

# CHAPTER – I

## An Overview of the Panchayat Raj Institutions

### ***1.1 Panchayat Raj Institutions (PRIs):- Constitutional background and legal provisions***

The 73<sup>rd</sup> constitution amendment Act envisages a three tier system of Panchayat Raj Institutions namely Gram Panchayat (GP) at Village level, Panchayat Samiti (PS) at block level and Zila Parishad (ZP) at district level.

Accordingly three tiers Panchayat Raj system was provided under Bihar Panchayat Raj Act 1993, which came into force in April-May 2001 when the first general elections to the Z.Ps, P S, and G Ps were held. This act has been repealed in January 2006 and substituted by Bihar Panchayat Raj Act 2006

### ***1.2 Devolution of Functions, Funds and Functionaries***

The State Legislature has been empowered by 73<sup>rd</sup> Amendment to decide on and to confer powers and responsibilities to the PRIs from among the 29 function listed in the eleventh schedule.

Accordingly the State Government intimated in February 2005 that power and functions of 20 departments had already been entrusted to PRI (October 2003). The Environment and Forest department, entrusted power and functions on three subjects relating to social and farm forestry, fuel, fodder and minor forest product to PRI.

However test check of PRI accounts revealed that due to lack of devolution of financial power and transfer of functionaries to PRIs by the State Government the concerned departments are not functioning under PRIs.

Hence, Constitutional provisions to confer power and responsibilities to PRI are yet to be achieved.

### ***1.3 Status of State Finance Commission (SFC)***

The constitution also provides that the State Government shall appoint a Finance Commission to review the financial position of the State and the Panchayats and make recommendations in respect of distribution of net proceeds of tax, duties, tolls and fees leviable by the State between State and PRIs. This commission needs to be reconstituted after every five years.

The first SFC was constituted in April 1994 under section 135 of Bihar Panchayat Raj Act 1993 but it did not submit any report. Second SFC was constituted in June 1999 and this submitted five interim reports between September 2001 to November 2003 in which recommendations were given for distribution of Tenth (TFC) and Eleventh Finance Commission (EFC) grants between the three tiers of PRIs and on items of taxes, fees including rate at which the taxes and fees to be imposed by the Gram

<sup>1</sup> Agricultural department, Revenue and Land reforms department, Minor Irrigation department, Animal husbandry and Fishery department, Environment and Forest department, Industry department, Public Health Engineering, Gramin Vikash Vivag, Gramin Vikash Vivag (Rural Engineering organization), Energy department, Primary Education Department, Adult Education department, Secondary Education department, Art Culture and Yuva Vivag, Health, Medical Education and Family Planning department, Welfare department, Social Welfare, Labour, Employment and Training department, Food, supply and Commerce department, Relief and Rehabilitation department.

Panchayat, Panchayat Samiti and Zila Parishad. The State Government, however (November 2003) accepted only four recommendations of these interim reports but did not intimate about submission of final report by the second SFC, placement of interim reports before State legislature and action taken, if any, on the above reports. Third SFC was constituted in June 2004 but no position intimated by the State Government regarding submission of any report of this commission.

Test check of records of PRIs revealed that the State Government distributed grants of TFC and EFC to the PRIs as per recommendation of second SFC. However, it did not take action for implementation of recommendations made by second SFC in its fourth and fifth interims reports for imposition of taxes, fees and tolls by the PRIs. As a result of this PRIs were not able to impose any taxes & fees which deprived them of their own revenue

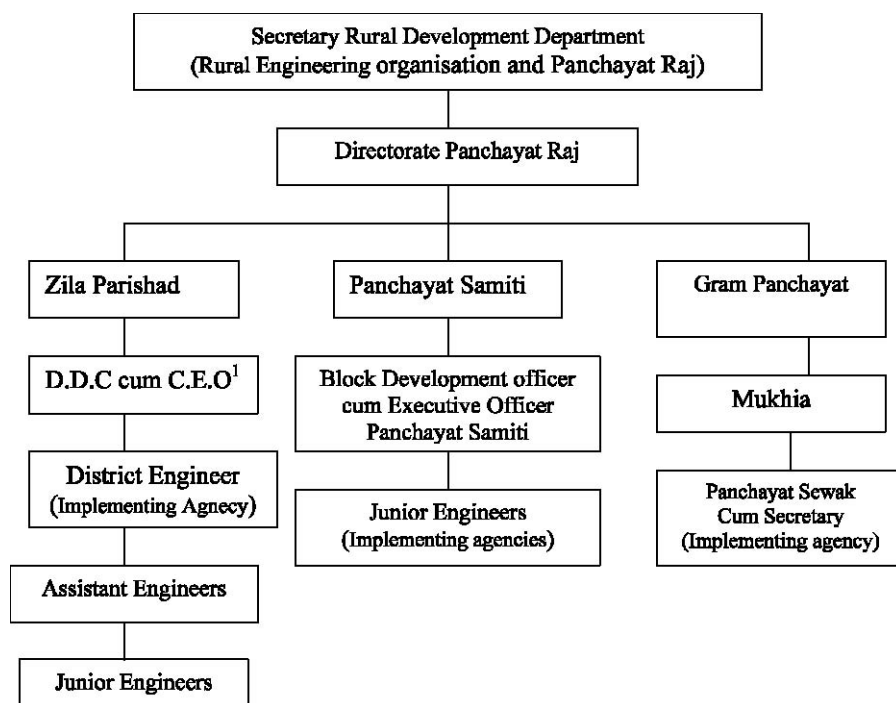
### ***1.4 Status of Panchayat Raj Institution***

These are to function as vibrant institutions of Local Self Government with greater participation of the people for more effective planning and execution of schemes for economic development, social justice, managing and conducting their own affairs besides imparting certainty, continuity, democratic content and dignity for the realisation of economic and social justice.

### ***1.5 Organisational Structure of the P.R.Is.***

There are 38 Z.Ps, 531 Panchayats Samitis and 8471 Gram Panchayats in the State. Gramin Vikash Vibhag (Rural Engineering organisation and Panchayat Raj Department) exercises administrative control for the effective running of the system.

The organogram given below depicts the organisational structure of the department and the PRIs at the District, Block and Village levels.



<sup>1</sup> Deputy Development Commissioner-cum-Chief Executive Officer

The Act envisages the functioning of the Z.Ps, P.S and G.Ps through eleven functional standing committees having elected representatives and concerned officials as members. Adhyaksha, Upadhyaksha, Pramukh, Up pramukh and the Mukhia are to be the Chairman of the standing committees as per provisions under section 75,48 and 25 of the Act respectively.

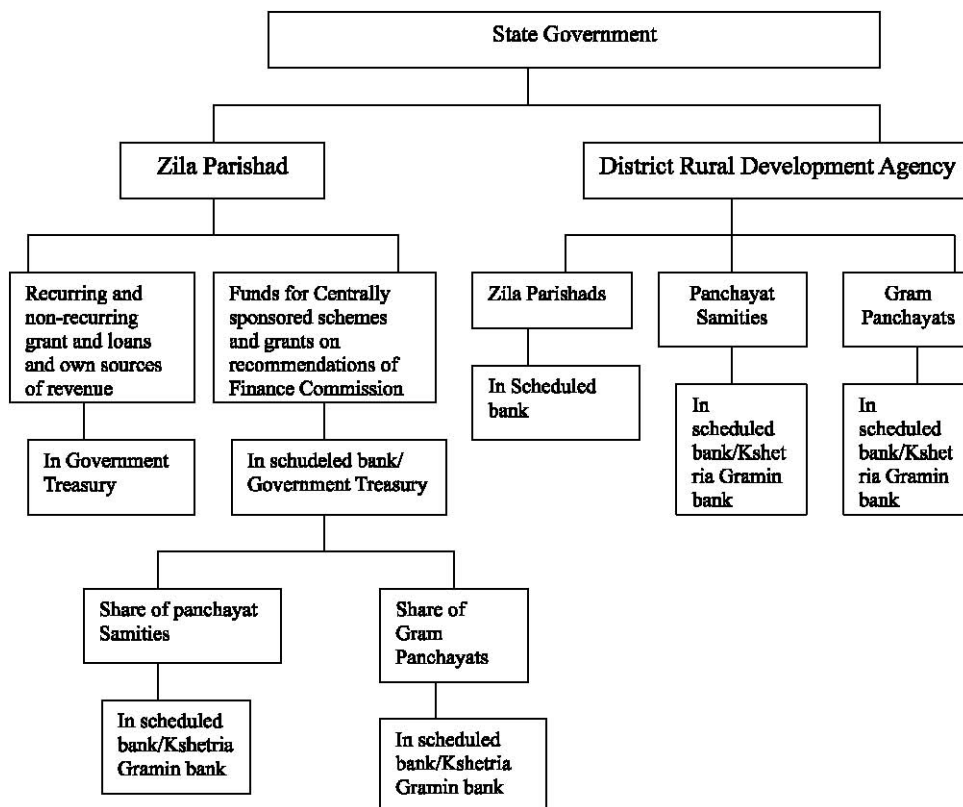
Three tiers of PRI shall have the following main standing committees-

Sl.No.	Zila Parishad	Panchayat Samiti	Gram Panchayat
1	General Standing Committee	General Standing Committee	Production Committee
2	Finance, Audit and Planning Committee	Finance, Audit and Planning Committee	Social Justice Committee
3	Social Justice Committee	Social Justice Committee	Amenities Committee
4	Education and Health Committee		
5	Agriculture and Industries Committee		

These Committees are to exercise powers delegated to them by Z.P, P.S, and G.P under sections 76(6), 49(4) and 25(3) respectively of the Act ibid

### ***1.6 Sources of revenue***

(a) The Panchayat Raj Institutions are mainly funded by the State Government by way of grants. The ZPs are having meager revenue from own sources viz. rent of shops/Dakbungalows/Inspection Bungalows, lease rent of land, settlement of Ghats, Ferries and Bus Stand etc. while the PS and GP are not having its own sources of revenue so far. Funds on recommendations of Finance Commission was released to PRIs through Zila Parishads. The Funding pattern and lodgement of funds would be evident from chart given below:



### 1.7 Accounting Arrangements

According to provisions under Section 121 of the Bihar Panchayat Raj Act 1993, the State Government was to frame the rules to carry out the purpose of this Act, but the accounts rules has not yet been framed and therefore Panchayat Samitis and Zila Parishads are following the Panchayat Samitis and Zila Parishads (Budget and Accounts) Rules 1964. As per provision under rule 94 of the rules ibid every Panchayat Samiti and Zila Parishad are to prepare annual accounts of each financial year within one month after the close of the financial year. But, none of 8 Z.Ps. and 69 P.S. test checked prepared annual accounts, though they incurred expenditure of Rs. 151.04 crore and Rs. 70.25 crore against receipt of 163.90 crore and Rs. 90.09 crore respectively, as noticed from cash book and vouchers (Appendix I and II).

The budget and accounts format, prepared by the comptroller and Auditor General of India was accepted by the State Government in October 2004 but the adoption of the said formats is yet to take place in P.R.Is. The Eleventh Finance Commission recommended for the creation of a data base on the finances of Local Bodies in the format prescribed by the C&AG of India, but the data base is still to be developed.

### ***1.8 Overall Status of Accounts in PRIs***

According to provisions under Bihar Panchayat Samitis and Zila Parishads (Budget and Accounts) Rules 1964, every Panchayat samiti and Zila Parishad shall maintain the records and registers prescribed there in a specified format. Further, Rule 77 provides for the maintenance of only one cash book, but 8 Zila Parishads were having several cash books in place of one. As a result, audit could not ascertain actual transaction and position of accounts. It was also observed that several registers like Government Grant register, Government Loan register, Loan appropriation register, Advance ledger, Deposit ledger Adjustment register, Assets register, Register of outstanding advance, Register of works, etc were not maintained by the 8 Zila Parishads and 69 Panchayat Samitis.

Zila Parishads and Panchayat Samities did not prepare Receipt and Payment accounts since 1992-93 and 2001-02 respectively. In the absence of accounts and records, position of grants received and utilised, advances paid and adjusted, works undertaken and completed and assets created out of the execution of various development works remained unascertainable.

### ***1.9 Arrangement of Audit for PRIs***

Audit of all rural local bodies in State was done under the provision of Bihar and Orissa Local Fund Audit Act, 1925 consequent to implementation of Panchayat Raj Act 1993. This Act of 1993 was repealed in 2006 and substituted by Bihar Panchayat Raj Act, 2006 and the State Government declared (October 2006) Examiner of Local Accounts Bihar, Patna as prescribed audit authority for PRIs

### ***1.10 Audit Coverage***

During the financial year of 2005-06 audit of the accounts of 8 Zila Parishads, 69 Panchayat Samities and 510 Gram Panchayats was conducted covering the period of 2001-02 to 2004-05. In this report important audit findings of all ZPs, PSs and 200 GPs are discussed in the succeeding paragraphs.

### ***1.11 Audit Findings***

#### ***1.11.1 Budgetary Control***

Neither the budget control register nor the annual account was maintained by any Z.P. As such it could not be ascertained in the audit whether the expenditure incurred was within the budget provisions.

#### ***1.11.2 Expenditure incurred without preparing any budget***

According to provisions under rule 3 to 15 of Bihar Panchayat Samitis and Zila Parishads (Budget and Accounts) Rules 1964, Z.Ps and the Panchayat Samitis are to prepare the budget in Form-I, and approve and adopt the budget for the following financial year and

no expenditure is to be incurred unless included in the budget.

But, 2 Z.Ps. and all the P.S. did not prepare Budget for the years 2002-05 despite expenditure of Rs. 110.67 crore as shown in table:-

**(Rs. in crore)**

Araria Z.P.	18.90
Nawada Z.P.	21.52
69.P.S.	70.25
<b>Total</b>	<b>110.67</b>

*(Details in appendix I and II)*

The expenditure of Rs. 110.67 crore was thus unauthorised.

### 1.11.3 Receipt and utilisation of funds

The position of receipts and their utilisation in 8 Zila Parishads during 2002-05 is given in table:-

Sl. No.	Particulars of Fund	Amount received	Amount utilised	Balance as on 31.03.2005
		<b>(Rupees in crore)</b>		
1	10th F.C. grant	13.91	13.87	0.04
2.	11th F.C. grant	61.65	59.69	1.96
3.	S.G.R.Y grant	55.72	50.55	5.17
4.	Other recurring, non-recurring grants and loans from R.D.D, grants from other Agencies and receipt from own source.	32.62	26.93	5.69
<b>Total</b>		<b>163.90</b>	<b>151.04</b>	<b>12.86</b>

*(Vide details in appendix - I)*

1.11.4 The position of receipt and utilisation in 69 Panchayat Samities is given below: -

Sl.No.	Particulars of Fund	Amount received	Amount utilised	Balance as on 31.03.2005
		<b>(Rupees in crore)</b>		
1	10th F.C. grant	1.00	0.60	0.40
2.	11th F.C. grant	4.58	3.12	1.46

3.	S.G.R.Y grant	56.30	46.21	10.09
4.	Grants from other Agencies	28.21	20.32	7.89
<b>Total</b>		<b>90.09</b>	<b>70.25</b>	<b>19.84</b>

(Vide details in appendix - II)

1.11.5 The position of receipt and utilisation in 200 Gram Panchayats is given below:-

Sl.No.	Particulars of Fund	Amount received	Amount utilised	Balance as on 31.03.2005
<b>(Rupees in crore)</b>				
1	10th F.C. grant	2.09	1.83	0.26
2.	11th F.C. grant	8.58	6.92	1.66
3.	S.G.R.Y grant	17.76	15.59	2.17
4.	Grants from other Agencies	0.80	0.58	0.22
<b>Total</b>		<b>29.23</b>	<b>24.92</b>	<b>4.31</b>

(Vide details in appendix - III)

Besides the above, the Government of India released two instalments of Rs. 162.40 crore each on account of grants on recommendations of the Twelfth Finance Commission to the State Government who released the grants to the PRIs in November 2005 and March 2006 for their utilisation. Details of receipts and expenditure of PRIs for the year 2005-06 under these grants were not made available for scrutiny.

The grants under Tenth FC was released to the PRIs for construction of Gram Panchayat Building, Primary & Middle School Building, Veterinary Dispensaries, Health sub centres, rural electrification, sanitation schemes, brick road, culvert etc. and grants under EFC for maintenance of civic services (Primary education, Primary health, Pure drinking water supply, Street lighting, cleanliness and sanitation and burning ghats/graveyards etc.). The grants under SGRY were released for execution of labour oriented works viz construction of Kacha Roads and other earth works.

As none of the PRIs prepared Annual Account or Assets Register nor created data base on finances the position of expenditure incurred on education, health, forestry, civic services etc. could not be ascertained nor it could be ensured that the grants of Tenth FC, EFC and SGRY were actually utilised for the purposes for which grants were released.

1.11.6 Grants on recommendations of 10th F.C.

Rs. 13.91 crore (Central Share only) was received during 2002-03 by 8 Zila Pariashads. As per norms against share of TFC one hundred percent matching share was to be borne by the PRIs or by the State Government, but it was seen that neither the PRIs nor the



State Government released any amount against the Central Share of Rs. 13.91 crore during 2002-05 paid to 8 Z.Ps (Appendix IV). Thus Finance Commission direction was not adhered to besides the PRIs did not get sufficient fund for execution of schemes under TFC.

#### *1.11.7 Utilisation Certificates*

Against receipt of Rs. 75.56 crore on account of 10th and 11th F.C. grants during 2002-05, 8 Z.Ps. submitted utilisation certificate of Rs. 43.94 crore to the State Government. (Appendix V). Above amount of Rs. 43.94 crore related to the amounts released by Z.P. to P.S. and G.P.. The Z.Ps. without obtaining details of expenditure from P.S. and G.P. furnished utilisation to State Government. Hence the actual utilisation could not be ascertained and fulfillment of the objective of the grant could also not be ensured. Thus, DDC cum Chief Executive Officers of Z.Ps. as controlling officers furnished in-correct utilisation certificate to the State Government.

#### *1.11.8 Non-production of Treasury Pass Book to audit*

As per Provisions contained in Treasury Code the Treasury Officer is required to supply Treasury Pass book duly certified and incorporating all transaction made by Z.P. through P.L. Account. But, Treasury Pass book was not made available by six Z.Ps (Banka, Aurnagabad, Munger, Sheoher, Kishanganj and Nawada). Thus, transaction made by six Z.Ps. through P.L. Accounts could not be verified in audit.

#### *1.11.9 Non-reconciliation of cash balance*

Account Rules enjoin that the balance of Pass Book shall be checked with reference to the cash book at the close of every month by way of reconciliation.

Test check of records of 8 Z.Ps revealed that none of the Z.Ps prepared reconciliation statement. Six Z.Ps (Banka, Aurnagabad, Munger, Sheoher, Kishanganj and Nawada) did not produce pass books of all bank accounts/P.L. account and hence balance as per pass book on 31st March 2005 was not ascertainable.

In 2 Z.Ps (Madhepura and Araria) where both balances (as per cash book and as per pass book) were made available, difference of Rs. 43.00 lakh between balance as per cash book and as per pass book was noticed on 31st March 2005 (Appendix VI).

Further, reconciliation statement in 28 P.S and 66 G.P was not prepared. Difference of Rs 1.33 crore and Rs.57.43 lakh between balance as per cash book and as per pass book in 28 P.S and 143 G.P respectively was noticed (Appendix VII and VIII). As the bank reconciliation was not done the reasons of differences between two set of balances viz cases of wrong debit/credit etc could not be known.

#### *1.11.10 Non-imposition of taxes, duties and fees.*

Section 27, 53 and 80 of Bihar Panchayat Raj Act 1993 provides that subject to such rules as may be made in this behalf and subject to such maximum rates as the Government may prescribe, three tiers of P.R.Is may impose taxes and duties and levy



fees and tolls to augment their own resource base. But the State Government neither made rules, as required under section 121 of the Act nor prescribed rates for impositions of taxes, duties and fees etc. by P.R.Is, resulting in non-imposition of taxes and fees by three tiers of PRIs thus rendering them wholly dependent on the State Government.

*1.11.11 Non-realisation of outstanding rent with tenants of shops and buildings of Zila Parishads.*

Out of 8 ZPs, 5 ZPs constructed shops and allotted to tenants. During test check it was observed that five Z.Ps failed to realise rent of shops and buildings amounting to Rs. 53.68 lakh from the tenants vide details in table:-

**Table: - Non-realisation of outstanding rent**

Sl.No.	Name of Z.P.	Amount of outstanding rent (Rs. in lakh)	Period from which rent is outstanding
1	Aurangabad	21.02	1997-98
2	Araria	4.10	1999-2000
3	Nawada	18.10	1995-96
4	Kishanganj	8.61	1992-93
5	Sheohar	1.85	2001-02
<b>Total</b>		<b>53.68</b>	

As no effective steps were taken for realisation of rent the dues of rent were not fully realised. Nonrealisation of rent from tenants deprived the ZPs from their own revenue in time.

*1.11.12 Non-maintenance of records/registers by Gram Panchayats*

Every Gram Panchayat should maintain registers and records like Grant register, Allotment register, Work register, Register of Measurement book, Assets register, Annual account register, Stock and store account, etc for its smooth functioning as well as for depicting a true and fair state of its affairs. On test check of records made available in 200 Gram Panchayats, it was noticed that all Gram Panchayats failed to maintain such records and registers pertaining to the years 2002-05 (Appendix- IX). Hence, actual position of utilisation of fund, execution of various schemes, stock and stores and assets created by execution of development schemes was not ascertainable.

*1.11.13 Retention of money culminating in Misappropriation.*

A sum of Rs. 9.00 lakh was collected by the Assistant cum Accountant of Sheohar Zila Parishad during January 2000 to July 2002 vide miscellaneous receipt books and hand receipts on account of miscellaneous collections. The said employee deposited only Rs. 1.00 lakh in Z.P. fund in April 2001. After departmental action another Rs. 5.00 lakh was recovered from him in September 2005.

However, Rs. 3.00 lakh still remained misappropriated by him which was rendered

possible due to non-checking of collection accounts by the Accountant and Chief Executive Officer.

### ***1.12 Recommendations***

The following measures are recommended for ensuring transparency, effectiveness and accountability in preparation of accounts and execution of schemes:-

- (i) New Accounts Rules based on Bihar Panchayat Raj Act 1993 now substituted by Bihar Panchayat Raj Act, 2006 should be immediately framed.
- (ii) Standard budget and accounting Formats prescribed by CAG should be operationalised and accountability of individual functionaries needs to be fixed for non-preparation of budget estimates or incurring expenditure beyond budget provisions.
- (iii) Data base on finances of PRIs should be created as per recommendation of the EFC. Action should also be taken to institute an effective mechanism for collection and compilation of fund flow and expenditure incurred by the PRIs for monitoring and decision-making.
- (iv) Maintenance of basic records such as one main cash book, grant register, loan register, advance register, employment register and asset register etc, should be ensured by the DDC-cum-CEOs,
- (v) Provision for internal audit may be made to ensure proper accounting of substantial public funds dealt with the PRIs.
- (vi) DDC-cum-CEOs should ensure submission of utilisation certificates after obtaining details of expenditure from Panchayat Samitis/Gram Panchayats.
- (vii) The execution of work should be done as per guidelines and in the time prescribed. Adequate safeguards should be provided to plug deficiencies in planning, avoidable delay in execution and lack of adequate technical and administrative supervision.
- (viii) Losses in the form avoidable, unauthorised and fruitless expenditure pointed out by the audit have to be identified and responsibility fixed to recover the losses.
- (ix) Internal control needs to be strengthened to prevent cases of diversion of plan funds to meet non-plan expenditure, which largely hampered achievement of the desired objectives of the plan schemes for want of fund.
- (x) Timely adjustment of advances should be ensured and a time schedule should be provided for submission of adjustment bills including invoking a penal clause for delayed submission of adjustment bills.

### ***1.13 Conclusions***

The standard budget and accounting formats prepared by CAG were not operationalised by the PRIs. Budgeting and financial accounting mechanism were deficient and deviated from the provisions of Bihar Panchayat Raj Act 1993 and Bihar Panchayat Samitis and Zila Parishads (Budget & Accounts) Rules 1964. The PRIs have not created database on finances of local bodies as per the recommendation of EFC.

There was inadequate arrangement to compile total flow of funds from all the approved sources round the year so that an overall picture of the flow of funds to the PRIs and

utilisation of such fund during a year may be available. Besides there was operation of many cash books in place of one and non-maintenance of important records and registers and non-preparation of receipt and payment accounts since 1992-93 which indicated deficiencies in financial system and lack of internal control mechanism in PRIs.

The DDC-cum-CEOs rendered fictitious utilisation certificates relating to funds allotted to the Gram Panchayats and Panchayat Samitis by furnishing incorrect expenditure accounts. DDC-cumCEOs, BDOs and Mukhias gave advances to the executing agents, which was not covered by rules.

Out of total 32942 works taken up by 8ZPs, 69 PS and 200 GP only fifty six percent of works (18540 works) were completed during 2002-05 indicating poor performance in respect of completion of works and denial of intended benefit to the beneficiaries. The advance of Rs. 59.40 crore (Rs.36.46 crore in 8 ZPs, Rs.19.02 crore in 69 PS and Rs. 3.92 crore in 200 GPs) outstanding for execution of balance 14402 works and against different executing agents for a period ranging from one to five years was also indicative of weak internal control mechanism and poor monitoring.