, 243P of the Constitution; Section 42, 6 of KM Act.

⁵ Standing Committees for Finance, Development, Welfare, Health, Works, Town planning, Appeal relating to tax and Education

⁶ Standing Committees for Finance, Development, Welfare, Health, Works and Education, Arts and Sports

- The Act mentions that seats are reserved for Women, Scheduled Caste (SC) and Scheduled Tribe (ST), and women belonging to SC and ST, in every Panchayat/Municipality. The reservation for SC and ST is to be in proportion to their respective population in the Panchayat/Municipality. In Kerala, 50 *per cent* of the seats reserved for SC and ST is reserved for women belonging to SC and ST. Fifty *per cent* of the total seats (including SC/ST women) is reserved for women.
- Ever since the enactment of Kerala Municipality Act and Kerala Panchayat Raj Act, elections to the rural and urban local bodies in the State have been conducted every five years, in 1995, 2000, 2005, 2010, 2015 and 2020.
- The State has constituted six Finance Commissions from 1994 onwards till date. The State Finance Commissions have submitted their reports to Government and the Action Taken Reports on the recommendations in SFC reports have been submitted by the Government to the Legislature.

2.2 Comparison of State Level Legislations with provisions in 74th CAA

In order to give a constitutional footing to the Municipalities as institutions of self-governance, Articles 243Q to 243ZG were introduced in the Constitution. Audit compared the extent to which the new State legislation conformed to the requirements of the 74th CAA. The results are indicated in **Appendix 2.1**.

The comparison revealed that the new statute was mostly in line with the 74th CAA in respect of inclusion of provisions of the Amendment Act. However, compliance to the constitutional provisions by law does not guarantee effective decentralisation on ground, unless followed by effective implementation. Audit observed that legal provisions were not supplemented by fruitful actions, thereby compromising the spirit of the Constitution amendment, as discussed in ensuing paragraphs.

2.3 Actual status of devolution of functions to Local Governments

Government issued (September 1995) orders transferring functions, institutions and schemes to ULBs, in conformity with provisions in KM Act. Audit observed the following points in this connection;

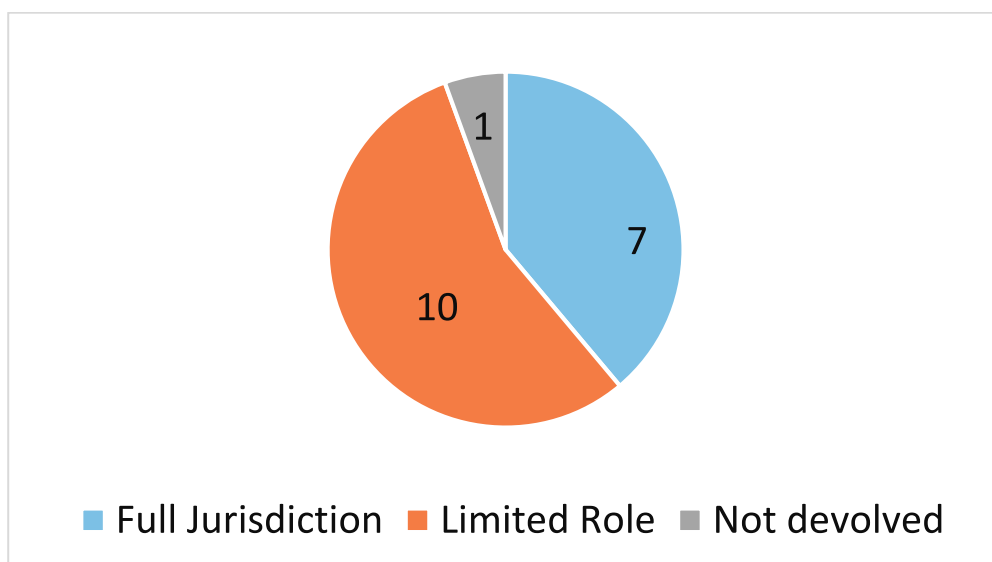
- Though the Government informed Audit that 17 of the 18 (except Fire Services) matters in the Twelfth Schedule of the Constitution have been transferred, there was no documented mapping correlating the items listed under General, Mandatory and Sector-wise functions in the First Schedule of KM Act, with the Twelfth Schedule of the Constitution.
- The entity in which each of the functions/ sub-functions was vested was not clearly indicated. Neither the KM Act nor the Government Order of September 1995 indicated whether powers, authorities and responsibilities continue to vest in the State and if so to what extent, in respect of each function/ sub-function transferred to Municipalities. No document showing activity wise mapping of functions with executing agency was made available to Audit. Activity wise mapping would enable clear demarcation of activities and the authority to which they

are entrusted. In the absence of such demarcation of roles, Government Departments and parastatals were involved in the execution of functions stated to have devolved to Municipalities. Audit observed overlapping of roles in execution and duplication of duties entrusted.

Audit attempted an Activity mapping of the role of ULBs with respect to execution of functions enumerated in the Twelfth Schedule of the Constitution, as included in the First Schedule of KM Act. Where the entire activities pertaining to a function were undertaken by ULBs, the role of ULBs was mapped as 'full jurisdiction', whereas if any of the related activities were undertaken by Government Departments/ parastatals/ other agencies along with ULBs, the role of ULBs was mapped as 'limited' (**Appendix 2.2**).

The exercise revealed that the ULBs were fully responsible for seven⁷ out of 17 functions transferred, and had limited role as regards ten functions. The function-wise role of ULBs is depicted in **Chart 2.1**.

Chart 2.1: Role of ULBs in execution of functions devolved



(Source: KM Act, Government orders)

It was seen that the ULBs play a limited role in major share of activities pertaining to the devolved functions listed in the Twelfth Schedule. This situation facilitates involvement of more than one agency in execution of a function which adversely impacts upon the accountability in scheme implementation as seen from instances mentioned in paragraph 2.4.

Government replied (December 2021) that KM Act already has thorough separation of functions and listing of responsibilities and that a comprehensive in-built activity mapping was in place, Chapters XIII to XX and First Schedule of KM Act deal with specific functions and that detailed activity mapping has been undertaken within the framework of the Act itself.

⁷ Roads and bridges, Slum improvement and upgradation, Urban poverty alleviation, Burials and burial grounds, cremations, cremation grounds and electric crematoriums, Vital statistics including registration of births and deaths, Public amenities including street lighting, parking lots, bus stops and public conveniences, Regulation of slaughter houses and tanneries.

The reply is not acceptable as the State Government and Urban Local Bodies would not be undertaking similar schemes in local bodies as discussed in paragraph 2.4.2, if proper activity mapping was in place.

Feasibility of presenting the functions devolved as two lists comprising (a) purely Municipality functions (Municipality List) and (b) Concurrent functions between State and Municipality (Concurrent List), with clear demarcation of boundaries, may be considered, along the lines of categorisation in the Seventh Schedule of the Constitution.

Government also assured (December 2021) that the suggestion on introducing a concurrent list separating the functions of the State from those of the Local Governments will be given due consideration.

2.4 Inadequacies in mode of devolution

2.4.1 Incomplete Transfer of Institutions and functionaries for functions transferred

Government transferred (September 1995) institutions under 10 departments to implement schemes for matters enumerated in Twelfth schedule of Constitution. Four functionaries, viz., Deputy Director Agriculture, Fisheries Sub Inspector, Industries Extension Officer and Senior Co-operative Inspector were also transferred to Municipalities/ Municipal Corporations. However, the transfer was not performed in a complete manner, as is evident from **Table 2.1**:

Table 2.1: Inadequacies in transfer of functions

Sl. No.	Function stated as devolved in KM Act / Government Order (September 1995)	Actual status of transfer to ULBs	Impact in test-checked ULBs
1	Dairy Development	No transfer of institutions and functionaries	Dairy sector schemes had to be implemented by other implementing officers such as Veterinary Surgeon, Secretary of ULB, etc. in 11 out of 21 test checked ULBs.
2	Co-operation	A Senior Co-operative Inspector was posted as the implementing officer to the Municipality/ Corporation located in the district headquarters, who was to oversee implementation in all ULBs in the district.	The service of Co-operative Inspector not made available and no schemes/projects relating to Co-operative sector proposed or implemented in any of the 21 ULBs.
3	Industries	Post of Industries Extension Officer transferred to every ULB.	Service of Industries Extension officer not made available for implementing related schemes in eight out of 21 ULBs.
4	Scheduled Caste(SC) Development	SC department schemes transferred (February 1997) to ULBs. Taluk level Scheduled Caste Development Officer (SCDO) to offer technical	Service of SCDO not provided in seven out of 21 ULBs. SC development schemes were being implemented by Secretary/Project Officer,

Sl. No.	Function stated as devolved in KM Act / Government Order (September 1995)	Actual status of transfer to ULBs	Impact in test-checked ULBs
		assistance and guidance to implement SC schemes in ULBs.	Poverty Alleviation Cell of ULB.

Government stated in reply (December 2021) that the transfer of functions, institutions and functionaries in decentralised governance cannot be complete, as there are residual functions to be undertaken to further priorities at the level of departments. It was also stated that most of the centrally sponsored schemes envisage minor participation by Local governments, but definitive roles for the departmental/district administration. In view of the financial constraints, it has not been possible to create an independent cadre of related functionaries exclusively for local governments. This has necessitated dual control – by both the ULB and the department, with LSG priorities having to play second fiddle to departmental requirements.

The reply of the Government corroborates the Audit observation about incomplete transfer of functions to LSGIs and reflects the reality of Governmental control dominating the Municipalities, despite decentralisation initiatives taken so far.

2.4.2 Parallel implementation of schemes transferred to ULBs by Government Departments

Audit observed that the schemes relating to the transferred functions which were included in the Annual Plans of ULBs, were implemented in a parallel manner by the Department concerned also. The following instances were noticed in this regard:

- Activities under the function Agriculture, viz., running of Krishi Bhavans, promotion of horticulture and vegetable cultivation, development of seed production, etc., were transferred to ULBs. Audit observed that schemes taken up by ULBs were implemented in a parallel manner by Agriculture department also, through the same implementing officer handling activities of both the department and ULB. During 2019-20, promotion of group farming for augmenting rice production was implemented in the ULBs by the Department, whereas 11⁸ test checked ULBs, additionally undertook the same scheme in the name 'Integrated rice production'.
- Schemes relating to development of the Scheduled Castes/ Scheduled Tribes taken up by ULBs were implemented in a parallel manner by Scheduled Caste Development Department with department funds. In 20 out of 21 test checked ULBs, Marriage assistance for SC women and Scheme for housing for SC/ST were seen implemented by ULBs, while

⁸ Wadakkancherry, Thiruvalla, Pandalam, Nileshevar, Cherpulassery, Mattannur, Ottappalam, Kalpetta, Irinjalakkuda, Haripad Municipalities and Thiruvananthapuram Corporation.

the same schemes were implemented by SC/ST Development Department also.

- The Ward Committees/ Ward Sabhas are to identify and include eligible applicants from the respective ward area, based on the criterion prescribed in the beneficiary oriented scheme guidelines and submit the final list to the ULB. Parallel implementation of schemes by Government resulted in beneficiary selection by departmental officers for departmental schemes implemented in ULBs. These beneficiary lists prepared by departmental officers were not subject to scrutiny by Ward Committees/ Ward Sabhas and for that reason, such selection was vulnerable to the risk of inclusion of ineligible beneficiaries/duplication of beneficiaries. Eleven⁹ test-checked ULBs confirmed that they had no role in selection of beneficiaries in schemes implemented by departmental officers with department funds.

The Fourth SFC observed that there was no clarity in the relationship between local Governments and State Government including parastatals performing functions assigned to local governments and this has to be laid down clearly. Though the recommendation was accepted by Government and State Finance Commission Cell was entrusted with pursuing further action, no action was taken in this regard.

Implementation of schemes of similar nature relating to the transferred functions by ULBs and Government in a parallel manner may result in lack of accountability of ULBs towards effective implementation of schemes. Further, Departments continuing to implement programmes on devolved functions goes against the spirit of decentralisation and reduces the autonomy of ULBs.

Accepting the audit observation, ACS LSGD stated in the Exit Conference (November 2021) that the departments with their technical knowhow should be supporting local bodies in their interventions on economic and social planning. Transfer is not complete and assets and personnel are still under the control of various Departments. The Administrative Departments need to monitor the functioning of respective personnel transferred to Local Governments and whether they involve actively in working groups and implementation of schemes, thereby furthering the development agenda through the Local Governments. ACS also remarked that had the supervision of departments been effective, audit observations regarding ineffective implementation would not have arisen.

2.5 Institutional mechanisms for empowerment of Urban Local Bodies

The Constitution (74th Amendment Act), prescribed a common institutional framework for the efficient and effective delivery of municipal services comprising of mandatory institutions as mentioned in **Appendix 2.1**. The discharging of the functions transferred to the Municipalities can be performed in an effective manner only when appropriate institutions have been established,

⁹ Cherpulassery, Irinjalakkuda, Haripad, Thiruvalla, Wadackencherri, Mattannur, Nedumangad, Kayamkulam Municipalities, Kozhikode Corporation, Kochi Corporation, Thiruvananthapuram Corporation.

which are adequately empowered to enable fulfilment of intended objectives. Audit undertook a review of the functioning of the institutional mechanism established in the State in the following paragraphs.

2.5.1 State Election Commission

In line with provisions laid down by Article 243K of the Constitution of India and Section 68 of KM Act 1994, the superintendence, direction and control of the preparation of electoral rolls, and the conduct of all elections to the Municipalities shall vest with the State Election Commission. In Kerala, the State Election Commissioner (SEC) or officer authorised by him was empowered for executing delimitation¹⁰ vide Section 10(1) of KPR Act, 1994 and Section 69 of KM Act, 1994 upto 10 January 2005. With effect from 10 January 2005, the KM Act (Section 69) provided that the Delimitation Commission constituted by the Government shall be entrusted with the task of delimitation. The Delimitation Commission was set up in the State in 2005 with SEC as Chairperson and four officers not below the rank of Government Secretary as members. The number of seats for councillors in each ULB is determined on the basis of population of ULB. As per Article 243P (g) of the Constitution, 'population' means the population as ascertained in the last preceding census, of which relevant figures have been published.

Audit observed that though Government constituted Delimitation Commission in the State in 2015 and 2020 and issued Delimitation guidelines, delimitation was not conducted in the State. Consequently, the fixing of number of seats for councillors and number of wards for the elections to ULBs held in 2015 and 2020 was done on the basis of population figures of 2001 census, except for 29 Municipalities and two Municipal Corporations¹¹.

As the number of seats for councillors was based on census figure of 2001, there was an overall shortage of 60 Councillors as on date in the State (Corporations: 01, Municipalities: 59) as shown in **Appendix 2.3**. In the test-checked ULBs, there was a shortage of nine Councillors.

Government stated (December 2021) that the shortage pointed out by Audit occurred due to the peculiar situation arising out of the restrictions of Covid which ruled out public consultations and compelled the Government to not undertake the delimitation exercise even though the Delimitation Commission had been constituted.

The reply of the Government did not justify the non-adoption of population figures of census 2011 in 2015 election.

In the absence of timely delimitation of wards on the basis of population of latest census, the elected representatives of ULBs in the State had to look after the interests of larger group of persons than they would have had to, had delimitation been effected with number of seats fixed as per the latest census.

¹⁰ Delimitation is the process of dividing Panchayats and Municipalities into as many constituencies or wards as there are seats (member/councillors) and fixing or re-fixing of the boundaries of the territorial constituencies for the purpose of general election.

¹¹ The more recently formed Municipalities and Corporations for which the 2011 census figures were adopted.

2.5.2 Ombudsman and Appellate Tribunal

In accordance with Section 271G of the Kerala Panchayat Raj Act¹², an Ombudsman was constituted to function as a state-level authority to conduct investigations and enquiries on charges of corruption, maladministration or irregularities in discharge of administrative functions by LSGIs, officials and elected representatives of the LSGIs. The State constituted (May 2000) an Ombudsman originally with seven members¹³ which was later dissolved and the single Ombudsman system came into existence on 11 December 2001. Though the Fourth SFC (2011-12) recommended conversion of Ombudsman into a three-member body¹⁴, the recommendation was deferred for detailed examination by Finance Department and was not seen acted upon till date. Thus, the institution despite being entrusted with substantial responsibilities, continue to be a single member body for the last twenty years.

An Appellate Tribunal for LSGIs, as envisaged in Section 509 of KM Act was set up (February 2004)¹⁵ at Thiruvananthapuram to consider appeals and revisions against decisions of LSGIs in exercise of their functions such as assessment, demand and collection of taxes or fees or cess, issue of licences, grants of permits, etc. Though the Fourth SFC recommended setting up of one more Appellate Tribunal in the northern region of the State, preferably in Kozhikode, this has not happened.

Timely implementation of the above recommendations of SFC would have contributed to enhanced effectiveness in discharge of duties by Ombudsman and Appellate Tribunal.

2.5.3 State Finance Commission

Article 243Y envisages that the Finance Commission constituted to review the financial position of Panchayats shall also review the financial position of Municipalities. The first SFC was constituted on 23 April 1994, covering the period 1996-2001. Since then, six SFCs have been constituted in the State (September 2021). The details regarding the timeliness in constituting SFCs and submission of Action Taken Reports (ATRs) on the recommendations by Government are given in **Appendix 2.4**.

Though the respective SFCs submitted the Reports before commencement of award period, Audit observed significant delay in submission of ATR by Government on the recommendations of SFCs in the case of first, second and fifth SFC reports. Action Taken Reports on the recommendations of the Second and Fifth SFCs were submitted to State Legislature after a prolonged delay of over two years. The delay in placing the ATRs means that there is little effective time left for implementation of the recommendations. It was also seen that an effective mechanism was not ensured by Government for review of implementation of accepted recommendations. Absence of such a system may

¹² read with Section 57, 64, 90, 229 (A) of KM Act.

¹³ the Chairman who was holding the post of a High Court Judge and the other six members drawn from Judicial, Administrative sections as well as from eminent social activists.

¹⁴ consisting of serving or retired High Court Judge, serving or retired Secretary to Government and an eminent public person.

¹⁵ with a District Judge constituting the single member Tribunal.

have contributed to the lethargy in implementation of accepted SFC recommendations.

Audit compiled a status report of compliance of recommendations of previous SFCs by Government, from the Action Taken Reports, which is presented in **Table 2.2**.

Table 2.2: Status of acceptance and implementation of recommendations of SFCs by Government

SFC	Total no. of recommendations	Accepted by Government	Deferred	Not accepted	Accepted but not implemented
First	69	59	6	4	15
Second	51	46	1	4	19
Third	32	31	1	0	17
Fourth	151	115	35	1	113
Fifth	103	74	3	26	36
Total	406	325	46	35	200

(Source: Action Taken Reports on the Reports of State Finance Commissions and Part I of the Report of the Sixth SFC)

The substantial number of recommendations which have been accepted by Government but remain to be implemented, is a matter of concern as it reflects the low priority assigned by Government to the suggestions of the constitutional body set up for comprehensive analysis and betterment of the financial position of ULBs in the State.

The Additional Chief Secretary LSGD pointed out in the Exit Conference (November 2021) that compared to other States, SFCs have been constituted in a timely manner in Kerala and their recommendations have been duly considered by Government. Though there are plenty of recommendations on which action needs to be taken, many of them are complementary/ supplementary recommendations, and the critical ones related to devolution of funds have been consistently acted upon by GoK. As the SFCs were constituted for the specific purpose of appropriate devolution of funds to Local Governments, Audit is to consider whether this has been achieved in a substantial manner. Government also stated (December 2021) that some of the recommendations of earlier SFCs have become redundant in the context of new developments/ recommendations and that these specific recommendations are being reviewed to bring about compliance and closure.

The contention of ACS that the recommendations on devolution of funds have been acted upon is not acceptable as it was seen that the recommendations to be implemented included significant recommendations facilitating empowerment of Local bodies as listed in **Appendix 2.5**.

Further, though recommendations on devolution of funds made by the first four SFCs were accepted as such or with modifications, as regards the Fifth SFC, most of the core devolution recommendations, which were formulated on the basis of clear norms for general purpose, maintenance of assets and development, have been rejected. Though there is no obligation on the part of the Government to accept all or some of the recommendations of SFCs, rejection of all major recommendations, even though with detailed justification, would only subvert the fiscal decentralisation system.

The First SFC in its final report (February 1996) stated that implementation of the recommendations of SFC has to be closely watched to analyse the results achieved. Important basic economic indicators of Panchayats and Municipalities which would help the State Government to make accurate assessments of the financial and developmental needs of the Local Bodies (LBs) are now virtually lacking and can be collected and collated for future use only if a concerted attempt is started now itself. The Commission therefore recommended constitution of a special cell in Finance Department to

- prepare a reliable database on important basic economic indicators of the rural and urban LBs through appropriately drawn up formats and to preserve the same in floppy disc for future reference.
- conduct comprehensive case studies in selected LBs on upgradation of standards of civic administration at a desired level as well as special problems, assessment of gap between the existing resources and cost of civic services at satisfactory standards.

The State Finance Commission Cell was constituted in Finance Department, GoK in 1996. In reply to the audit enquiry on the above aspects, the SFC Cell stated (September 2021) that the above requirements have not been fulfilled. The reply is indicative of the lack of prudence towards effective compliance with the recommendations of SFCs.

2.5.3.1 Constitution of SFCs

The State Finance Commission shall consist of members not exceeding three, including the Chairman. One member of SFC shall have special knowledge and experience in financial matters and economics and the other two shall be persons having experience in public administration or local administration or having special knowledge in financial matters and accounts of the Government and local bodies.

The Twelfth Central Finance Commission had remarked that since the SFCs are temporary bodies required to discharge their functions within the time limit, all members and Chairman should be full time. Further, routine transfers of Government officials if included in SFCs, may lead to frequent reconstitution of SFCs, which could be avoided if the SFC comprises of non-official experts. However, it was observed that all six SFCs formed in the State till date comprised of two Government Secretaries representing Finance and Local Self Government Departments as members, apart from the Chairman who was a non-official member. Government replied (December 2021) that the inclusion of Local Self Government and Finance Secretaries in SFCs has ensured that the most critical recommendations regarding the nature of devolution and transfers are seamlessly implemented by Government.

However, Audit observed that, despite these Secretaries playing key roles in formulating recommendations offered by SFCs and the Administrative Departments under them vested with the responsibility of implementing the accepted recommendations, 200 (61.50 *per cent*) out of 325 accepted recommendations were yet to be implemented.

2.6 Powers of the State Government over ULBs

The KM Act laid down provisions which enabled the State Government to have overriding powers on ULBs, which was against the spirit of the 74th CAA. Some of these provisions are listed in **Appendix 2.6**.

It was noticed that an amendment (w.e.f. 24 March 1999) to section 58 of the KM Act resulted in imparting very wide powers to the State Government to issue directions to Municipalities. Prior to the amendment, the section permitted the Government to issue directions to a Municipality only after giving the Municipality an opportunity to be heard. Also, such direction could be issued only if the Government was satisfied that any action taken/order issued/license or permission granted by the Municipal Authority was defective on specific grounds¹⁶. The amendment has bestowed upon the Government, the power to issue directions to the Municipality in matters of finance, maintenance of accounts, office management, selection of schemes, sites and beneficiaries, proper functioning of Ward Sabhas and Ward Committees, welfare programmes, environment control, etc., and the Municipality will have to comply with such directions.

On the other hand, as a positive step towards safeguarding the decision making powers of Municipalities, Section 57 which empowers the Government with powers to suspend and cancel resolutions of the Council was amended to include Section 57(2) w.e.f. 24 March 1999. Consequent upon the amendment, the Government has to refer any proposal for suspension/cancellation of a decision of the Municipal Council to the Ombudsman or to the Tribunal for Local Self-Government Institutions and the Government may cancel/amend/approve a resolution/decision of the Council only based on the Tribunal's Report, after giving the Municipality an opportunity of being heard.

Government replied (December 2021) that the principle behind devolution to Local Government, viz., the paramountcy of people and Grama/Ward Sabhas was the responsibility of the State while furthering local governance systems. However, whenever it was noticed that some local action tended to have negative ramifications on state and central policy and imperatives or when some areas of inaction were detrimental to the interests of citizens, particularly vulnerable communities, the State had to step in.

The Government's response is silent on the aspect of doing away with the Municipality's right to be heard. This right of the Municipality needs to be safeguarded even in the extreme situations where the State may have to step in. Functional autonomy to Local Governments, envisaged by the 74th CAA is compromised through such amendments.

2.7 District Planning Committee

Section 53 of KM Act provides for the constitution of a District Planning Committee (DPC) for consolidation of plans prepared by the Panchayats and the Municipalities. The DPC is also to prepare a draft development plan for the

¹⁶ (a) erroneous, improper etc., or (b) causes or is likely to cause injustice to any person etc., (c) causes or is likely to cause undue hardship etc., to any person or (d) omits to discharge a legal duty or fulfil an obligation cast upon it by law, or (e) is against public interest and better administration of the Municipality

district as a whole and matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, integrated development of infrastructure and environment conservation, etc. The ULBs upload the annual plans prepared and approved by Municipal Council in the software Sulekha, which are in turn approved by respective DPCs. The DPCs of 14 districts have approved the Annual Plans uploaded by the ULBs during the period from 2015-16 to 2019-20. However, Audit observed as follows:

- Though the DPC is to prepare the Draft Development Plan for the whole district for the next financial year before 30 September of every year, and the Chairman of the Committee is to forward the same to the Government for approval, District Plan was prepared only once in 2017-18 during the audit period.
- The Draft Development Plan did not cover matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation and the extent and type of available resources.
- As per para 15.2 of Plan formulation and Subsidy Guidelines 2016-17, District Development Vision document is to be prepared once in five years by each DPC. Audit observed that the District Development Vision document has not been prepared by DPCs.

The ACS, LSGD stated in the Exit Conference (November 2021) that preparation of District Plan was a very complicated process necessitating involvement of many technical institutions and experts which would not be easy to access in all districts in the State. As the process of formulation of District plan is not detailed by the Constitution, there is no clear instruction at any level. As far as the Vision Document is concerned, though the five year planning process is taking care of the objective, the State would work towards preparing the document. It was also informed that the Town and Country Planning Act was being amended to include the feature of spatial planning as well as risk informed planning.

The integration and consolidation of local level plans prepared by all Local Governments of the region into a District plan by DPC would have enabled streamlining of planning process by scientifically keeping track of the development status of the district.

2.8 Metropolitan Planning Committee

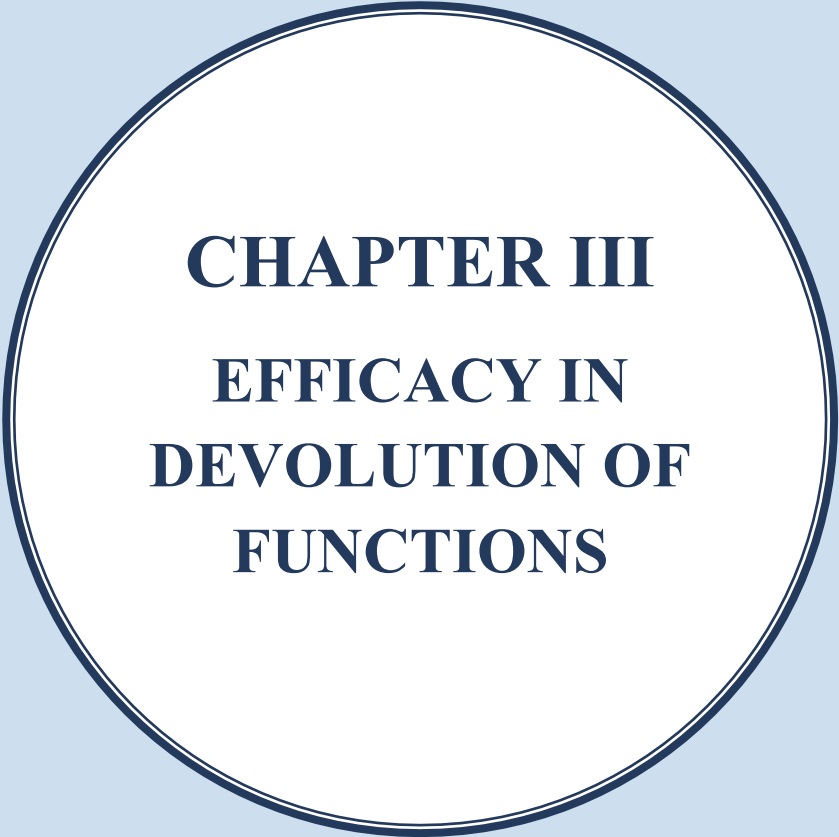
Article 243ZE mandates constitution of a Metropolitan Planning Committee (MPC) in every Metropolitan area¹⁷ to prepare a draft development plan for the area as a whole. Section 54 of the KM Act, 1994 provides for constitution of MPC to prepare a draft development plan for Metropolitan Areas. The Kerala

¹⁷ Metropolitan area denotes an area having a population of ten lakh or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be Metropolitan area.

Metropolitan Planning Committee (Election of Members and Proceedings of Meeting) Rules, 1995 were framed under Section 54 of the KM Act, 1994.

Despite formulation of Rules, no Metropolitan areas have been notified in Kerala and MPCs have not been constituted in the State so far. Constitution of MPCs would have enabled formation of sub-committees consisting of experts nominated from the respective fields by the Committee, for submitting reports after studying about the development requirements of that Metropolitan area.

The ACS, LSGD stated (November 2021) in response that there was no ULB in Kerala which qualifies for Metropolitan area with a population above 10 lakh and that Kochi Corporation would achieve it if the Urban agglomeration also is taken into account. ACS added that the next Five Year Plan of the State would consider whether the Greater Kochi Area could be notified as a Metropolitan Area.



CHAPTER III
EFFICACY IN
DEVOLUTION OF
FUNCTIONS

In accordance with Article 243W of 74th CAA, Section 30 (3) of Kerala Municipality Act envisages that the Government shall transfer all institutions, schemes, buildings, other properties, assets and liabilities connected with the matters mentioned in the First Schedule, to the Municipalities concerned. Further, under section 30(4), the Central and State Plan allocations and the annual budget allocation in respect of the subjects transferred to the Municipalities by the Government shall be wholly allotted to the respective Municipalities.

Audit analysed the effectiveness of devolution of specific functions stated to have been devolved, by reviewing the roles performed by the test-checked ULBs in the overall implementation of the function. Water Supply, Water Charges, Solid Waste Management, Public Health and Sanitation and Property Tax were the functions selected to assess the efficacy of devolution.

3.1 Water Supply

The Kerala Water Supply and Sewerage Act, 1986 which came into force on 01 March 1984, transferred all existing water supply and sewerage services, sewerage works and sewage farms to Kerala Water Authority (KWA), an autonomous authority for providing water supply and undertaking sewerage related functions in the State. It also stipulated that all assets and liabilities of ULBs relating to water supply were to be transferred to KWA. The KWA was to implement water supply schemes, plan for extension, execute Operation and Maintenance and collect water charges from consumers. The KM Act, 1994 included provisions envisaging the re-transfer of assets, water supply services etc., to the Municipalities keeping in view the goal of empowering the local government institutions. However, audit scrutiny in test-checked ULBs revealed that these provisions have not been adhered to at ground level, as discussed in the following paragraphs.

3.1.1 Deviation from constitutional provisions of devolution

Audit observed the following deviations from the principles of devolution enacted by 74th CAA, in execution of the function of water supply in test-checked ULBs:

- Section 315 of KM Act provides that Government, from the date specified by notification in the Gazette, transfer all assets, water supply and sewerage service, execution of works, conduct of water supply, distribution, fixing water charge, collection, etc., to the Municipality. However, Local Self Government Department, GoK confirmed to Audit (January 2021) that such a notification has not been issued by Government. Consequently, the assets, liabilities, etc., with regard to water supply and sewerage services continue to be vested in the parastatal, KWA. Unless Government, by notification, transfers the assets, liabilities and all duties related to Water Supply to the ULBs, the State cannot claim to have initiated the devolution of even basic core

functions to Local Governments, in compliance with the provisions of KM Act.

- The ULBs identify their specific needs and formulate annual plan projects for distribution pipelines, which are approved by DPC. The ULBs take up extension of distribution pipeline by arranging deposit works with KWA, but the assets thus created with Municipal fund are owned by KWA and not transferred to the ULBs. Pipelines laid with ULB funds thereafter became assets of KWA and Operation and Maintenance of water supply schemes remained to be the responsibility of KWA. Audit observed that despite the test-checked ULBs paying ₹37.76 crore to KWA during the audit period (2015-2020) for undertaking these deposit works, the capital assets created with funds from ULBs were not seen transferred to ULBs.
- Audit observed that the public taps in ULBs were not fitted with water meters in the test-checked ULBs to record quantity of water consumed, which deprived assurance of level of actual consumption by ULBs. Further, no joint verification to locate non-functioning taps in their respective areas of jurisdiction was seen to be undertaken by the test-checked ULBs and KWA during the audit period. Consequently, no action could be taken by the selected ULBs to identify and repair the defunct taps. Therefore, ULBs continue to pay annual charges fixed by KWA for water supply, which were not commensurate with their levels of actual consumption.
- Government instructed (February 2019) that in case of on-going works entrusted to KWA which are not feasible, a joint meeting of LSGIs and KWA is to be convened and changes if any required for the project/scheme are to be made, to make the project feasible. Thirteen¹⁸ test-checked ULBs stated that such a joint meeting was not convened during the audit period. Further, KWA had not furnished Utilisation Certificates (UC) for deposit works amounting to ₹33.94 crore to the test-checked ULBs despite requests made by ULBs. Non-furnishing of UCs by KWA for works entrusted, could be indicative of non-completion of works and the probability of some of them being infeasible to pursue. However, in the absence of joint meetings of officials of ULBs and KWA, no efforts were seen undertaken to identify such works and suggest modifications to make them feasible for execution.
- The Final report of Kerala State Urban Development Project issued (July 2002) by Local Self Government Department states that the White Paper on Kerala Water Authority based on a review of functions of KWA, had emphasised the need to transfer responsibility of urban water supply distribution to ULBs, by 2007. It was also mentioned that KWA will be vested with authority only to provide, meter and charge bulk water supply to Local Governments. However, even after a lapse of 13 years, KWA still builds and maintains all bulk water supply related assets and

¹⁸Irinjalakkuda, Wadakkancherry, Cherpulassery, Ottappalam, Kalpetta, Mattannur, Panoor, Nileshtar, Kayamkulam, Haripad, Pandalam, Kochi Corporation, Thiruvananthapuram Corporation

water supply distribution system, except in Thrissur Municipal Corporation, where the ULB manages water supply distribution system within its jurisdiction.

Government stated in reply (December 2021) that the notification to transfer water supply systems from KWA to Local Governments has not been issued since the human resources to undertake the ensuing responsibilities have not been transferred to them by the department concerned, the absence of which would only create liability and difficulty for ULBs in the current scenario. It was also stated that as the major drinking water supply schemes cover several local governments or several districts, centralised management by a state level agency is necessitated.

The above reply is indicative of the reluctance of State in endowing Local Governments with self-sufficiency in implementing schemes related to devolved functions. Persistence of control over local governments by State level agencies dilutes the spirit of devolution, raising concerns about the extent of meaningful decentralisation that has taken place in the State. In the light of the effective decentralised management of water supply by Thrissur Municipal Corporation, the Government needs to transfer the requisite manpower and technical expertise to the Local Governments to implement the water supply schemes, thereby equipping them to execute the function effectively.

3.1.2 Inadequacies in Service Level Benchmarking

The Handbook of Service Level Benchmarking, Ministry of Urban Development, Government of India recorded (2008) that Urban Local Bodies (ULBs) are deficient in providing quality services to the existing population in spite of their accountability to citizens. Benchmarking involves the measuring and monitoring of service provider performance on a systematic and continuous basis. Sustained benchmarking can help to identify performance gaps in service delivery and introduce improvements through the sharing of information and best practices, ultimately resulting in better services to the people in ULBs.

The Thirteenth Central Finance Commission made it mandatory for ULBs to notify, by the end of fiscal year, the service standards against nine service level benchmarks (SLBs) in four service sectors-water supply, sewerage, solid waste management and storm water drainage, proposed to be achieved in the succeeding fiscal year. The Fourteenth Central Finance Commission reiterated that the ULBs will have to measure and publish SLBs for basic services as mandatory pre-requisite for availing performance grant.

Audit observed that despite being the parastatal playing key role in water supply, KWA neither adopted the performance measurement of benchmarking nor reported the details of assessment of SLBs relating to Water supply to ULBs. Consequently, ULBs had to prepare the SLBs in the absence of specific data relating to the actual implementation of the function from KWA. This is fraught with the risk of SLB data prepared by ULBs being unrealistic and short of authenticity. Negligence in assessment of SLBs would be all the more crucial as it may adversely impact upon effectiveness in monitoring of performance indicators like quality of water supplied, which has a direct linkage to public health hazards.

While accepting the necessity of a system of benchmarking of service delivery standards of public service, Government reiterated (December 2021) that this needs to be standardised at the state level and be included in the Citizen's Charter of each ULB. It was also emphasised that social accountability instruments including social audit needs to be set up to periodically monitor progress in achievement of requisite standards of benchmarking.

3.1.3 Water Charges

Section 315 (b) of KM Act specifies that the right to recover arrears of sewerage charge, water charge, meter rent and of any cost of fees relating to water supply and sewerage services, shall be the rights, liabilities and obligations of the Municipality. However, Water charges are not, at present, a source of revenue to ULBs in the state, as they are being collected by KWA¹⁹. Scrutiny of records in selected ULBs revealed that in actual practice, water charges for public taps at rates fixed by KWA were being paid by ULBs to KWA annually for supply of water to the areas in their jurisdiction. Further, the rates of water charges collected from consumers are fixed by Government on the basis of proposals submitted by KWA. The ULBs did not have any role in fixing water charges to be collected in their areas of jurisdiction.

Revision²⁰ of water charges was last effected by KWA in October 2014. Audit observed that the water charges as fixed by KWA to be paid by ULBs for each public tap was ₹7884 per year. The test checked ULBs paid ₹9.66 crore to KWA for public taps during the audit period. Had the ULBs been vested with the right to recover the water charges as envisaged in the Statute, it would have contributed to hike in own revenue of ULBs, which in turn could be utilised for developmental activities.

3.2 Solid Waste Management

In accordance with Article 243W, performance of functions and the implementation of schemes related to Solid Waste Management (SWM) included in the Twelfth Schedule were entrusted to ULBs under Section 30 of the KM Act read with the First Schedule. Section 332 of KM Act, 1994 entrusts to the ULBs, the tasks of recycling, treating, processing and disposing of solid wastes within their areas of jurisdiction.

The Suchitwa Mission²¹ functions as the Technical Support Group (TSG) in Waste Management sector under the Local Self Government Department (LSGD), Government of Kerala. Its governing body is comprised of the Minister for Local Self Government Department as Chairperson, Additional Chief Secretary, LSGD as Vice Chairperson, Commissioner for Rural Development as Member Secretary and Executive Director, Suchitwa Mission as Member Convener.

The Mission also acts as the Nodal agency for implementing schemes like Swachh Bharat Mission (Urban), Swachh Bharat Mission (Rural), etc. State and Central share of funds for SWM are routed through Suchitwa Mission.

¹⁹ Except in Thrissur Municipal Corporation.

²⁰ applicable to all type of consumers including Domestic/ Non-Domestic/ Industrial.

²¹ The Clean Kerala Mission and Kerala Total Sanitation and Health Mission were integrated to form Suchitwa Mission in September 2008.

Audit however observed that the action of the above agency was not always in conformity with the principles of decentralisation, as discussed below.

Government uses its authority under Section 58 of the KM Act to issue directions to ULBs as regards waste management. For instance, Government directed (September 2020) the ULBs citing Section 58, to enter into a participatory agreement with Suchitwa Mission in connection with a World Bank Aided Project (Kerala Solid Waste Management Project (KSWMP)) and to return the appended document signed before the date specified therein. The agreement specified that the ULB wished to enter into a participation agreement with Suchitwa Mission and become a participating ULB under KSWMP. This was clearly, a case of Government imposing its will on the ULBs rather than the ULB exercising its choice. Audit notes that this was possible only because of an amendment to Section 58 of the KM Act in March 1999, which introduced blanket powers to the State Government to issue directions to a Municipality, thereby concentrating power in the hands of the State contrary to the spirit of the 74th CAA. Prior to that, the Section permitted the Government to issue directions to a Municipality only after giving the Municipality an opportunity to be heard except under special circumstances as mentioned in Paragraph 2.6.

3.2.1 Efficiency in disposal of wastes generated

Wastes which originate in ULBs can be grouped under Bio-waste, Non bio-recyclable, and non bio-non recyclable²². Whether the ULBs were equipped to handle the waste generated was looked into, in terms of quantity of waste generated and capacity to handle the same. The details of quantum of wastes generated and disposed by test-checked ULBs are given in **Appendix 3.1**.

Audit noticed that all Municipalities were not fully equipped to handle the wastes being generated in their jurisdiction, raising concerns about the efficacy of implementation of the devolved function of Solid Waste Management. Of the test-checked ULBs, the capacity to handle wastes was not in conformity with the quantum of wastes generated, in nine ULBs in the case of Bio-wastes and nine and eleven ULBs in the case of non-bio-recyclable and non-bio-non-recyclable wastes respectively. On joint site verification in four²³ selected ULBs it was found that solid waste was piled up in public places causing environmental issues.

LSGIs entrusted management of non-biodegradable waste to an agency, Clean Kerala Company Limited (CKCL). The Company was formed in 2013 with a vision to support local governments to manage the non-biodegradable solid waste including plastic waste, e-waste, etc., using the most appropriate, innovative and scientific methods with people's participation.

In the test checked 21 ULBs, it was seen that 15 ULBs had executed agreement with CKCL for collection of plastic wastes. In the remaining six ULBs²⁴, there was no effective mechanism in place to monitor the disposal of plastic wastes. Further, no agreement was seen executed by any of the selected ULBs with

²² A non-biodegradable material is a type of material which cannot be broken down by natural organisms and serve as a source of pollution. Some of them (non-bio-recyclable) can be recycled for future use whereas others (non-bio-non-recyclable) are non-recyclable.

²³ Kayamkulam, Pandalam, Kattappana Municipalities and Kochi Corporation.

²⁴ Aluva, Kalpetta, Panoor, Ponnani, Koduvally Municipalities and Kochi Corporations.

CKCL for collection of e-waste.

The Clean Kerala Company had to enable every local body in the state to acquire adequate and appropriate facilities for safe management of solid waste. However, CKCL confirmed to Audit that it had not entered into agreements with 499 out of 1200 LSGIs in the State to facilitate timely removal of non bio-degradable waste.

The parastatals involved in the execution of devolved functions may be assigned supportive roles, with the prime responsibility being vested in Local Governments. It was evident that ULBs were not equipped enough to effectively pursue the devolved function and could not also utilise the agencies set up to handhold and technically support solid waste management ventures. The percentage of expenditure out of the allotted funds varied from 1.58 to 45.16 only, during the audit period (2015-2020) (**Appendix 3.2**).

Thus, despite Solid Waste Management having been categorised as a function to be devolved to ULBs under the Twelfth Schedule and specific provisions relating to the function included in the KM Act under Sections 326 to 345, the efficacy of devolution of the said function remains a moot point. Devolution of function to ULBs has not been effective in true sense, going by the extent of expenditure incurred and capacity for disposal of wastes.

The ACS, LSGD stated in the Exit Conference (November 2021) that convergence of Suchitwa Mission, Haritha Keralam Mission and Clean Kerala Company Limited was being considered as they work together to facilitate Solid and Liquid Waste Management, formulate SWM Action Plans, identify agencies to execute functions, negotiate with Local Bodies, etc., for better management of the function.

3.3 Public Health and Sanitation

Section 135 of the Travancore-Cochin Public Health Act, 1955 and Section 127 of the Madras Public Health Act, 1939 required that every Municipality shall earmark not less than 30 *per cent* of its income from all sources other than grants by the Government, for expenditure on public health in its local area including expenditure on medical relief. With decentralisation, the functions, institutions and schemes of health care institutions in the government sector were transferred to the Local bodies. Accordingly, institutions under the departments of Health Services, Homoeopathy and Indian System of Medicine at the Grama, block and district level came under the control of LSGIs. Maintenance of Environmental hygiene is also a mandatory function of ULBs under the KM Act, 1994. ULB health wing staff (health supervisors, health inspectors, and JPHN²⁵) are responsible for ensuring sanitation through chlorination of wells, pre-monsoon cleaning, fumigation against mosquitoes, etc., for control of vector borne diseases, cleaning of public markets and streets engaging contingent sanitation staff, purchase of cleaning equipment, etc.

²⁵ Junior Public Health Nurse

3.3.1 Issues in Decentralisation of Health Sector

The ULBs prepared budget and allocated funds in annual plans of projects/schemes as envisaged in Plan formulation and Subsidy guidelines. The Annual plan projects/schemes were uploaded in Sulekha software and approved by District Planning Committee. Plan schemes under Public Health and Sanitation are implemented utilising development funds and non-road maintenance funds. The following aspects regarding execution of the said function were noticed in Audit:

- Running of Community Health Centres (CHCs), Government Hospitals and Taluk Headquarters Hospitals in Corporation and Municipal areas are entrusted to the Corporation Councils and Municipal Councils respectively. However, functionaries/personnel of Public Health Institutions are not yet transferred to ULBs. Regular employees of Public Health Institutions continue as state government employees under respective departments. ULBs have only a limited control over these functionaries/personnel. The Government continues to be responsible for recruitment, placement and promotion as well as payment of salary and allowances of health personnel posted to Local Governments. Thus, the staff of ULBs is under the dual control of Government and Local Body. The duality of responsibilities and control over health care is not in line with the transfer of functionaries envisioned in 74th CAA.
- Audit noted that in February 2021, an ordinance has been promulgated (The Kerala Public Health Ordinance 2021) to endow the health functionaries of the State, District and Local Self Government Institutions with necessary powers and authority for enhancement of the administration of public health in the State. The Ordinance also aimed at entrusting health functionaries in LSGIs with the functions of the preparation of action plans for public health and implementation of schemes for containing emerging diseases, outbreaks of communicable diseases, etc. Until then, only the Travancore-Cochin Public Health Act, 1955 and the Madras Public Health Act, 1939 covered the subject of Public Health concerning the State, thus depriving it of a unified Health Act for over half a century. The ordinance has not yet been enacted (September 2021).

The Government replied (December 2021) that the involvement of LSGIs in community health is significant ranging from medicine supply, providing dialysis equipment, supporting palliative care interventions, besides the recent Covid related interventions. It was also stated that the XV Central Finance Commission had recommended introduction of health grant to local governments in states based on the experience of local bodies of Kerala in managing the pandemic.

However, the Government's reply does not meet the issues raised by Audit.

3.3.2 Environmental Hygiene

Regulation of slaughtering of animals and sale of meat is a mandatory function of ULBs as per first schedule of KM Act, 1994. In the 21 ULBs test checked,

slaughter houses were functioning only in four ULBs²⁶ as of March 2021. In the remaining 17 ULBs, no slaughter houses were seen functioning, which is indicative of the possibility of slaughtering being performed illegally. The joint site verification conducted by the Audit team and officials of Kochi Corporation (09 March 2021) in the slaughtering house functioning under the Corporation, revealed that the slaughter house was functioning under very low hygienic standards posing environment hazards and there was no system in place for disposal of slaughter waste. The biogas plant installed was not functioning and the slaughter house was functioning without the mandatory approval of Kerala State Pollution Control Board.

3.4 Involvement of other Parastatals in discharge of functions

Apart from the parastatals mentioned in discharge of functions with respect to water supply and solid waste management, agencies such as IMPACT Kerala Limited, Smart City Thiruvananthapuram Limited, Cochin Smart Mission Limited (CSML), State Mission Management Unit AMRUT, etc., also played prominent roles in implementation of schemes in ULBs as detailed below:

3.4.1 IMPACT Kerala Limited

Government issued (October 2017) order registering IMPACT Kerala Ltd. (Investment in Municipal and Panchayat Asset Creation for Transformation Kerala Ltd.) as the Special Purpose Vehicle (SPV) for Kerala Infrastructure Investment Fund Board (KIIFB) to implement major infrastructure projects in Local Self Government sector as a Limited Company. The objectives of IMPACT Kerala Ltd. include developing schemes and projects to be pursued by the IMPACT Kerala Ltd. or by local bodies, sourcing and expending funds for developmental activities on behalf of local bodies or other public agencies, etc. Procedures and General Guidelines for project registration with KIIFB issued (February 2018) by Government stipulated that Detailed Project Reports (DPR) shall be prepared by the SPV for all projects identified for implementation by availing assistance (partly/fully) from KIIFB.

The status of implementation of projects of IMPACT Kerala as on March 2021 in test checked ULBs is as shown in **Table 3.1**:

Table 3.1: Status of implementation of projects by IMPACT Kerala

Name of Project	Name of ULB	Project outlay (₹ in crore)	Whether sanction for funding by Government received
Building for New Municipalities	Pandalam	5.89	No
Establishing Sewage/Septage Treatment Plants	Wadakkanchery	10.00	No*
	Ottappalam	11.40	Yes
Establishing modern Abattoirs/Slaughter House	Thiruvalla	10.36	Yes
	Kozhikode Corporation	11.56	Yes
	Kayamkulam	5.70	No
	Kochi Corporation	14.26	No

²⁶ Kochi Corporation, Kattappana, Pathanamthitta and Kayamkulam Municipalities

Name of Project	Name of ULB	Project outlay (₹ in crore)	Whether sanction for funding by Government received
Establishing Modern Gas Fired Crematorium	Haripad	11.44	No
	Kozhikode Corporation	0.80	No*
	Ponnani	0.80	No
Establishing Modern Markets	Nedumangad	34.60	No
	Wadakkanchery	19.31	Yes
	Aluva	4.60	Not furnished

(Source: Data obtained from IMPACT Kerala Ltd.)

*DPR not submitted to KIIFB

Despite funds from KIIFB sourced through an SPV for implementation of projects in local bodies, the progress of works announced in budget speeches of 2016-17 and 2017-18 has been very slow.

IMPACT Kerala replied (April 2021) that majority of its staff members were appointed during the period from August 2019 to October 2019 and that the company became fully operational only from October 2019. It was also stated that DPRs of all the projects were prepared by ULBs and No Objection Certificates from Government and clearances from State Pollution Control Board were wanting in the case of many projects. Further, structural designs were to be examined by Engineering Colleges and concurrence obtained from Government for Septage Treatment plants.

Audit observed that the role of ULBs in implementing projects relating to their mandatory functions such as Septage treatment plants, slaughter houses, crematoriums etc., were being assigned to parastatal agencies, whose mode of functioning involved a series of procedures/multiple levels of clearances. It was also seen that though KIIFB guidelines specified that the SPV was to prepare DPRs, the DPRs of projects in test checked ULBs were prepared by ULBs themselves.

3.4.2 State Mission Management Unit, AMRUT - Imposition of loan on Municipalities

Atal Mission for Rejuvenation and Urban Transformation (AMRUT)²⁷ aims at providing basic services to households and building amenities in cities to improve the quality of life of the poor. The scheme was launched on 01 September 2015 with a mission period of five years (2015-2020) and subsequently extended upto March 2022. As per Clause 13.1 of the AMRUT Guidelines, States have to undertake extensive capacity building activities for their ULBs to achieve Urban Reforms and implement projects in Mission Mode. The State Mission Management Unit (SMMU) coordinates implementation of projects like water supply, sewerage and septage management, storm water drainage, etc., in AMRUT cities with State Government and AMRUT Mission Directorate, Government of India. AMRUT projects are being implemented in

²⁷A revamped programme of Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

all six Corporations²⁸ and three Municipalities²⁹ in the State.

The fund sharing pattern for AMRUT in the State involves 50 *per cent* Central share, 30 *per cent* State share and 20 *per cent* ULB share. As most of the AMRUT Cities did not have the financial capacity to meet the ULB share, Government decided (March 2018) to execute the projects through specialized parastatal agencies, based on resolution passed by the ULB. Such arrangements were to be executed by way of a tripartite agreement amongst the State Government, the specialized parastatal agency and the Municipality concerned. GoK was to contribute 15 *per cent* of ULB share upfront subject to the condition that, both the principal amount and interest at the rate of 7.50 *per cent* would be recovered from the annual plan fund allocation to ULBs over a period of ten years.

Scrutiny of records in three ULBs³⁰ selected for implementation of AMRUT projects revealed that the opinion of the Council of ULB which was against availing loan facility due to difficulty in repayment, was not considered while sanctioning projects. Request for loan was not seen approved in the Council and forwarded to Government/SMMU. While requesting exemption from implementing AMRUT projects, though the selected ULB (Kannur Corporation) with annual plan fund allocation of ₹30 crore had expressed inability to set aside ₹33 crore for AMRUT as it would result in non-implementation of developmental projects, the opinion of the Corporation was overridden by the State. Such instances are clearly not in consonance with the spirit of the 74th CAA which sought to set on a firm footing the rights and privileges of local self-governing units.

The ACS, LSGD while acknowledging (November 2021) that any Centrally sponsored scheme with its conditionalities in the space of ULB takes away the decision making power of the ULB, stated that ULBs did not have a choice to opt out of such schemes. Audit observes that the State Government needs to ascertain the repayment capacity of ULBs and uphold the decision of the Municipal/Corporation Councils and refrain from imposing loans on ULBs against their willingness.

3.4.3 Smart Cities Mission

The Government of India (GoI) launched (June 2015) the Smart Cities Mission (Mission) to promote sustainable cities that provide core infrastructure and improve the quality of life of people by enabling local development and harnessing technology as a means to create smart outcomes for citizens. The GoI would extend financial support on an average of ₹100 crore per city per year for a five year period. An equal amount, on a matching basis, will have to be contributed by the State/ULB. Smart City Thiruvananthapuram Limited (SCTL) and Cochin Smart City Mission Limited (CSML) were constituted as Special Purpose Vehicles (SPV) for the development of these cities. The Board of Directors of the SPV was to include representatives of GoI, State Government and ULBs. The Divisional Commissioner/Collector/Municipal Commissioner/Chief Executive of the

²⁸Thiruvananthapuram, Kollam, Kochi, Thrissur, Kozhikode, Kannur

²⁹Alappuzha, Guruvayur and Palakkad

³⁰Kollam Corporation, Kannur Corporation, Guruvayur Municipality

Urban Development Authority was to be the Chairperson.

Contrary to the above, Audit observed that the Chief Secretary of the State was the Chairperson of the Mission and that the Secretary of Municipal Corporation was not always included in the Board of Directors in both districts during the five year period (2010-2015). Further, the Mission Statement and Guidelines delegated the rights and obligations of the Municipal Council with respect to the Smart City project to the SPV. The decision making powers extended to the ULB under the Municipal Act/ Government rules were assigned to the Chief Executive Officer of the SPV and the approving/decision making powers of Urban Development Department/Local Self Government Department/Municipal Administration department were bestowed upon the Board of Directors of the SPV in which the State and ULB are represented.

The Smart City Mission Statement and Guidelines encourage the State Government and ULB to empower the SPVs by delegating various rights and obligations of the ULB in relation to the smart city project to the SPV. The delegation contemplated in the Guidelines overrides the powers conferred upon ULBs as per 74th CAA.

3.4.4 Development Authorities

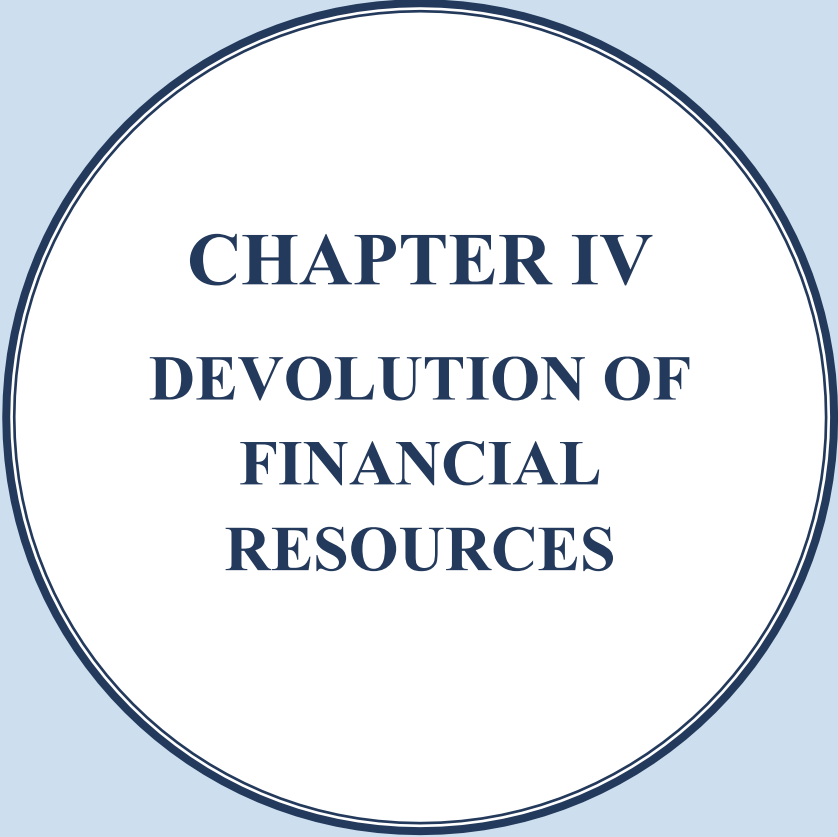
Trivandrum Development Authority (TRIDA) comprising Thiruvananthapuram Corporation and five³¹ GPs, Greater Cochin Development Authority (GCDA) consisting of Kochi Corporation and 21 Panchayats/ nine Municipalities and Goshree Islands Development Authority (GIDA) comprising eight Panchayats and three islands of Kochi Corporation are the Urban Development Authorities functioning in the State.

The 13th CFC had recommended that ideally Development Authorities were to be dissolved and their functions taken over by the Local Bodies in whose jurisdiction they operate or to consider sharing of revenue of Development Authorities with concerned local bodies. The Second Administrative Reforms Commission of Government of India, in its sixth report recommended that 25 *per cent* of the revenue realised by Development Authorities from the sale of land should be made available to the Municipalities for meeting expenses for their infrastructure projects and State Governments were requested to offer their comments in this regard and implement if found suitable.

Despite Development Authorities owning assets and earning rental and lease income from renting out these assets, no revenue sharing was seen undertaken between the ULBs and the Development Authorities. Though GIDA earned (2005-06) an amount of ₹287.30 crore as revenue through sale of 25 hectares of land in Kochi Corporation/ Panchayats, no amount was transferred to the Local Bodies. Despite these parallel authorities owning substantial amount of revenue from sale of land belonging to ULBs, resultant benefits are not seen accruing to the ULBs.

The ACS, LSGD stated (November 2021) that the dismantling of Development Authorities is fundamental and that the State Government has been considering the same and also as to whether funds meant to reach Local Bodies were being retained by these authorities.

³¹ Kalliyoor, Pallichal, Venganoor, Vilappil, Vilavoorkal GPs.



CHAPTER IV
DEVOLUTION OF
FINANCIAL
RESOURCES

Robustness of Urban Local Bodies (ULBs) gets reflected in the state of their finances and in their capacity to look after their own needs. Devolution to take effect in its true sense in the context of ULBs would require them to be endowed with financial resources commensurate with their requirements. As fiscal autonomy is one of the core elements of decentralisation, effective decentralisation would imply not just availability of adequate financial resources (either self-generated or transferred), but also the power to make financial decisions. Funds available to ULBs in Kerala include own revenues (tax and non-tax), grants from the Centre and State and loans. This Chapter attempts to study the efficacy of financial devolution facilitated by 74th CAA and the State legislations, through observations pertaining to overview of finances and analysis of receipts of ULBs.

4.1 Finances of Urban Local Bodies

Article 243X of the Constitution provided for constitution of Funds for crediting all moneys received, by or on behalf of the Municipalities and for their withdrawal, as well as for grants-in-aid to the Municipalities from the Consolidated Fund of the State. Article 243Y mandated constitution of State Finance Commissions to review the financial position of the Municipalities and to make recommendations on the principles governing the grants-in-aid to the Municipalities from the Consolidated Fund of the State and the measures needed to improve the financial position of the Municipalities. The KM Act, 1994 also reiterated through its provisions, measures to strengthen local finance.

The Kerala Municipality (Manner of Inspection and Audit System) Rules, 1997 envisage that every Municipality has to submit Annual Financial Statements for audit to the primary auditor within four months after the completion of the financial year, i.e., before 31st day of July to the Auditor authorised to conduct the audit of the accounts of that Municipality. It was noticed that during the period from 2017-18 to 2020-21, all the 93 ULBs had submitted their Annual Financial Statements for audit to the Statutory Auditor, Kerala State Audit Department.

Audit came across shortcomings in financial management of ULBs as discussed in following paragraphs, which if rectified, would facilitate higher level of financial autonomy and good governance thereby.

4.1.1 Unrealistic budget formulation

Sections 285 and 287 of the Kerala Municipality Act, 1994 make it mandatory for the urban local governments to prepare the annual budget before the beginning of each financial year. As per Section 285 of KM Act, the Secretary of ULB shall prepare and submit to the Standing Committee concerned, a budget containing a detailed estimate of receipts and expenditure for the ensuing year before the fifteenth day of January each year. The Standing Committee concerned, after considering the estimate and proposals of the Secretary of the ULB and the officials dealing with the respective subjects, shall submit the proposals to the Standing Committee for Finance. After considering these

proposals, the Standing Committee for Finance shall prepare budget estimate of the receipts and expenditure of the Municipality for the next year. The budget estimate prepared by the Standing Committee for Finance shall be laid by its Chairman before the Municipality/Corporation Council for its approval before the end of the first-week of March. The Council shall finally pass the budget estimates before the beginning of the year to which it relates and submit copies to the Government.

Audit noted that the LSGIs did not prepare estimates on the basis of the trends in receipts and expenditure in previous years. Thus there was wide variation in figures of budget estimates and actuals. The budgeted figures would have been more realistic, if the LSGIs had relied upon the trends in receipts and expenditure in previous years.

Illustrative examples of preparation of unrealistic budget by four test-checked ULBs are shown in **Table 4.1**:

Table 4.1: Statement showing the details of unrealistic budget

Name of ULB	Year	Receipts (₹ in lakh)			Expenditure (₹ in lakh)		
		Budget	Actual	Percentage of actuals to budget	Budget	Actual	Percentage of actuals to budget
Wadakkanchery Municipality	2015-16	3882.11	755.69	19.47	3951.27	820.89	20.78
	2016-17	9239.04	2132.47	23.08	8733.22	1835.20	21.01
	2017-18	10748.54	3487.55	32.45	10665.85	3118.81	29.24
	2018-19	30819.41	4234.26	13.74	29242.48	3692.87	12.63
	2019-20	20709.59	3562.65	17.20	19680.51	2668.07	13.56
Kalpetta Municipality	2015-16	12947.63	3081.15	23.80	12873.68	2379.92	18.49
	2016-17	16785.61	1896.43	11.30	16720.61	2713.70	16.23
	2017-18	19126.67	3498.14	18.29	19073.54	3293.88	17.27
	2018-19	4444.19	3353.67	75.46	4401.59	2887.23	65.60
	2019-20	9012.92	3622.75	40.20	8957.61	3567.42	39.83
Thiruvananthapuram Corporation	2015-16	80568.96	25803.70	32.03	68620.91	26001.81	37.89
	2016-17	57454.09	39661.63	69.03	48626.69	27492.26	56.54
	2017-18	68994.75	41952.69	60.81	60049.23	28566.44	47.57
	2018-19	84304.17	58442.97	69.32	72873.87	54476.21	74.75
	2019-20	92205.35	55445.56	60.13	95867.91	39486.44	41.19
Kochi Corporation	2015-16	88154.17	42132.93	47.79	84188.00	32506.76	38.61
	2016-17	88355.99	41367.63	46.82	84095.02	30762.67	36.58
	2017-18	85416.69	54334.06	63.61	82229.92	43546.86	52.96
	2018-19	91747.57	65762.97	71.68	88898.97	50134.74	56.40
	2019-20	98756.95	57885.27	58.61	94518.59	52133.98	55.16

(Source: Details furnished by test-checked ULBs)

The percentage of actual receipts to the budget figures during the period 2015-16 to 2019-20 ranged from 13.74 to 32.45 per cent in Wadakkanchery Municipality; 11.30 to 75.46 per cent in Kalpetta Municipality; 32.03 to 69.32 per cent in Thiruvananthapuram Corporation and 46.82 to 71.68 per cent in Kochi Corporation. On the other hand, the expenditure was over estimated by

12.63 to 29.24 *per cent* in Wadakkanchery Municipality; 16.23 to 65.60 *per cent* in Kalpetta Municipality; 37.89 to 74.75 *per cent* in Thiruvananthapuram Corporation and 36.58 to 56.40 *per cent* in Kochi Corporation during the same period. The above trends raise concern about the realistic nature of the budgets of these ULBs, which makes them ineligible to qualify as instruments of financial control and expenditure management.

The trends in receipts and expenditure in previous financial years are to be taken into account while formulating budget estimates of a financial year. Budget estimates are to be made realistic by analysing reasons for persistent savings, if any, for effecting correction. Consistent significant variations between budgeted and actual figures in test-checked ULBs during the five-year period is indicative of the low priority assigned by the ULBs towards planned formulation of budget. ULBs need to exercise due care in their budgeting processes, as the budget of the Municipality does not require approval by the State Government in the light of decentralisation. The Report of the Committee for Evaluation of Decentralised Planning and Development had pointed out (March 2009) the failure of all Local Government Institutions to use budget as an instrument of financial control.

Reply of the Government is awaited (December 2021).

4.1.2 Expenditure of Urban Local Bodies

The expenditure of ULBs can be categorised into five, *viz.*, Human Resource expenses, General expenses, Operations and Maintenance, Interest and Finance charges and Programme expenses. The details of expenditure incurred by 93 ULBs in the State as well as by test-checked 21 ULBs during the period 2015-16 to 2019-20 are shown in **Tables 4.2 and 4.3** respectively.

Table 4.2: Expenditure incurred by ULBs in the State

(₹ in crore)

Year	Human Resource Expenses	General expenses	Operation and Maintenance	Interest and Finance charges	Programme expenses, expenses out of Grants	Total Expenditure
2015-16	107.45 (9.68%)	39.93 (3.60%)	118.13 (10.64%)	9.12 (0.82%)	835.44 (75.26%)	1110.07
2016-17	145.77 (13.02%)	44.84 (4.01%)	125.34 (11.20%)	6.98 (0.62%)	796.66 (71.16%)	1119.59
2017-18	201.76 (11.05%)	60.54 (3.32%)	140.31 (7.68%)	13.84 (0.76%)	1409.39 (77.19%)	1825.84
2018-19	212.27 (8.51%)	64.95 (2.60%)	249.70 (10.01%)	10.39 (0.42%)	1958.42 (78.47%)	2495.73
2019-20	197.76 (8.75%)	44.23 (1.96%)	207.83 (9.20%)	13.68 (0.61%)	1796.07 (79.49%)	2259.57
Total	865.01 (9.82%)	254.49 (2.89%)	841.31 (9.55%)	54.01 (0.61%)	6795.98 (77.13%)	8810.80

(Source: Figures furnished by IKM)

Table 4.3: Expenditure incurred by selected ULBs*(₹ in crore)*

Year	Human Resource Expenses	General expenses	Operation and Maintenance	Interest and Finance charges	Programme expenses, expenses out of Grants	Total Expenditure
2015-16	43.54 (9.79%)	13.63 (3.07%)	58.81 (13.23%)	5.53 (1.24%)	323.09 (72.67%)	444.60
2016-17	52.41 (12.10%)	12.35 (2.85%)	56.63 (13.07%)	2.57 (0.59%)	309.17 (71.38%)	433.13
2017-18	74.60 (12.08%)	20.62 (3.34%)	60.79 (9.85%)	2.95 (0.48%)	458.47 (74.25%)	617.43
2018-19	71.66 (7.62%)	30.93 (3.29%)	127.83 (13.60%)	3.89 (0.41%)	705.76 (75.08%)	940.07
2019-20	64.47 (8.42%)	13.23 (1.73%)	74.95 (9.79%)	2.65 (0.35%)	610.59 (79.72%)	765.89
Total	306.68 (9.58%)	90.76 (2.84%)	379.01 (11.84%)	17.59 (0.55%)	2407.08 (75.19%)	3201.12

(Source: Figures furnished by IKM)

The major share of expenditure by ULBs in the State, ranging from 71.16 per cent to 79.49 per cent of the total expenditure is seen incurred for Programme expenses, expenses out of grants, etc., which is reflective of the high priority given to project implementation by ULBs. Sufficient share of funds are to be allotted to Operation and Maintenance (O&M) expenses also, to facilitate the pace of delivery of mandatory civic functions like disposal of solid and liquid waste, vector control, establishment of slaughter houses, maintenance of burial grounds, provision of public toilets, etc.

The Fifth SFC observed that the laxity on the part of Local Governments towards civic functions has created serious problems relating to public health, sanitation and environment in the State. Hence, the approach of the Commission was to assign top priority to these functions and devolve sufficient funds for the purpose.

4.1.3 Analysis of financial data of Urban Local Bodies

The following ratios were considered by Audit to establish the fiscal autonomy of ULBs.

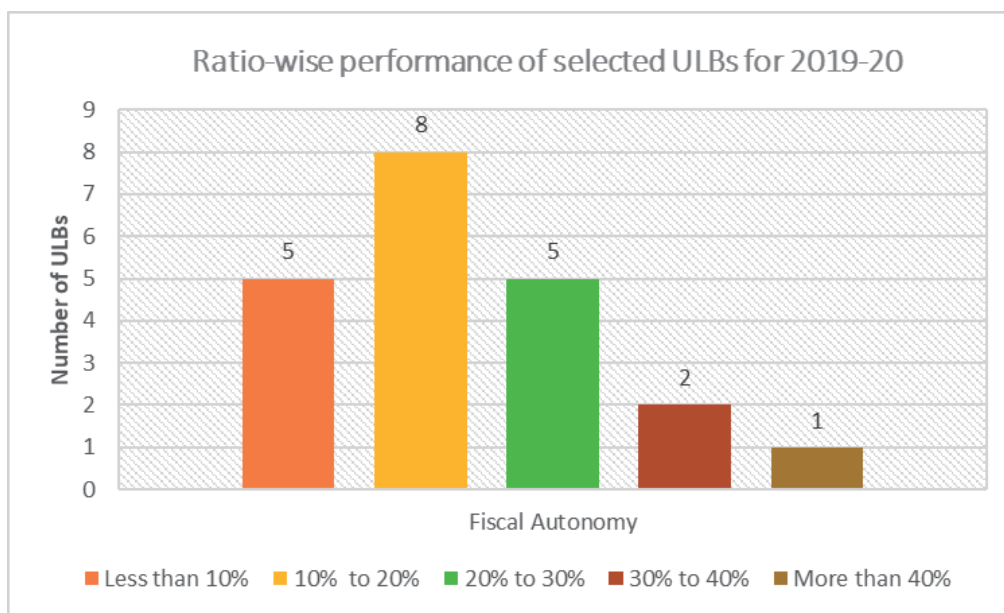
- Local fiscal autonomy: This is the share of own revenue to the total revenue of the ULB.
- Local dependency on fiscal transfer: This is the share of Central Finance Commission (CFC) and State Finance Commission (SFC) grants to the total fiscal revenue of the ULB.

Local fiscal autonomy and local dependency on fiscal transfer are inversely related to each other. The higher the fiscal autonomy, lesser is the dependency on fiscal transfer. On scrutiny of the data for the year 2019-20, it was observed that the ratio of own revenue to total revenue was higher than 40 per cent in one

ULB³² only (out of test-checked 21 ULBs). In two ULBs the ratio was in the range of 30-40 *per cent*. This is indicative of the urgent need to effectively tap the potential sources of revenue to ULBs, to facilitate self-reliance in local finances.

The trend in fiscal autonomy in the test-checked 21 ULBs during the year 2019-20, is depicted in the **Chart 4.1**:

Chart 4.1: Local Fiscal Autonomy



4.1.4 Extent of utilisation of funds

A comparison of the total expenditure with total revenue for the period 2015-16 to 2019-20 showed that expenditure incurred by 93 ULBs in the State ranged from 35.78 to 57.67 *per cent*, and that of selected ULBs from 32.71 *per cent* to 53.54 *per cent* of total revenue as shown in **Tables 4.4 and 4.5** respectively.

Table 4.4: Extent of utilisation of funds by ULBs in the State

(₹ in crore)

Year	Revenue	Expenditure	Percentage of Expenditure out of revenue
2015-16	2169.86	1110.07	51.16
2016-17	3129.30	1119.59	35.78
2017-18	3166.06	1825.84	57.67
2018-19	4447.56	2495.73	56.11
2019-20	4210.47	2259.57	53.67
Total	17123.25	8810.80	51.46

(Source: Data furnished by IKM)

³² Aluva Municipality

Table 4.5: Extent of utilisation of funds by test-checked ULBs*(₹ in crore)*

Year	Revenue	Expenditure	Percentage of Expenditure out of Revenue
2015-16	1002.57	444.60	44.35
2016-17	1324.25	433.13	32.71
2017-18	1264.02	617.43	48.85
2018-19	1755.74	940.07	53.54
2019-20	1759.69	765.89	43.52
Total	7106.27	3201.12	45.05

(Source: Data furnished by IKM)

The figures of expenditure incurred by ULBs in the State and test-checked ULBs in the five year period 2015-2020 recorded a total percentage of 51.46 and 45.05 respectively. Higher expenditure would symbolise active intervention of ULBs to bring all weaker sections of society under social security net and to impart quality services in health and education sectors. It was noticed that the ULBs in the State could not incur appreciable trends in expenditure during the audit period (2015-2020), which may hamper positive outcomes in priority sectors.

4.1.5 Non-preparation of Budget Manual

Sections 285 to Section 293 of KM Act, 1994 stipulate the procedure for preparation of budget in ULBs. The power to make rules by Government in matters relating to the estimate of receipts and expenditure is provided in Section 565 of KM Act.

Fourth SFC had recommended (March 2011) that the Budget Rules may be thoroughly recast with adequate provisions for participatory planning and budgeting and that the Rules should incorporate provisions for transparency and ensure integrity and sanctity of budget, especially in relation to forecasting of revenues and estimating expenditure. The Budget Rules needed to be amplified in considerable detail in a simple manner with enough number of illustrations and issued in the form of a Budget Manual which would detail procedures for re-appropriation and enable appropriation control. Though Government in its Action Taken Report (2011-12) accepted the above recommendations and assured necessary action, Budget Manual for Local Bodies has not been formulated in the State till date. Non formulation of Budget Manual may facilitate laxity in adherence to financial norms and unrealistic estimation of receipts and expenditure by Local Governments. The recommendations discussed above, if implemented, would streamline the financial accounting of ULBs and enable a reliable financial reporting system for Local Governance.

4.2 Receipts of Urban Local Bodies

Devolved functions can be carried out effectively by ULBs only when they are supported by sufficient financial resources. Financial resources are obtained through fiscal transfers facilitated by State Finance Commissions and compliance to State and Central Finance Commission recommendations as well

as through increased access to own sources of revenue commensurate with expenditure requirements. Audit attempted to analyse the channels of receipts of ULBs as detailed below:

4.2.1 Sources of revenue of Urban Local Bodies

The chief sources of revenue of ULBs are grants devolved as per recommendations of SFC and own revenue comprising tax and non-tax revenue and other revenue³³. The details of revenues of ULBs in the State during the period 2015-16 to 2019-20 are indicated in **Table 4.6:**

Table 4.6: Details of revenues of ULBs during the period 2015-16 to 2019-20
(₹ in crore)

Year	Finance Commission Grants		Own Revenue	Other Revenue	Total Revenue	Percentage of own revenue to total revenue
	Development Fund	Maintenance and General Purpose Fund				
2015-16	1000.77	595.81	791.73	582.44	2970.75	26.65
2016-17	1439.05	719.93	938.37	2289.63	5386.97	17.42
2017-18	1688.28	784.65	1008.54	1716.33	5197.80	19.40
2018-19	1850.56	935.55	1149.05	2538.87	6474.03	17.75
2019-20	1837.16	870.55	1080.08	1595.27	5383.06	20.06

(Source: Details of FC Grants from SFC Cell, Own revenue figures from IKM and figures of Other revenue from VLC cell, AG (A&E)/various offices)

The share of own revenue to total revenue of ULBs ranged from 17.42 to 26.65 per cent during the period 2015-16 to 2019-20. This is indicative of the urgent need for enhancing the own revenue of ULBs.

4.2.2 Fiscal transfers to Urban Local Bodies

Significant quantum of funds is made available to ULBs through fiscal transfers by the Central and State Governments. These include Finance Commission grants³⁴, central share of Centrally Sponsored Schemes and lumpsum grants³⁵ provided in the Budget for schemes/ functions transferred to ULBs.

The fiscal transfers from Government formed the major portion of the revenue (ranging from 73.35 to 82.58 per cent) of ULBs in the State during the period 2015-16 to 2019-20.

A. State Finance Commission grants

The major share of financial resources of ULBs comprised grants recommended by SFC. The details of funds due as per the orders of the State Government and funds actually released to ULBs during the period 2015-16 to 2019-20 are given in **Table 4.7:**

³³ Funds to transferred institutions and Centrally Sponsored Schemes.

³⁴ Including Central Finance Commission grant, Development Fund, Maintenance Fund and General Purpose Fund.

³⁵ Against separate sub heads of account under the Minor head '191-Assistance to Municipal Corporations, 192-Assistance to Municipalities/Municipal Councils', under the functional Major and Sub Major heads of the Departments concerned.

Table 4.7: Details of grants due and released under SFC during 2015-16 to 2019-20

(₹ in crore)

Year	SFC allocation as accepted by State	Actual allocation in Budget-Appendix IV	Actual release from Finance Department GoK	Short (-) / Excess (+) release	% of short (-) / Excess (+) release
2015-16 (4 th SFC)	1438.07	1438.07	1939.04	(+)500.97	(+) 34.84
2016-17 (5 th SFC)	2250.33	2250.33	2222.50	(-) 27.83	(-) 1.24
2017-18	2306.16	2306.16	2473.00	(+)166.84	(+) 7.23
2018-19	2554.85	2554.85	2786.13	(+)231.28	(+) 9.05
2019-20	2827.72	2827.72	2707.71	(-) 120.01	(-) 4.24

(Source: Data furnished by SFC Cell)

The funds released to ULBs under SFC was short of the mandated devolution by 1.24 per cent and 4.24 per cent during 2016-17 and 2019-20 respectively. However, fund distribution in the remaining three years was marked by excess release varying from 7.23 per cent (2017-18) to 34.84 per cent (2015-16). This suggests the prominent share of contribution facilitated by State Finance Commissions to the finances of Local Bodies.

B. Central Finance Commission grants

Article 280(3)(c) of the Constitution mandates the Central Finance Commission (CFC) to recommend measures to augment the Consolidated Fund of a State to supplement the resources of Municipalities based on the recommendations of the respective SFCs. The 14th CFC recommended providing of Basic grant and Performance grant to ULBs. The details of 14th CFC grants received by ULBs in the State during the audit period are shown in **Table 4.8:**

Table 4.8: Details of Fourteenth CFC grants received by ULBs in the State during 2015-20

(₹ in crore)

Year	General Basic Grants			Performance Grants		
	Allocation by GoI	Release by GoI to State	Release from State to ULBs	Allocation by GoI	Release by GoI to State	Release from State to ULBs
2015-16	351.66	351.66	316.49	0.00	0.00	0.00
2016-17	486.94	486.94	510.84	143.71	143.71	143.71
2017-18	562.61	562.61	562.61	162.63	162.63	193.82
2018-19	650.84	650.84	650.84	184.69	0.00	184.69
2019-20	879.42	879.42	879.42	241.83	0.00	0.00
Total	2931.47	2931.47	2920.20	732.86	306.34	522.22

(Source: Data furnished by SFC Cell)

- (i) The 14th Finance Commission recommended a total allocation of ₹2931.47 crore under Basic grants³⁶ and ₹732.86 crore under Performance grants³⁷ for the period 2015-20. Out of the Basic Grants allotted for the period, the State Government released ₹2920.20 crore to the ULBs. Against the Performance Grants of ₹306.34 crore released by GoI, the State Government released ₹522.22 crore, which was in excess of the amount received³⁸ from GoI. As per the 14th Finance Commission Performance Grant Scheme, if the ULB has an overall score of 60 or more from three criteria *i.e.*, Audit of annual accounts (weightage 10), Increase in own revenue sources (weightage 40) and Publishing of Service Level Benchmarks (weightage 50), it qualifies for receiving the Performance Grants.

The list of ULBs eligible for Performance Grants was forwarded (November 2018) to the Ministry of Housing and Urban Affairs (MoHUA) by GoK alongwith Utilisation Certificates for 2016-17 and 2017-18. The MoHUA recommended³⁹ for release of Performance Grants for Kerala for the years 2018-19 and 2019-20 and the matter is pending with the Ministry of Finance, GoI. Though GoK requested (October 2020) to expedite the release of these funds, no favourable action was seen initiated. The Additional Chief Secretary (Finance), GoK stated that no reply has been received from MoHUA in response to the above request till February 2022.

As the underlying objective of the grant is to initiate action at the grassroots level for compilation of data on local bodies' receipts and expenditure for the stakeholders to have access to reliable information for decision making, non-receipt of this grant may adversely impact upon the quality of service delivery by LSGIs.

- (ii) During 2014-15, GoK released ₹166.39 crore of Thirteenth FC grant for the year in advance, anticipating that the funds will be received from GoI either in the same year or in the next year. However, GoI did not release second instalment for the year 2014-15 as the term of Thirteenth FC was over by 2014-15. Paragraph 17 of Fourteenth Central Finance Commission guidelines stipulates that there should not be any deductions at source from the grant due to the local bodies. Contrary to this, GoK adjusted the excess amount (March 2016) released on account of Thirteenth Finance Commission Grant relating to the year 2014-15 amounting to ₹166.39 crore from the Development Fund grant in 2015-16, in violation of guidelines. Out of this, an amount of ₹20.44 crore relates to 21 test-checked ULBs,

³⁶ Basic grant is intended to be used to improve the status of basic civic services including water supply, sanitation including septage management, sewerage and solid waste management, storm water drainage, maintenance of community assets, maintenance of roads, footpaths and street-lighting, and burial and cremation grounds

³⁷ Performance grant is provided to address the following issues: (i) making available reliable data on local bodies' receipt and expenditure through audited accounts; and (ii) improvement in own revenues.

³⁸ Due to formation of new Municipalities and consequent transfer of funds of upgraded Panchayats

³⁹ The National Institute of Urban Affairs (NIUA) vide e-mail dated: 17 March 2020 has informed GoK that Performance Grant for ULBs in Kerala has been recommended for the years 2018-19 and 2019-20 and that the matter is pending with MoF.

which would have remained at the disposal of these ULBs for fruitful utilisation in project implementation.

Reply of the Government is awaited (December 2021).

4.2.3 Change in system of drawal of funds by Local Bodies

The Local Self-Governments followed the practice of drawing funds for utilisation from the Consolidated Fund through contingent bills⁴⁰ until 12 April 2006. As per this system, funds allotted to ULBs remaining unutilised at the end of the financial year would lapse. The Third SFC recommended (November 2005) fiscal freedom for LSGIs by introducing a system to avoid lapse of funds on 31 March of every financial year and to remove difficulties such as treasury restrictions/ways and means clearance from Finance Department. Government accepted the recommendation and the new system was introduced from 2006-07 onwards, wherein the grant devolved to each ULB was to be deposited in three public accounts⁴¹ in the treasury for development fund, maintenance fund and general purpose fund.

This system was dispensed⁴² with in March 2015 and Government re-introduced the system of drawal from Consolidated Fund through contingent bills, under which the allotment for a financial year would be issued by the Finance Department in three instalments on or before 25th of March, July and November every year. The bills submitted at treasuries at the end of March every year were to be shifted to treasury queue as per orders⁴³ issued by the State Government. The queued bills were intended to be cleared in the subsequent financial year. As per details furnished by Information Kerala Mission (IKM), the bills which were presented well in advance before the month of March i.e., as early as in the month of June in previous year, were also kept in queue at treasury. Consequently, the test-checked ULBs could not utilise ₹447.74 crore out of SFC grants during the period 2017-18 to 2019-20.

Further, the allotment not drawn as on 31 March every year was to be provided to LSGIs through Additional authorization/Supplementary Demand for Grants, based on the consolidated figures furnished by the Director of Treasuries. However, scrutiny of the Government orders permitting additional authorisation to enable drawal of bills kept in queue during previous year revealed that the amount was being authorised from the fund allotment to ULBs for the current year. Thus, the amount devolved in a particular year remaining unutilised at the end of the year was not made available to the ULBs for utilisation in the subsequent year.

Reversal of the fund flow system proposed to avoid lapse of funds and treasury restrictions, which was recommended by SFC, accepted by Government and adopted by LSGIs, to the system prevalent earlier, without assessing the possible bottlenecks in effective fund utilisation resulted in non-utilisation of ₹447.74 crore by test-checked ULBs.

⁴⁰ from the Major heads 3604 and 3054

⁴¹ Major Head 8448

⁴² vide GO (P) No. 119/2015/Fin dated 21 March 2015 and GO (P) No. 419/2015/Fin dtd.19 September 2015 (for KLGSDP and CFC Grants)

⁴³ March 2018, March 2019, March 2020

The ACS, LSGD stated in response (November 2021) that the queue bill system was adopted to incentivise the Local Governments and prompt them to push up their annual expenditure, to address the gap between actual expenditure incurred and budgetary allocation. It would compensate for the amount authorised through budget which could not be utilised and resultant lapse of funds, through additional authorisation.

The response does not explain why the additional authorisation was being made out of the funds allotted for the next year and not over and above the allocation for the next year. Further, resort to Government orders as an instrument to bypass or overturn an accepted recommendation of the Finance Commission is contrary to the spirit of devolution.

4.2.4 Payment of pension from Own Fund/ General Purpose Grant

Kerala Municipality (Employees Death-Cum-Retirement Benefit) Rules, 1996 envisage that 15 *per cent* of the total monthly emoluments of each employee shall be remitted to the Central Pension Fund (CPF) as pension contribution by the ULB. Each ULB is to contribute amount equivalent to 15 *per cent* of total monthly emoluments of each of its employees every month to the CPF, which was administered by the Director of Urban Affairs (DUA). The amount so contributed was to take care of the payment of Death-Cum-Retirement Benefit (DCRB) to the employees, thus absolving the ULB of any liability to pay DCRB at a later stage. The major advantage of this system was that the liability for the payment of DCRB of an employee could be apportioned among the ULBs in proportion to the length of his service in each ULB.

As per request of DUA, Government transfer credited funds to the account of CPF, prior to 2016, to release pension allotment to the ULBs. In March 2016, Government permitted ULBs to utilise General Purpose Fund for payment of pensionary and other benefits, on condition that additional fund will not be sanctioned for the purpose. Audit noticed that though DUA maintains the CPF, there is no mechanism to monitor timely collection and transfer of pension contribution to DUA by ULBs. As a result, the payment of pension to the retiring employees of ULBs could not be assured from the CPF. Information furnished by 14⁴⁴ out of 21 test checked ULBs pointed out that the funds for DCRB were sourced from the Own fund/ General Purpose Fund of ULBs during the audit period. Audit also observed that as of March 2020, ₹542.81 crore remained to be paid to 75 ULBs out of CPF in the whole State.

The Director of Urban Affairs replied (August 2021) to Audit that due to lack of sufficient amount in CPF, Government issued permission to grant pension and pensionary benefits from General Purpose Fund of Municipalities. The pensionary benefits of employees in ULBs were since then, being sanctioned to the employees from the General Purpose Fund. Audit observes that permitting utilisation of General Purpose Funds for payment of pensionary benefits without any other long term solution to the issue would not be a preferred situation. This would limit the scope of utilisation of funds at the disposal of ULBs for development purposes and thereby deprive them of their financial autonomy.

⁴⁴Aluva, Irinjalakkuda, Cherpulassery, Kalpetta, Mattannur, Kozhikode Corporation, Thiruvananthapuram Corporation, Kochi Corporation, Kayamkulam, Thiruvalla, Pathanamthitta, Nileshwar, Panoor, Ottappalam

While accepting the audit observation that the CPF was not being supplied with the funds required, ACS, LSGD stated in the Exit Conference (November 2021) that the ULBs had to take care of their employees' pension benefits and generate resources and maintain them for the purpose.

4.2.5 Own Revenues of ULBs

The Fifth State Finance Commission reported that own tax revenue and non-tax revenue of ULBs in Kerala constitute only 30.30 *per cent* of their total receipts indicating that ULBs are dependent to a large extent on the Government for resources. Audit noted that the tax and non-tax revenue of Kochi Corporation was only ₹108.92 crore and ₹23.95 crore respectively for the year 2019-20, compared to the corresponding figures of ₹50323.14 crore and ₹12265.22 crore for the State as a whole.

The constraints/deficiencies observed in realisation of own revenue in the test-checked ULBs are discussed below:

4.2.5.1 Property tax

Undermining fiscal autonomy through Government control on property tax

- The Council of the Municipality shall levy property tax on every building within the Municipality. The shift in basis of taxation from Annual Rental Value (ARV) of the buildings to plinth area was introduced through an amendment to Section 233 of the KM Act with effect from 07 October 2009. As per Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011, assessment of property tax on Plinth area basis was to be made applicable for new buildings from 14 January 2011 and for existing buildings (assessed on annual value basis) from 01 April 2011. The buildings were classified under ten categories and minimum and maximum rates fixed for each category. The date of coming into effect of plinth area method of assessment for existing buildings was extended by Government initially upto 01 April 2013 (in March 2013), and further till 01 April 2016 (in March 2019). Consequently, the existing method and rate of assessment for existing buildings on 14 January 2011 continued to be in effect. Continued extension of date of effect of revised basis and rates of assessment resulted in denial of potential revenue to the ULBs.
- Audit noticed that out of 21 test checked ULBs which have furnished information, property tax is still being levied (2021) on the basis of ARV on buildings existing as on 14 January 2011, in 14 ULBs. State-wide assessment of buildings for revised property tax has not been completed in 45 out of 93 ULBs. Audit observes that despite the amendment to the Act changing the basis of tax calculations to plinth area basis w.e.f. 07 October 2009, the intent of the legislators could not be given effect to for a long time, on account of the time taken by Government to frame the Rules (2011) and due to extensions permitted. The inaction of the State in this regard would undermine effective fiscal autonomy in the hands of ULBs.
- The increase in annual property tax on plinth area basis of Residential buildings assessed before 14 January 2011 was to be limited to 60 *per cent* of tax levied on ARV basis. However, the above order was kept in

abeyance for more than two years and the modified order was issued in March 2013. The increase in Annual property tax assessed was to be in the range of 25 per cent to 60 per cent for residential buildings and 25 per cent to 150 per cent for commercial buildings. Government provided (April 2015) for continuing the levy of taxes for existing residential buildings of plinth area upto 2000 sq.ft. and limited the increase in Annual tax for residential buildings above 2000 sq.ft. to 25 per cent of tax. Also, the increase in annual tax of Commercial/Industrial use buildings assessed on ARV basis before 14 January 2011, if reassessed on plinth area basis was to be limited to 100 per cent. The above order exempted all dwelling houses with plinth area upto 660 sq.ft. from property tax w.e.f. 2015-16.

The Fifth SFC observed that above action of Government in having modified the limit of enhancement of property tax fixed as per Kerala Municipal Rules, 2011 through an Executive order was undesirable and would not stand before law. Further, SFC recommended that Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011 as amended in 2013, have to be enforced by revoking the Government order dated 27 April 2015. Government was silent on this part while furnishing (February 2018) Action Taken Report on the recommendations of SFC.

- As per Section 233 of KM Act, the maximum and minimum rates of basic property tax fixed by the Government and the rates of basic property tax determined by the Council shall have effect for five years from the date on which they came into force. Thereafter, before the expiry of the period of five years, the Government and the ULBs shall revise the rates of basic property tax as well as the limits of rates, so as to be in effect for the next five years. It was noted that though plinth area based tax rates came into force on 14 January 2011 for new assesseees, and the rates of taxes had to be revised after five years in 2016, rate revision did not happen even after a period of ten years (March 2021). Since Government failed to revise the maximum and minimum rates of basic property tax, the ULBs could not revise the rates of property tax.

Audit observed that Geographic Information System (GIS) mapping for identifying buildings for levy of property tax was not implemented in any of the test-checked ULBs. Government directed (December 2013) that no schemes relating to GIS were to be taken up and no expenditure in this regard incurred by Local Self Government Institutions. Consequently, no GIS system has been developed by the State for assessment of Property Tax in ULBs, which deprives the ULBs of a sound and updated database to facilitate effective extraction of tax revenue (March 2021). The above action of the Government has effectively blocked one of the potential ways of improving the property tax base for Municipalities. The ACS, LSGD informed (November 2021) that the capability to utilize GIS for identifying buildings for levying property tax has been developed recently only and is in its nascent stages across the country. Government of Kerala is conducting experiments to improve the system.

Government replied (December 2021) that action was afoot to strengthen the collection of own source revenues.

Property Tax Board

The Thirteenth Finance Commission mandated constitution of a Property Tax Board on the lines of West Bengal Valuation Board, which was constituted in the year 1980. Accordingly, Government issued (February 2011) orders for constituting a Property Tax Board with one chairperson and three members. The Board was to take action to ensure imposition and collection of property tax on all taxable properties, share expertise on valuation and arrange training in this regard to the staff of ULBs. It was to assist all Municipalities and Municipal Corporations in the State to put in place an independent and transparent procedure for assessing property tax, by enumerating all properties within the jurisdiction of ULBs and offering suggestions for a suitable basis for assessment and valuation of properties and periodic revisions.

However, LSGD intimated Audit that the Board was not constituted in the State. Setting up of Property Tax Board would have been a positive step towards enhanced collection and timely revision of property tax.

4.2.5.2 Profession Tax

Kerala Municipality (Profession Tax) Rules, 2005 provide for the levy and realization of Profession Tax. The Fifth State Finance Commission recommended that a proper database of all categories of professionals, traders and businessmen, employees and workers in the unorganized sector and self-employed persons should be prepared and assessed for profession tax. This database was to be updated from time to time. All commercial institutions/enterprises which have been issued licences under D & O licence⁴⁵ rules and employees were also to be assessed for profession tax. It was further suggested that a survey on professionals practising within the jurisdiction of Local Governments concerned be made with the help of Ward Members/Councillors so as to bring them into the net of profession tax. Though the recommendation was accepted by Government, it was not implemented. Due to non-implementation of the recommendation, the tax base of profession tax w.r.t ULBs could not be widened.

As per Section 447 of KM Act, licence is to be issued for all trades included in prescribed laws. The licence for functioning of all type of trades /establishments in the ULB area is issued by Health wing of ULB which maintains a traders' list. A separate register is to be maintained in Revenue section in the ULB for entering the details relating to levy and collection of profession tax of traders/shops/ establishments in its jurisdiction. A sample check of traders' lists for profession tax in Revenue section in ULBs and traders' list for D&O licence in Health wing in ULBs revealed that profession tax was not being levied and collected from all traders to whom licence was issued by Health wing. The traders' list maintained in Health wing was not being shared with Revenue section, which indicates lack of concerted action among the sections in the ULBs to ensure collection of profession tax from all licensed business establishments.

Government replied (December 2021), that action would be taken to strengthen the collection of own source revenues.

⁴⁵ Dangerous and Offensive Trade Licence

4.2.5.3 Advertisement Tax

Advertisement Tax, being an item in the State List⁴⁶ of the Constitution, was subsumed (July 2017) with the introduction of Goods and Services Tax (GST). Consequently, vide Kerala Goods and Services Act 2017, Section 271⁴⁷ of KM Act was omitted. Thus, the Municipalities/ Corporations lost a prominent source of revenue. This has not been compensated by assigning or sharing the revenues earned by the Government from advertisements. As per Section 272, in case of an advertisement liable to Advertisement tax, the Secretary of ULB shall grant permission for the advertisement for the period to which the payment of tax relates and no fee shall be charged in respect of such permission. Section 567 (32)⁴⁸ of KM Act empowers the Council to make bye-laws to provide for the prohibition and regulation of advertisements in public streets or parks. Among the test-checked ULBs, Nedumangad Municipality and Thiruvananthapuram Corporation stated that they were levying licence fee for advertisements in their jurisdiction, consequent to the discontinuance of Advertisement tax. But such fees were not being collected in most other Municipalities in the absence of clarification from the Government as to the permissibility of such levy.

4.2.5.4 Entertainment Tax

Entertainment and Amusement Tax⁴⁹, except when levied by the Local Bodies, was subsumed⁵⁰ in GST from 01 July 2017. Government, however, issued orders on 24 June 2017 stopping the collection of Entertainment tax by Local Bodies from July 2017.

Levy of Entertainment Tax by Local Bodies was re-introduced from 10 June 2019. Thus, Entertainment tax could not be collected as revenue by ULBs during the period from 01 July 2017 to 10 June 2019. For compensating the loss in this regard, Government sanctioned (October 2018) ₹83.72 crore as compensation to ULBs for the period 2017-18. However, no compensation was paid for the period from April 2018 to May 2019, which resulted in loss of revenue to ULBs. Audit observed that on account of an incorrect Government order which had the effect of curtailing the fiscal autonomy of the Municipalities, own revenue of the Municipalities was adversely impacted.

The Sixth SFC in its first Report (December 2020), while acknowledging that the Government action in stopping collection of Entertainment tax and Advertisement tax has caused loss to Local Governments of around ₹100 crore per year, had recommended that since Government is collecting GST, this cumulative loss since 2017-18 may be made good in four half yearly instalments starting from 01 April 2021. This was not seen complied with (November 2021).

In the Exit Conference (November 2021), ACS, LSGD assured that the recommendations of Sixth SFC to make good the cumulative loss in collection

⁴⁶ Entry 55 in List II of 7th Schedule

⁴⁷ Every person who erects, exhibits, fixes or retains in a municipal area any advertisement, shall pay a tax as the Council with the approval of the Government, by resolution determine.

⁴⁸ Power of Council to make bye-laws

⁴⁹ Section 3 of Kerala Local Authorities Entertainment Tax Act, 1961

⁵⁰ vide Section 17(b) of the 101th Amendment of the Constitution Act, 2016 dated 08 September 2016

of Entertainment tax and Advertisement tax would be considered by Government.

4.2.5.5 Show Tax

The KM Act envisages that Show tax may be levied by the Municipal Council as determined by resolution, on all shows within the Municipal area. The Council can impose the said tax every two years after making a fixed percentage of enhancement. Further, no Show tax is to be levied in respect of any show for which no entertainment tax is leviable.

The Fifth SFC recommended that the existing minimum rate of Show tax which varied from rupees five to ₹50 need be raised by 100 *per cent*. The recommendation though accepted by Government, was not implemented. Tax rate fixed as on 24 March 1999 was not revised even after a period of twenty-one years. Audit also observed that Show Tax was also not levied during the period of discontinuance of levy of Entertainment Tax from 01 July 2017 to 10 June 2019, and is yet to be compensated.

4.2.5.6 Licences for Dangerous and Offensive trades and other trades

The Municipal Council shall, within thirty days from the date of receipt of the application, either grant a licence for the use of a place for conducting a dangerous or offensive trade or refuse to grant it. Audit observed that the time period for implementing the Kerala Municipality (Issue of Licence to Dangerous and Offensive Trades, other Trades and Factories) Rules, 2011⁵¹ was continually extended through a series of Government orders⁵² issued during the period from January 2011 till January 2017⁵³. Thus, the licence fees continued to be levied at rates which prevailed before the commencement of the Rules, thereby depriving the ULBs of a potential source of revenue during the period 2011 to 2018.

Audit also noted that Government issued orders in October 2020, further curtailing the Councils of ULBs of their levying power, by replacing the condition stipulated for levy “as per rates fixed by the Council subject to the minimum rate specified in Schedule III” with “as per rate specified in Schedule III”.

The ACS, LSGD accepted the observation stating (November 2021) that GoK fixed the rates of licence fee for issue of D&O licence, thereby curtailing the levying power of ULBs, and that the minimum rates remained to be low.

4.2.5.7 Income from other sources

Audit also observed that there was inadequacy in generation of income from non-tax sources of income.

- *Rent from commercial establishments*
A Municipality may construct commercial or other buildings and let them out to the public on licence and may charge such fees as it may fix,

⁵¹ With effect from 30 October 2020, this licence has been renamed as Licence for factories, trade, entrepreneurial initiatives and other services.

⁵² Twelve Government orders issued from 25 January 2011 to 10 January 2017.

⁵³ vide Notification dated 30 October 2020, Government amended the Kerala Municipality (Issue of Licence to Dangerous and Offensive Trades, other Trades and Factories) Rules, 2011, incorporating revised rates of licences

for the use and occupation of the building, under the KM Act. However, extent of contribution of this source of income to the Own revenue of test-checked ULBs was not satisfactory. Scrutiny of records in 21 test-checked ULBs revealed that rent amounting to ₹4.11 crore was in arrears as at the end of March 2020, underlining the immediate need to spruce up collection of eligible rent from the buildings constructed by the ULBs themselves.

- *Building permit fees*
Schedule II of Kerala Municipality Building Rules (KMBR)1999 which provides for the permit fee to be collected by Local Bodies was revised in June 2010, enhancing permit fee. KMBR 1999 was subsequently revised in November 2019. However, the Schedule of Rates for permit fee fixed in 2010 remained the same.
- *Penalties*
Section 538 of KM Act deals with all costs, damages, penalties, compensation, charges, fees (other than school fees), expenses, rents, contributions and other sums due to the Municipality to be recovered. The penalty to be charged w.e.f. 24 March 1999 is provided in Fourth Schedule and Fifth Schedule of KM Act. The rates of penalty to be charged have not been revised even after a period of 22 years.

There is an urgent need for Government to review and enhance the rates of above items to strengthen own revenue resources of ULBs.

Government replied (December 2021), that action would be taken to strengthen the collection of own source revenues.

4.2.6 Inadequate reliance on application software

Information Kerala Mission (IKM) is entrusted with the responsibility for development of software for various activities in ULBs. The Technical Support and Infrastructure Management Division of IKM provides support to ULBs by appointing Technical Assistants. The services of Technical Assistants include handholding in the operation of the application software and support for data entry of local databases. Sanchaya is the revenue and licence system software developed by IKM for the computerisation of Revenue System in local governments. The software handles property tax, profession tax, rent on Land and building, licence for Dangerous and Offensive Trades, Prevention of Food Adulteration, Advertisement tax, etc. The software also provides facility for e-Filing of property tax self-assessment, e-Filing of profession tax details, e-payment system, generation of Demand-Collection-Balance (DCB) statements, etc. The software was developed in 2010-11 and was made functional during 2016-17 in all ULBs.

As per Government order of March 2019, data entry on property tax in Sanchaya database was to be completed by September 2019. The Director of Urban Affairs confirmed to Audit that as on date (March/April 2021) only 48 out of 93 ULBs in the State were using the finalised database. Out of the test checked ULBs, only seven ULBs⁵⁴ recorded entries in the property tax database.

⁵⁴ Thiruvananthapuram Corporation and Nedumangad, Pathanamthitta, Thiruvalla, Kattappana, Mattannur, Nileshwar Municipalities

Database on D & O Module was made functional by four⁵⁵ ULBs only. Nine and eight test-checked ULBs offered the facility for printing ownership certificates and licences respectively, directly to public. Audit also observed that separate modules as described in the Administrative Report of IKM, for utility payment services such as hall booking, ambulance, vehicles, crematorium, etc., were not seen incorporated in Sanchaya Software. The facilities other than Property Tax and D&O licence were not functional in Sanchaya Software in test checked ULBs. Thus, despite Technical Assistants from IKM posted in all ULBs, the extent of applicability of the software in generating DCB statement by ULBs is restricted to property tax alone, even after a lapse of ten years since its inception.

As a positive step towards improving the efficiency of tax collection in ULBs, it is essential that Demand, collection and balance needs to be monitored regularly through the effective functioning of application software in all Municipalities.

⁵⁵ Ponnani, Nedumangad, Kattappana Municipalities and Thiruvananthapuram Corporation



CHAPTER V

**HUMAN
RESOURCES**

CHAPTER V

HUMAN RESOURCES

5.1 Regulation of Manpower in Urban Local Bodies

Along with transfer of functions and funds, functionaries also need to be available with the Municipalities in sufficient numbers to facilitate the effective functioning of Urban Local Bodies as full-fledged units of self-governance. Audit observations on assessment of staff requirement on the basis of norms prescribed and adequacy of availability of manpower in ULBs are as follows:

5.1.1 Inadequate assessment of manpower requirement

As per Section 222 of KM Act, the Government was to constitute a common municipal service for the employees under the service of the Municipalities in the State and regulate the recruitment and conditions of service of the employees of the Municipalities.

In accordance with the above provision, the State Government regulates the classification, method of recruitment, conditions of service, pay and allowance, discipline and conduct of staff and officers of ULBs. The Kerala Municipal Common Service (Ministerial and Revenue Branch) Qualification and Method of Appointment Rules 2001, Public Health Recruitment Rules 1972 and Special Rules for the Kerala Local Self Government Engineering Services 2007 regulate the recruitment of the staff in ULBs.

The broad framework of functions carried out by various wings in the ULBs is depicted in **Table 5.1**:

Table 5.1: Functions entrusted to various wings in ULBs

Wings	Functions
General Administration	Council, General establishment, mail distribution and despatch, Typing and Legal matters.
Revenue	Tax Assessment and Collection, fee collection of Municipal properties, Rent of Municipal building, issue of certificates like residential certificates, ownership certificates and change of ownership.
Public health and sanitation	Supervision of sanitation work, Registration of birth and death and marriage, issue of Licence to Factories, Trades, Entrepreneurship Activities and Other Services, Registration of hospitals and paramedical institutions, Registration of Tutorials, implementation of projects related to waste management, supervision of public health awareness programme and poverty alleviation activities.
Finance/Accounts	Handling of all Municipal funds and accounts, Preparation of Budget and Annual Financial Statement, All receipts and payments, social security pension, recoveries, Advances, Loan, GST and Audit.
Engineering and town planning	All Municipal works and Town planning works, building permit related activities and public works,

Wings	Functions
	maintenance of municipal vehicles, water and electricity charges, land acquisition, establishment of Engineering wing.
Development	All works relating to decentralised planning, convening Ward Sabha and Development Seminar, Plan Approval, etc.
Miscellaneous	Kudumbashree, Ayyankali Urban Employment Guarantee Scheme (AUEGS), National Urban Livelihood Mission (NULM), etc.
Welfare	Social security pension, unemployment wages.

(Source: Data furnished by Directorate of Urban Affairs, Thiruvananthapuram)

Adequate staff strength was essential to cater to the needs of the fast growing population in ULBs. The ULBs passed resolutions for upgrading their status and revising the establishment structure by creation of new posts. Audit observed that though the Municipalities were graded⁵⁶ as I, II and III in 2014, based on revenue and population, no such categorization of Municipal Corporations was attempted. It was also noted that no new posts were created in existing ULBs consequent upon the grading exercise, except for the newly created 27 Municipalities and Kannur Corporation, and two Corporations⁵⁷. Audit observed that even among Municipalities belonging to the same grade, there was wide variation in the number of staff in various posts such as Junior Health Inspector Grade II, Senior Clerk, Office Assistant, etc.

Audit noticed that there was no sanctioned strength as regards the manpower in ULBs. As per the current practice, the number of existing posts in ULBs is increased based on requests from individual ULBs forwarded to Government by the Director of Urban Affairs. The cadre strength was seen fixed in the case of Engineering wing of Local Self Government Institutions only. For other categories of staff, there were no criteria for assessing the staff requirement. No work study or assessment was conducted by the Government or any external agency to assess staff requirement of ULBs on a scientific basis.

The Fourth SFC had recommended a scientific rearrangement and fixing of staff pattern to be implemented as early as possible, which was accepted by Government. The Action Taken Report submitted (March 2011) by Government on the recommendation stated that an effective result oriented study on manpower requirement in ULBs was to be conducted and that LSGD may select the agency for this purpose. However, no action has been taken in this regard till date (March 2021).

As per data furnished to Audit by the Director of Urban Affairs (DUA), as against the existing 7736 posts in ULBs, the men-in-position was 6754 as of 31 March 2020. Government in LSGD reported that there were 982 vacancies in the State out of which 123 (12.52 per cent) was in the Engineering wing of ULBs. The DUA also stated (April 2021) that when the Municipalities were upgraded (July 2014), posts were not sanctioned according to the revised grade

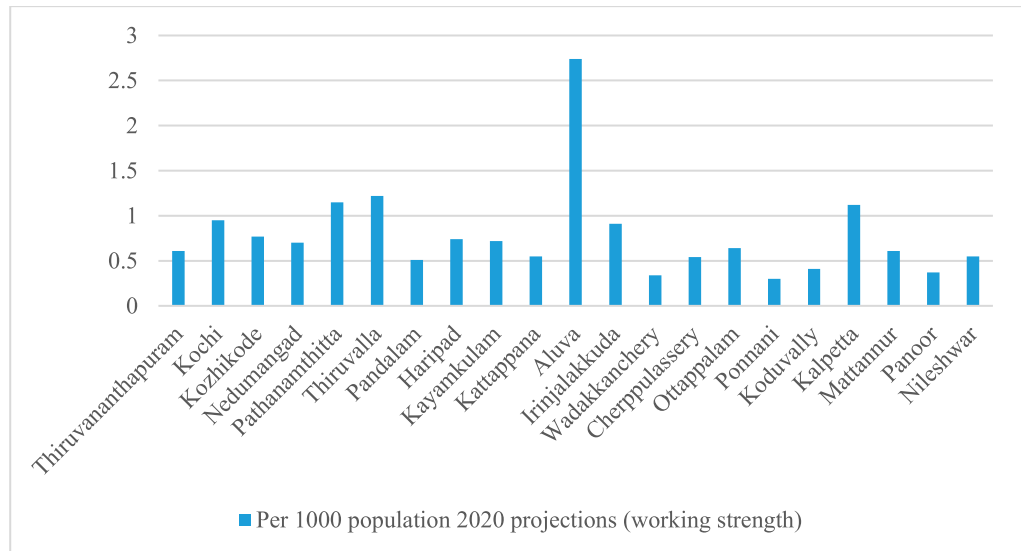
⁵⁶ Based on the recommendation of First SFC, Municipalities were first classified in 1993 on the basis of income. Post 1993, the grading of Municipalities was done after a gap of 20 years in 2014.

⁵⁷ Kollam and Kozhikode Corporations.

of Municipalities. Hence, there is no particular staff pattern for Municipalities/Corporations conforming to their grading.

Analysis of working strength⁵⁸ in 21 test-checked ULBs in terms of the number of employees per 1000 population as per the projected population for 2020 showed that it ranged between 0.3 and 2.74 as indicated in **Chart 5.1**:

Chart 5.1: Analysis of working strength against projected population



(Source: Data furnished by ULBs)

While Aluva Municipality had a working strength of 2.74 employees per 1000 population, 17 ULBs had less than one employee for every 1000 population. Only three ULBs had employees between one and two per 1000 population. The shortage in working strength would adversely impact the quality of delivery of civic services.

Audit notes that devolution of powers to local bodies to be fully effective would necessarily require involvement of the local bodies in determining the staffing norms, recruitment, etc. With Section 223 of KM Act explicitly advocating that no post in the service of a Municipality shall be created except with the previous sanction of the Government, Government needs to address the dearth of manpower in Local bodies with utmost priority. Insufficient manpower in local bodies would undermine the goal of ensuring a system of effective institutions of self-government in place in the ULBs.

In the Exit Conference (November 2021), ACS LSGD accepted the audit observation and remarked that the ULBs were overburdened as responsibilities had both expanded and deepened over time and the resources to meet the needs were not complementary.

5.1.2 Inadequacies in Recruitment of staff

Despite the steps taken so far for implementing the 74th CAA to empower ULBs, the Government still exercises control over the classification, method of recruitment, conditions of service, pay and allowance, discipline and conduct of staff and officers of ULBs.

⁵⁸ Excluding Engineering wing of LSGD

The vacancies are reported by the ULBs to DUA which are forwarded to the Kerala Public Service Commission (KPSC) for recruitment of staff. There was unexplained delay in reporting of vacancies by ULBs, sending vacancy proposals to KPSC, completion of entire process of recruitment and appointing of persons, as listed below:

- There was delay extending to 169 days in sending the proposals received from ULBs by DUA to KPSC.
- The KPSC had taken a total time ranging from 22 to 1640 days for completion of the entire process starting from notifying of posts to selection of candidates.
- Time gap of six to 595 days occurred between receipt of selection list from KPSC and appointment of staff by DUA.

5.1.2.1 Insufficiency of staff in Urban Local Bodies

Audit observed that there was considerable shortage of staff against the existing posts in ULBs, as shown in **Table 5.2**:

Table 5.2: Existing posts vis-à-vis actual strength of staff in ULBs in the State as of 31 March 2021

Wing and Category	Existing posts	Appointment	Vacant posts
General	3655	3323	332
Revenue	1018	948	70
Health	1847	1410	437
Municipal Secretaries/Assistant Secretaries	99	79	20
Total	6619	5760	859

(Source: Details furnished by the Directorate of Urban Affairs, which do not include details pertaining to Engineering wing)

There were only 994 men in position against the sanctioned strength of 1117 in the Engineering wing of ULBs, as revealed by data furnished by LSGD, GoK as stated in **Table 5.3**:

Table 5.3: Sanctioned strength and men-in-position in Engineering Wing in ULBs in the State

Sl. No.	Designation	Sanctioned strength	Men-in-position
1	Superintending Engineer	6	6
2	Executive Engineer	20	19
3	Assistant Executive Engineer	52	41
4	Assistant Engineer	179	169
5	Overseer Grade I	262	227
6	Overseer Grade II	221	190
7	Overseer Grade III	350	318
8	Clerk	27	24
	Total	1117	994

(Source: Data furnished by Chief Engineer, LSGD)

As the Engineering wing in ULB plays a crucial role in planning and execution of projects designed to implement mandatory functions, inadequacy of staff may pose problems in timely execution of projects and assurance in quality of outcome. Non-filling of vacancies in posts involving technical expertise would adversely affect the timeliness and competence in execution of approved infrastructure projects. Besides, as already indicated in Chapter III, functions such as water supply continue to be handled through parastatal agencies in all Municipalities other than Thrissur Corporation. Certain functions in many Municipalities continued to be handled by staff lent by the Government and hence risk of conflict of interest owing to dual accountability could arise.

The Government replied (December 2021) that the State has been continually responding to the need for additional human resources and enabling local governments to take up additional specialised resources for specific projects and interventions. Kerala also has been tapping into its rich community resources and finding new modalities of engagement and cooperation which enables harnessing human resources that are available locally without permanent employment.

Audit observed that the new modalities of engagement remain limited to specific projects and are not adequate to equip the ULBs in terms of all functions devolved and mould them into self-governing institutions in the true sense.



CHAPTER VI

CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

The State had taken measures in decentralising local governance over the past few decades, which *inter alia* included measures like local body elections every five years, provision for reservation for Scheduled castes and tribes and women as envisaged in the Constitutional amendment, transfer of significant funds to local bodies, constitution of District Planning Committees, Ward Sabhas in every ward, constitution of State Finance Commissions, etc.

However, the Performance Audit revealed that though the KM Act came into effect in 1994 as required by the 74th Constitutional Amendment, certain provisions in the Act such as Section 58 required to be reviewed in the light of the goal of ensuring vibrant self-governing institutions. Further, though 17 out of 18 matters listed in the Twelfth Schedule of the Constitution had been covered in the First Schedule of the KM Act, ULBs had full responsibility of only seven out of 17 functions transferred. As regards the remaining 10, Audit observed that the State Government still had a significant role in the execution of schemes, etc., either directly or through parastatal agencies.

Transfer of functions, functionaries and institutions concerned to ULBs was not complete despite the passage of over 25 years since the Constitutional Amendment. The schemes relating to the transferred functions which were included in the Annual Plans of ULBs, to be executed by ULBs were implemented in a parallel manner by the Departments concerned and other parastatal agencies.

As the number of seats for Councillors and number of wards for the elections to ULBs (except for newly formed 29 Municipalities and two Municipal Corporations) held in 2015 and 2020 were fixed on the basis of population figures of 2001 census (instead of the last previous census in 2011), there was an overall shortage of 60 Councillors as on date in the State (Corporations: 01, Municipalities: 59). Out of 325 recommendations of the State Finance Commissions which had been accepted by Government, 200 were not implemented till date. The recommendations to be implemented included significant recommendations facilitating devolution of activities to Local bodies.

Kerala Water Authority (KWA) functioned as the parastatal entrusted with centralised water supply activities to Municipalities across the State, with no time frame identified for transfer of functions, assets, etc., to the Municipalities. The ULBs take up extension of distribution pipeline by arranging deposit works with KWA, but the assets thus created with Municipal fund were not transferred to the ULBs. The KWA had not furnished Utilisation Certificates for deposit works amounting to ₹33.94 crore to the test-checked ULBs. Water charges were collected at rates fixed by KWA from all consumers including those from the Municipalities and revenues were not shared with the Municipalities.

Of the 21 test-checked ULBs, nine ULBs did not have the capacity to handle Bio-waste and nine and 11 ULBs did not have the capacity to handle non bio-

recyclable and non-bio-non-recyclable wastes respectively. Only 15 ULBs executed agreement with the agency entrusted with the collection of plastic wastes. The agency had not entered into agreements with 499 out of 1200 LSGIs in the State to facilitate timely removal of non bio-degradable wastes. No agreement was seen executed by any of the selected ULBs with the agency for collection of E-wastes.

Audit observed that the Municipalities did not use the budget as a tool for financial control and formulated unrealistic receipt and expenditure budgets. The test-checked ULBs allocated resources for various activities without considering the actual receipt of funds in previous years. Deficient system of drawal of funds from the treasuries resulted in Municipalities not being able to use ₹447.74 crore out of SFC grants. Besides, they were constrained by the absence of effective powers to fix the rate of taxes in respect of Advertisement tax, Entertainment tax, etc. Though plinth area based property tax rates came into force on 14 January 2011 for new assesseees, rate revision did not happen even after a period of ten years (March 2021). The Municipalities could not levy Entertainment Tax during the period from 01 July 2017 to 10 June 2019 owing to an incorrect Government order.

Though the Municipalities were graded as I, II and III in 2014 on the basis of revenue and population, no new posts were created in existing Municipalities. Shortage of staff was significant with 982 posts lying vacant.

Thus, the implementation of 74th CAA in the State was impeded by deficiencies in execution of transferred functions and non-devolution of even basic core functions required as per the Act.

6.2 Recommendations

In order to bestow Urban Local Bodies with genuine autonomy and proper accountability, clarity regarding the functions/ sub functions devolved to ULBs as well as the extent of powers retained in the hands of the State Government needs to be ensured. Clear demarcation of the respective roles of the State Government, Municipalities and parastatals needs to be in place.

In line with the principles of devolution, Government may transfer functions with functionaries to ULBs for effective implementation of schemes. It may also be ensured that functions entrusted to ULBs are not implemented in a parallel manner by Government Departments, so as to facilitate accountability and effective monitoring.

Government may take urgent action to implement the accepted recommendations of State Finance Commissions, considering their role in facilitating devolution and improving quality of expenditure of local bodies, resulting in better outputs and outcomes as envisaged by the 74th Constitution Amendment Act.

In line with provisions laid down in the State legislation conforming to the 74th Constitution Amendment Act, Government may, by notification, endow the ULBs with responsibilities of water supply distribution as well as its maintenance and upkeep, in their areas of jurisdiction for ease of service delivery.

To comply with the provisions in Kerala Municipality Act, Urban Local Bodies may be allowed to collect water charges in accordance with the number of operational connections in their zonal areas, thereby avoiding loss to own revenue in the form of charges paid to KWA.

With regard to functions which have been indicated in the First Schedule of KM Act, where revenue generating services are currently being rendered by parastatals and revenue is not being shared with the Municipalities, priority needs to be given to hand over such functions/ activities to the Municipalities, as the provision of this service through the parastatal deprives the Municipality of a potential source of revenue.

Government needs to ensure that parastatal agencies such as KWA are to handhold and guide ULBs in their progress towards self-reliance in implementation of activities. There needs to be a shift in the relationship between the Municipalities and the parastatals with the flow of accountability from the parastatal to the Municipality for decentralisation to become meaningful.

Government may assign topmost priority to enactment of a unified Public Health Act containing provisions enabling the Local Governments to address the issues in Public Health and Sanitation and facilitate effective delivery of Health services in the wake of emerging challenges in Health sector.

In order to make decentralisation effective, special efforts in capacity building of ULBs need to be undertaken to ensure that ULBs prepare their budgets in a scientific manner, after taking into account a realistic projection of receipts from potential sources as well as funds expected to be utilised.

Government may prepare Budget Manual for Local Bodies in line with the recommendations of State Finance Commissions, to conceptualise Budget as an instrument of effective financial control.

Government may ensure that the quantum of funds lapsing on account of queuing of bills may be provided in the subsequent year over and above the Municipality's allotment for that year, so as to avoid the Municipality being deprived of funds due to it.

A sustainable solution for fulfilling the requirement of funds for pension payments of employees in ULBs in a timely manner in line with the goal of empowering Municipalities through fiscal autonomy may be arrived at.

As the various types of taxes levied by ULBs are currently based on fixation of the rates/ limits by Government, there is an urgent need for Government to ensure periodic upward revision of the rates of taxes and effective implementation of revised rates, to uphold the fiscal autonomy of ULBs resulting in enhanced own revenues and improved delivery of civic services.

In order to ensure effective fiscal autonomy in the area of levy and collection of property tax, Government may ensure that

- once the basis of arriving at property tax (such as annual rental value of buildings, plinth area, fair value, etc.) has been specified in the Kerala Municipality Act, the provision is not rendered ineffective through non-issue or delay in issue of notification, non-framing of rules, etc. The Act may be amended making it mandatory for the Government to report to


the Legislature, reasons for non-issue of notification in cases exceeding a period which may be prescribed by law.

- Need for setting in place an institutional mechanism such as a Property Tax Board may be considered in order that Municipalities could be guided on issues concerning property tax valuation, maintenance of updated database, etc.
- Feasibility of empowering the Municipalities either directly or indirectly through a body comprising of, *inter alia*, selected members from Municipal Councils, to determine the minimum and maximum rates of property tax may be examined, as the power to determine the maximum rate of property tax rests in the hands of the State even after the passage of over 25 years since the enactment of the 74th Constitution Amendment Act.

Government may consider issuing a clarification on the authority of Municipalities to levy fees for raising advertisements in view of the differing approaches taken by various local bodies consequent upon advertisement tax having been subsumed in GST.

Assessment of manpower requirements for Urban Local Bodies on the basis of norms to be prescribed, needs to be undertaken at the earliest to ensure that manpower available is commensurate with the functions entrusted to Municipalities.

Thiruvananthapuram,
The


(ANIM CHERIAN)
Principal Accountant General
(Audit - I), Kerala

Countersigned

New Delhi,
The


(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India



APPENDICES

Appendix 1.1
List of selected ULBs
(Reference: Paragraph 1.5)

Corporations

1. Thiruvananthapuram Corporation
2. Kochi Corporation
3. Kozhikode Corporation

Municipalities

1. Nedumangad
2. Kayamkulam
3. Haripad
4. Pandalam
5. Thiruvalla
6. Pathanamthitta
7. Kattappana
8. Aluva
9. Irinjalakkuda
10. Wadakkanchery
11. Ponnani
12. Ottappalam
13. Cherpulassery
14. Kalpetta
15. Koduvally
16. Panoor
17. Mattannur
18. Nilesishwar

Appendix 2.1
Comparison of State level legislations with the provisions of 74th CAA
(Reference: Paragraphs 2.2, 2.5)

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act (The Kerala Municipality Act, 1994)	Remarks
Article 243Q	Constitution of Municipalities: It provides for constitution of three types of Municipalities namely, a Municipal Council for a smaller urban area, a Nagar Panchayat for transitional area and a Municipal Corporation for a larger urban area.	Section 4 - Constitution, conversion and alteration of Municipalities.	Provides for Town Panchayat for transitional area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area. However Town Panchayats were not seen notified/formed in the State.
Article 243R	Composition of Municipalities: All the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration nominated by Government. The Legislature of a State may by law, provide for representation to the Municipality of Members of Parliament and Legislative Assembly representing constituencies which comprise wholly and partly the Municipal area and Members of the council of State and State Legislative Council who are registered as electors within the city.	Section 6 - Constitution of Council	No representation provided for persons with special knowledge in municipal administration nominated by Government, Members of Parliament and Legislative Assembly representing constituencies which comprise wholly and partly the Municipal area and members of council of State/State Legislative Council who are registered as electors within the city.
Article 243S	Constitution and composition of Wards Committees: This provides for constitution of Wards Committees in all municipalities with a population of three lakh or more	Section 42 - Constitution of Ward Committees— In every Municipality where the population exceeds one lakh, there shall be constituted a Ward Committee for each ward of that Municipality as provided in Section 43, within three months from the date of its constitution.	Provision given for constitution of Ward committees in Municipalities where the population exceeds one lakh, in place of three lakh.

Appendix 2.1 (Contd...)

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act (The Kerala Municipality Act, 1994)	Remarks
Article 243T	Reservation of seats: The seats shall be reserved for SC/ST and women. ⁵⁹	Section 6 ((5) to (8)) -Constitution of Council. The provision for reservation of seats for SC/ST and women specified.	Included
Article 243U	Duration of Municipalities: The Municipality has a fixed tenure of five years from the date of its first meeting and re-election to be held within the six months of end of tenure.	Section 7 - Duration of Municipalities and filling up of vacancies	Included
Article 243V	Disqualifications for membership: A Person shall be disqualified for being a member of a Municipality- <ul style="list-style-type: none"> • If he is so disqualified by or under any law for the time being in force for the purposes of elections of the Legislature of the State concerned. • If he is so disqualified by or under any law made by the Legislature of the State. 	Section 91 - Disqualification of Councillors	Included
Article 243W	Powers, authority and responsibilities of the Municipalities: All Municipalities would be empowered with such powers and authority as may be necessary to enable them to function as effective institutions of self-government. The State Government shall entrust them with such powers and authority to enable them to carry out the responsibilities in relation to the Twelfth Schedule.	Section 5(2) - Incorporation and Administration of Municipality Every Municipality, shall exercise such powers, perform such duties and functions and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.	Powers and authority being vested, are not specified to be related to Twelfth Schedule.

⁵⁹ KM Act, 1960 envisaged that for every Municipal Council the sanctioned strength of which is twenty or less, the number reserved for women shall be one and in Municipal Councils the sanctioned strength of which is above twenty, the number of such reservations shall be two.

Appendix 2.1 (Contd...)

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act (The Kerala Municipality Act, 1994)	Remarks
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties, etc. • Grant-in-aid would be given to the Municipalities from the State • Constitution of funds for crediting and withdrawal of moneys by the Municipality 	<p>Section 230 - Enumeration of taxes and duties</p> <p>Section 279 - Levy of tax on direction by Government</p> <p>Section 283 - Municipal Fund</p>	Included
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission to</p> <ul style="list-style-type: none"> • Review the financial position of the Municipalities and for taking such steps that help in boosting the financial condition of the Municipal bodies <p>Make recommendation on</p> <ul style="list-style-type: none"> • Distribution between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and duties that are charged by the State Government. • Allotting the funds to the municipal bodies in the State from the Consolidated fund of the State. 	<p>Section 205 - Finance Commission</p> <p>Section 206 - Powers and functions of the Finance Commission</p>	Included
Article 243Z	<p>Audit of accounts of Municipalities: This provides for maintenance of accounts by the Municipalities and the auditing of such accounts.</p>	<p>Section 295 - Accounts and Audit</p>	Included
Article 243ZA read with Article 243K	<p>Elections to the Municipalities: The Superintendence, direction and control of all procedures of election of the Municipalities shall be vested in the State Election Commission.</p>	<p>Section 68 - Elections to Municipalities</p>	Included
Article 243ZB	<p>Application to Union territories: The provisions of this Part shall apply to the Union Territories</p>		No provisions were given in KM Act
Article 243ZC	<p>Part not to apply to certain areas: Part not applicable to certain Scheduled areas and Tribal areas</p>		No provisions were given in KM Act

Appendix 2.1 (Contd...)

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act (The Kerala Municipality Act, 1994)	Remarks
Article 243 ZD	<p>Committee for District Planning:</p> <ul style="list-style-type: none"> • Constitution of District Planning Committee at district level. • Composition of District Planning Committee. • Preparation of draft development plan to be forwarded to the Government. 	Section 53 - District Planning Committee	Included
Article 243ZE	<p>Committee for Metropolitan Planning: Provision for constitution of Metropolitan Planning Committee (MPC) in every Metropolitan area with a population of 10 lakh or more (as defined in Article 243P).</p>	Section 54 - Metropolitan Planning Committee— (1) The Government shall, by notification in the Gazette, constitute a Metropolitan Planning Committee in a Metropolitan area to prepare a draft development plan for such area as a whole.	Metropolitan area not defined in KM Act. However provision included for constituting Metropolitan Planning Committee in any Metropolitan area, without specifying 'the population limit of 10 lakh or more'
Article 243ZF	<p>Continuance of existing laws and Municipalities</p> <p>Notwithstanding anything in this Part, any provisions of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier.</p>	Section 575 - Repeal and saving	Included

Appendix 2.1 (Concl.)

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act (The Kerala Municipality Act, 1994)	Remarks
Article 243ZG	<p>Bar to interference by courts in electoral matters</p> <p>(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243ZA shall not be called in question in any court;</p> <p>(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State</p>	<p>Section 70 - Validity of delimitation, etc.</p> <p>Section 163 - Election petitions</p>	Included

(Source: 74th CAA and KM Act 1994)

Appendix 2.2
Activity Mapping
(Reference: Paragraph 2.3)

Sl. No.	Functions as per 74 th CAA	Functions as included in KM Act Mandatory (A), General (B), Sector wise / transferred (C)	Remarks on role of ULBs in execution of the function
1.	Urban planning including town planning.	Preparation of detailed town planning and Action plan for implementation in a phased manner (A)	<p>Limited Role for ULBs</p> <ul style="list-style-type: none"> • Master Plan and Detailed Town Planning Scheme are to be prepared or got prepared by ULBs. • The ULBs passed resolution for preparation of Master Plan and Detailed Town Planning Scheme and get them prepared by Town and Country Planning Department.
2.	Regulation of land use and construction of buildings.	Regulating building construction (A)	<p>Limited Role for ULBs</p> <ul style="list-style-type: none"> • Regulation of land use has no mention as a function in Schedule I of KM Act. However, Section 381 of KM Act provides for regulation of land use. • Master Plan and Detailed Town Planning schemes are prepared by the Town and Country Planning Department.
3.	Planning for economic and social development.	Ensuring maximum people's participation in all stages of development (B)	<p>Limited Role for ULBs</p> <ul style="list-style-type: none"> • Development plans are prepared every year by Municipalities based on Plan formulation and subsidy guidelines issued by Government. • Transferred departments are also involved in scheme implementation. ULBs function as implementing arms for various Central/State Government schemes.
4.	Roads and bridges.	Maintenance of roads and other public properties (A) Construct and maintain the roads except National Highways, State Highways and major District roads within the Municipality (C) Amenities including foot path, road crossing facilities for pedestrians (A)	Full jurisdiction of ULBs
5.	Water supply for domestic, industrial and commercial purposes.	Maintain water supply schemes within the respective Municipal area (C) Arrange water supply schemes within the respective Municipalities (C) Conservation of traditional drinking water sources (A) Preservation of ponds and other water tanks (A)	<p>Limited role for ULBs</p> <ul style="list-style-type: none"> • Kerala Water Authority plays the major role. KWA arranges distribution pipeline extension works for uncovered areas in ULB as deposit works. • ULBs also pay for water charges to KWA for water supplied through public taps. • Conservation of traditional drinking water sources and preservation of ponds and other water tanks are undertaken by ULBs.

Appendix 2.2 (Contd...)

Sl. No.	Functions as per 74 th CAA	Functions as included in KM Act Mandatory (A), General (B), Sector wise / transferred (C)	Remarks on role of ULBs in execution of the function
6.	Public health, sanitation conservancy and solid waste management	Run Dispensaries, Primary Health Centres and sub centres, Taluk hospitals under all systems of Medicines (C) Conduct child welfare centres and mother care homes (C) Organize remedial and other preventive measures against diseases (C) Implement family welfare programmes (C) Adopt immunisation measures (A) Effective implementation of National and State level strategies and programmes for prevention and control of diseases (A)	<p>Limited role for ULBs</p> <ul style="list-style-type: none"> Health and Family Welfare Department involved in execution of functions, Purchase of medicines and medical equipment, repairs of buildings entrusted to ULBs. The elected representatives exercise limited control over hospital activities through Hospital Management Committees (HMCs). Health Institutions under all systems of medicine as well as functions like conducting child welfare centres and mother care homes, family welfare programmes, etc., are executed by Health and Family Welfare Department. Immunisation as well as strategy for controlling diseases are under the purview of Health and Family Welfare Department.
		Implement sanitation programmes (C) Collection and disposal of solid waste and regulation of disposal of liquid waste (A) Maintenance of environmental hygiene (A)	<ul style="list-style-type: none"> Suchitwa Mission provides managerial and technical support for solid waste disposal activities. Central and State funds routed to ULBs through Suchitwa Mission. Suchitwa Mission also provides funds to Ward Sanitation Committees for pre-monsoon cleaning Liquid waste disposal done by KWA/Department. Collection and disposal of solid waste by ULBs Maintenance of Environmental hygiene is a mandatory function of ULBs. Cleaning of public markets and streets are done by ULBs engaging contingent sanitation staff. Detailed Project Report for Solid Waste Management prepared and projects implemented by ULBs
		Management of public markets (A)	<ul style="list-style-type: none"> Managed by ULBs
7.	Fire services		Not devolved
8.	Urban forestry, protection of the environment and promotion of ecological aspects.	Growing of trees for fodder or fuel and growing of fruit trees (C) Organize campaign for planting of trees and environmental awareness (C) Afforestation of waste land (C)	<p>Limited role for ULBs</p> <ul style="list-style-type: none"> Forest department is also involved in growing trees for fodder, fuel, etc., and organising campaigns for afforestation

Appendix 2.2 (Contd...)

Sl. No.	Functions as per 74 th CAA	Functions as included in KM Act Mandatory (A), General (B), Sector wise / transferred (C)	Remarks on role of ULBs in execution of the function
9.	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.	Run Anganwadis (C)	Limited role for ULBs <ul style="list-style-type: none"> • ULBs provide basic facilities. • ICDS officer is the implementing officer of nutrition programmes. • Fifty <i>per cent</i> of central funds for nutrition programmes is routed through Women and Child Development Department
		Sanction and distribute pension to destitute, widows, handicapped and agricultural labourers (C)	<ul style="list-style-type: none"> • Sanction and distribution of pension to destitute, widows, differently abled and agricultural labourers are done by ULBs • Funds for the above purposes are provided by Government
		Sanction and distribute unemployment wages (C)	<ul style="list-style-type: none"> • Sanction and distribution of unemployment wages is done by ULBs. • Funds for the above purposes are provided by Government
		Sanction financial assistance for the marriage of daughters of widows (C)	<ul style="list-style-type: none"> • Financial assistance sanctioned by ULBs as well as Scheduled Caste Development Department and Scheduled Tribe Development Department
		Start institutions for the welfare of handicapped, destitute, etc. (C)	<ul style="list-style-type: none"> • Social Justice Department runs institutions for welfare of handicapped, destitute, etc.
		Identify the homeless and <i>puramboke</i> dwellers and to provide house sites and houses (C) Implement beneficiary oriented schemes under Special Component Plan (SCP) and Tribal Sub Plan (TSP) (C)	<ul style="list-style-type: none"> • ULB implements beneficiary oriented schemes under Special Component Plan (SCP) and Tribal Sub Plan (TSP).
		Provide basic facilities in the residential centres for the Scheduled Caste/Scheduled Tribe (C) Provide financial assistance for the Scheduled Caste/Scheduled Tribe students (C) Provide assistance discretionally to the deserving Scheduled Caste and the Scheduled Tribes (C)	<ul style="list-style-type: none"> • ULBs provide basic facilities in residential centres. • ULBs and SC/ST Development Department provide financial assistance to SC/ST students.
		Nursery schools, Vocational Training Centres, Pre-matric and post-matric hostels for SC/ST in Municipal area and develop Co-operative Societies (C)	<ul style="list-style-type: none"> • SC/ST Development Department runs Nursery schools, Vocational Training Centres, pre-matric and post-matric hostels, etc.
		Implementing housing programmes, shelter rejuvenation programmes, low-cost housing, development of housing complex and infrastructure, etc. (C) Mobilise funds necessary for housing (C)	<ul style="list-style-type: none"> • ULBs mobilise funds for scheme implementation. • ULBs, Department of Housing, SC/ST and Fisheries departments implement housing schemes and Kudumbashree plays role in implementation.

Appendix 2.2 (Contd...)

Sl. No.	Functions as per 74 th CAA	Functions as included in KM Act Mandatory (A), General (B), Sector wise / transferred (C)	Remarks on role of ULBs in execution of the function
10.	Slum improvement and upgradation.	Providing basic facilities in slum areas (A)	Full jurisdiction of ULBs <ul style="list-style-type: none"> Implementation through Kudumbashree.
11.	Urban poverty alleviation	Identify the poor (C) Implement self-employment and group employment schemes for the poor, especially for women (C) Create community assets to get continuing benefit to the poor (C) Develop the skills of those below poverty line to do self-employment and for remunerative employment (C) Provide basic facilities for self-employment schemes (C)	Full Jurisdiction of ULBs <ul style="list-style-type: none"> ULBs involve through people's participation in all stages of development through Ward committees / Ward sabhas. Plan schemes executed with grants given to ULBs. Schemes implemented by Kudumbashree through NHG/SHGs. Assets created by ULBs.
12.	Provision of urban amenities and facilities such as parks, gardens, playgrounds.	Construct playgrounds and studios (C)	Limited role for ULBs <ul style="list-style-type: none"> Smart City Mission and AMRUT Mission also engaged in execution
13.	Promotion of cultural, educational and aesthetic aspects.	Regulating the conduct of fairs and festivals (A) Run the Government pre-primary, primary schools, High schools, Government Higher Secondary Schools, Government Industrial Training Centres, Government Technical Schools, Government Vocational Training Centres and Polytechnics in the Municipal area (C)	Limited role for ULBs <ul style="list-style-type: none"> Education Department and Tourism Department involved Only pre-primary schools, primary schools, High schools are transferred to the Local Bodies with functionaries to implement schemes. Sarva Shiksha Abhiyaan (SSA)/Samagra Shiksha Kerala (SSK) schemes implemented by Education Department. The ULBs provide toilets, undertake repair of school buildings and contributes 40 <i>per cent</i> of the share towards expenditure incurred by SSA for various items, <i>viz.</i>, providing furniture, teacher training, etc.
14.	Burials and burial grounds, cremations, cremation grounds and electric crematoriums.	Establishment and maintenance of burial and burning grounds (A)	Full jurisdiction of ULBs
15.	Cattle pounds; prevention of cruelty to animals.	Issue licence to domestic dogs and destroy stray dogs (A) Prevention of cruelty to animals (C)	Limited role for ULBs <ul style="list-style-type: none"> Animal Husbandry Department issues license to domestic dogs and are entrusted with management of stray dogs and prevention of cruelty to animals.

Appendix 2.2 (Concl.)

Sl. No.	Functions as per 74 th CAA	Functions as included in KM Act Mandatory (A), General (B), Sector wise / transferred (C)	Remarks on role of ULBs in execution of the function
16.	Vital statistics including registration of births and deaths.	Registration of births and deaths (A)	Full jurisdiction of ULBs
17.	Public amenities including street lighting, parking lots, bus stops and public conveniences.	Street lighting and its maintenance (A) Providing parking spaces for vehicles (A) Construction of waiting sheds for travellers (A) Providing toilet facilities and bathing ghats at public places (A) Providing bathing and washing ghats (A) Arranging ferries (A)	Full jurisdiction of ULBs
18.	Regulation of slaughter houses and tanneries.	Regulation of slaughtering of animals and sale of meat, fish and other easily perishable food stuffs, etc. (A)	Full jurisdiction of ULBs

(Source: 74th CAA, KM Act, Government Orders)

Appendix 2.3
State-wide shortage in number of Councillors
(Reference: Paragraph 2.5.1)

Sl. No.	District	ULB	Population	Required No. of Councillors	Actual No. of Councillors	Short age	
Corporation							<i>Corporation: Fifty five councillors for the first four lakhs and one each for every ten thousand exceeding four lakhs, subject to a maximum of one hundred councillors</i>
1	Ernakulam	Kochi	602046	75	74	1	
Municipalities							<i>Municipality: Twenty five councillors for first twenty thousand and one each for every two thousand and five hundred exceeding twenty thousand, subject to a maximum of fifty two Councillors</i>
1	Ernakulam	Tripunithura	92522	52	49	3	
2	Ernakulam	Kalamassery	71038	45	42	3	
3	Ernakulam	Maradu	44704	34	33	1	
4	Ernakulam	Kothamangalam	38837	32	31	1	
5	Ernakulam	Muvattupuzha	30397	29	28	1	
6	Ernakulam	Piravom	29105	28	27	1	
7	Ernakulam	Perumbavoor	28105	28	27	1	
8	Idukki	Thodupuzha	52025	37	35	2	
9	Kannur	Payyannur	72311	45	44	1	
10	Kannur	Kuthuparamba	32405	29	28	1	
11	Kasaragod	Kanhangad	73536	46	43	3	
12	Kottayam	Changanassery	56049	39	37	2	
13	Kottayam	Ettumanoor	51129	37	35	2	
14	Kottayam	Erattupetta	34245	30	28	2	
15	Kozhikode	Vadakara	80356	49	47	2	
16	Kozhikode	Koyilandy	71929	45	44	1	
17	Malappuram	Manjeri	97102	52	50	2	
18	Malappuram	Ponnani	90491	52	51	1	
19	Malappuram	Malappuram	68088	44	40	4	
20	Malappuram	Tirur	56058	39	38	1	
21	Malappuram	Perinthalmanna	49723	36	34	2	
22	Malappuram	Kottakkal	48342	36	32	4	
23	Malappuram	Nilambur	46342	35	33	2	
24	Malappuram	Valanchery	44437	34	33	1	
25	Palakkad	Ottappalam	53792	38	36	2	
26	Palakkad	Shoranur	43528	34	33	1	
27	Pathanamthitta	Pandalam	45497	35	33	2	

Appendix 2.3 (Concl.)

Sl. No.	District	ULB	Population	Required No. of Council llers	Actual No. of Council llers	Short age	
28	Thiruvananthapuram	Neyyattinkara	70840	45	42	3	
29	Thiruvananthapuram	Nedumangad	60161	41	39	2	
30	Thrissur	Kodungalloor	71244	45	44	1	
31	Thrissur	Guruvayur	70012	45	43	2	
32	Thrissur	Kunnamkulam	54071	38	37	1	
33	Wayanad	Kalpetta	31580	29	28	1	
Total						60	

(Source: KM Act, 1994, Data furnished by Directorate of Urban Affairs, Official Website of Municipalities and Corporations)

Appendix 2.4
Timeliness in constitution of SFCs and submission of reports
(Reference: Paragraph 2.5.3)

SFC	Date by which SFC was to be constituted	Date of constitution	Time elapsed (days)	Date of submission of SFC Report to Government	Date of submission of Action Taken Report by Government	Time elapsed (days)	Period covered
First	23 April 1994	23 April 1994	Nil	29 February 1996	13 March 1997	378	1996-97 to 2000-01
Second	23 April 1999	23 June 1999	61	08 January 2001	07 January 2004	1094	2001-02 to 2005-06
Third	23 April 2004	20 September 2004	150	23 November 2005	16 February 2006	85	2006-07 to 2010-11
Fourth	23 April 2009	19 September 2009	149	20 January 2011 (First Part) 31 March 2011 (Second Part)	24 February 2011 (First Part) 22 March 2012 (Second Part)	35 (First Part) 357 (Second Part)	2011-12 to 2015-16
Fifth	23 April 2014	17 December 2014	238	19 December 2015 (First Part) 11 March 2016 (Second Part)	07 February 2018 (First and Second Part)	781 (First Part) 698 (Second Part)	2016-17 to 2020-21

(Source: SFC Cell, Government of Kerala)

Appendix 2.5

Recommendations of State Finance Commissions facilitating empowerment of ULBs which were accepted by Government but not implemented

(Reference: Paragraph 2.5.3)

i. Recommendations relating to Own revenue

- Cable television/Dish TV operators may be required to pay annual Licence Fee as well as Entertainment Tax (First, Second and Fourth SFCs).
- Government may look into the possibility of bringing the land developed for non-agricultural purpose into the property tax domain, as the change in land use pattern is gaining unusual momentum all over the State in recent times (Fourth SFC).
- Building Tax collected under Kerala Building Tax Act, 1975 be exclusively assigned to local bodies (First SFC).
- The entrance fees in tourism centres and agricultural farms and operation of house boats to be brought under the purview of Entertainment tax by making necessary amendments to the Kerala Local Authorities Entertainments Tax Act, 1961 (Fourth SFC).
- Building Permit Fee and Rates of all other non-tax items (except fee for marriage certificate) to be raised at least by 50 *per cent* (Fifth SFC).

ii. Recommendations relating to Institutional Measures

- New posts of Environmental Engineer, Mechanical Engineer and Electrical Engineer in the cadre of Assistant Engineer shall be created in three regions to look after the engineering related issues of Municipalities and Municipal Corporations (Fifth SFC).
- Kerala Institute of Local Administration (KILA) should come out with a plan of action to build the capacity of different grades of staff within three years, with special emphasis on imparting the necessary skill to use computers (Fourth SFC).
- A Human Resource Commission for Local Governments headed by an eminent expert and consisting of the Secretaries of Finance, Personnel and Administrative Reforms and Local Self Government Departments and two other experts may be constituted to work out the details and modalities involved in the issue of Human Resource Development. The work may be completed in six months (Fourth SFC).
- A Manual of Personnel Management may be developed incorporating not only disciplinary rules and code of conduct but also explaining well accepted techniques of human resource management and Performance assessment (Fourth SFC).

iii. Other recommendations

- A chapter on Fiscal accountability to be added in KM Act to strengthen appropriation controls (Fourth SFC).
- The Budget Rules needed to be amplified in considerable detail in a simple manner with enough number of illustrations and issued in the form of a Budget Manual which would detail procedures for appropriation to enable appropriation control. (Fourth SFC).
- The lack of clarity in powers and functions of critical constitutional mechanism like District Planning Committee has to be remedied (Fourth SFC).
- The relationship between Local Governments and the State Governments including parastatals performing functions assigned to Local Governments has to be laid down clearly (Fourth SFC).

Appendix 2.6
Overriding powers of Government in the KM Act
(Reference: Paragraph 2.6)

Sl. No.	Subject	Provision
1	Power to make Rules	The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively, to carry out all or any of the purposes of this Act (Section 565 of KM Act, 1994)
2	Power of Government to issue direction to Municipality	Notwithstanding anything contained in this Act, the Government shall have the power to issue directions to the Municipality in accordance with the National and State policies in matters of finance, maintenance of accounts, office management, selection of schemes, sites and beneficiaries, proper functioning of Ward Sabhas and Ward Committees, welfare programmes, environment control, etc., and the Municipality shall comply with such directions (Section 58 of KM Act, 1994)
3	Power to dissolve ULBs	Before the expiry of a financial year, if the council fails to approve the budget of the Municipality for the succeeding financial year, and if, for that reason, there is financial crisis to the Municipality or if the majority of the councillors resign or have been disqualified, the Government may, by notification in the Gazette, dissolve the Municipality from such date as may be specified therein and shall forward a copy thereof to the State Election Commission (Section 64 of KM Act, 1994)
4	Power of Government to undertake certain works	The Government may, with the consent of a Municipality, undertake on its behalf the construction of water supply, drainage or any other work, appoint any officer or person to carry out the construction of such works and direct that the expenses including the pay and allowances of such officers be paid from the Municipal fund in priority, to any charges except charges for the service of authorised loans (Section 62 of KM Act, 1994)
5	Power of Municipality to acquire and dispose of property	A Municipality may in the manner prescribed, acquire any property such as land or building within or outside its Municipal area or dispose of any of its properties with the prior approval of the Government for providing any arrangement or facility for a public purpose (Section 215 of KM Act, 1994)
6	Power to give retrospective effect to certain bye-laws	The Council may, with the previous sanction of the Government, and subject to the provisions hereinafter contained in this Chapter make bye-laws with retrospective effect (Section 568 of KM Act, 1994)
7	Confirmation of bye-laws or regulations	No bye-law or regulation or any cancellation or alteration thereof shall have effect until the same is approved and confirmed by the Government (Section 572 of KM Act, 1994)

(Source: KM Act, 1994)

Appendix 3.1
Details of Solid Waste Management by selected ULBs
(Reference: Paragraph 3.2.1)

Urban Local Body	Type	Per day generation (Tonne)	Capacity to handle (Tonne)	Percentage of Waste handling capacity to per day generation
Irinjalakuda	Bio Waste	15.50	9.00	58.06
	Non bio-recyclable	3.50	3.50	100.00
	Non bio non-recyclable	1.00	1.00	100.00
Wadakkanchery	Bio Waste	12.00	2.00	16.67
	Non bio-recyclable	5.00	5.00	100.00
	Non bio non-recyclable	3.00	3.00	100.00
Cherpulassery	Bio Waste	No details available		
	Non bio-recyclable	2.00	1.00	50.00
	Non bio non-recyclable	1.00	0.50	50.00
Ottappalam	Bio Waste	0.10	0.10	100.00
	Non bio-recyclable	5.00	0.45	9.00
	Non bio non-recyclable	0.02	0.015	0.75
Ponnani	Bio Waste	6.00	5.00	83.33
	Non bio-recyclable	1.50	1.00	66.67
	Non bio non-recyclable	0.50	0.25	50.00
Koduvally	Bio Waste	0.05	0.05	100.00
	Non bio-recyclable	0.60	0.40	66.67
	Non bio non-recyclable	0.10	0.08	80.00
Kalpetta	Bio Waste	6.00	6.00	100.00
	Non bio-recyclable	3.50	4.00	114.29
	Non bio non-recyclable	4.00	4.00	100.00
Mattannur	Bio Waste	9.38	9.38	100.00
	Non bio-recyclable	5.00	5.00	100.00
	Non bio non-recyclable	0.49	0.49	100.00

Appendix 3.1 (Contd...)

Urban Local Body	Type	Per day generation (Tonne)	Capacity to handle (Tonne)	Percentage of Waste handling capacity to per day generation
Nileshwar	Bio Waste	4.00	4.00	100.00
	Non bio-recyclable	1.00	1.00	100.00
	Non bio non-recyclable	3.00	0.00	0.00
Kochi Corporation	Bio Waste	226.00	250.00	110.62
	Non bio-recyclable	80.00	1.00	1.25
	Non bio non-recyclable	20.00	0.00	0.00
Nedumangad	Bio Waste	5.60	2.80	50.00
	Non bio-recyclable	5.60	2.80	50.00
	Non bio non-recyclable	0.20	0.00	0.00
Kayamkulam	Bio Waste	5.00	3.00	60.00
	Non bio-recyclable	0.10	0.45	450.00
	Non bio non-recyclable	0.34	0.00	0.00
Haripad	Bio Waste	8.30	4.00	48.19
	Non bio-recyclable	0.25	0.25	100.00
	Non bio non-recyclable	0.05	0.05	100.00
Thiruvalla	Bio Waste	5.20	4.00	76.92
	Non bio-recyclable	2.00	0.5	0.25
	Non bio non-recyclable	0.45	0.00	0.00
Pathanamthitta	Bio Waste	2.00	1.50	75.00
	Non bio-recyclable	0.50	0.40	80.00
	Non bio non-recyclable	0.50	0.30	60.00
Pandalam	Bio Waste	1.50	2.00	133.33
	Non bio-recyclable	0.05	1.00	2000.00
	Non bio non-recyclable	0.15	1.00	666.67

Appendix 3.1 (Concl.)

Urban Local Body	Type	Per day generation (Tonne)	Capacity to handle (Tonne)	Percentage of Waste handling capacity to per day generation
Kattappana	Bio Waste	5.50	4.00	72.73
	Non bio-recyclable	2.50	2.50	100.00
	Non bio non-recyclable	2.00	2.00	100.00
Kozhikode Corporation	Bio Waste	205.00	150.00	0.73
	Non bio-recyclable	26.00	10.00	0.38
	Non bio non-recyclable	69.00	25.00	0.36
Aluva	Bio Waste	10.00	6.00	0.6
	Non bio-recyclable	4.00	4.00	100
	Non bio non-recyclable	0.00	0.00	0.00
Panoor	Bio Waste	13.13	0.6	0.05
	Non bio-recyclable	3.00	3.00	100
	Non bio non-recyclable	1.38	1.38	100

(Source: Data furnished by test-checked ULBs)

Appendix 3.2
Details of fund allotted for SWM and expenditure incurred by the
test-checked ULBs during 2015-20
(Reference: Paragraph 3.2.1)

ULB	Allotment (₹)	Expenditure (₹)	Percentage of Expenditure
Thiruvananthapuram	404460817	182672434	45.16
Kochi	59086897	4928656	8.34
Kozhikode	143054509	29555000	20.66
Nedumangad	32623640	4383940	13.44
Kayamkulam	87332568	3268772	3.74
Haripad	8185302	3536839	43.21
Thiruvalla	22916822	2117138	9.24
Pandalam	14437672	1350418	9.35
Pathanamthitta	10102508	4232043	41.89
Kattappana	34496497	6757269	19.59
Aluva	51899297	21245020	40.94
Irinjalakkuda	26770079	9742747	36.39
Wadakkanchery	13264618	209519	1.58
Cherpulassery	15457149	2052425	13.28
Ottappalam	38232275	6143697	16.07
Ponnani	23510375	1917091	8.15
Koduvally	37685732	952872	2.53
Kalpetta	35681688	9830368	27.55
Panoor	11487500	337500	2.94
Mattannur	4954000	980000	19.78
Nileshwar	41424120	9678946	23.37

(Source: Data furnished by test-checked ULBs)