

**DEVOLUTION OF FUNDS, FUNCTIONS, FUNCTIONARIES TO THE PRIs**

**3.1 Introduction**

73<sup>rd</sup> constitutional amendment provided for formal process of decentralized governance by empowerment of the Panchayat Raj Institutions (PRIs). Article 243 of the constitution envisaged transfer of powers, resources and responsibilities and enjoined upon the State legislatures to enact laws/amend existing laws on 29 functions assigned to PRIs as may be necessary to enable them to function as institutions of self government, make provisions for devolution of powers and responsibilities with respect to :

- Preparation of plans for economic development and social justice;
- Performance of functions and implementation of schemes as may be entrusted to them including those in relation to matters listed in the eleventh schedule of the Constitution;
- Authorizing and assigning to PRIs to levy, collect and appropriate taxes, duties and fees in accordance with the procedure;
- Provision of grant-in-aid out of consolidated fund of the State;
- Constitution of State Finance Commission (SFC) for distribution of taxes, duties, toll and fees leviable by State between PRIs and State Government and setting up a permanent SFC cell in Finance Department to determine taxes, duties, tolls and fees to be assigned to/appropriated by the PRIs and measures required for improvement of financial position of PRIs.
- Setting up of District Planning Committee (DPC) to consolidate plans prepared by LBs and to prepare a draft development plan for District as a whole having regard to matters of common interest, spatial planning, sharing of physical and natural resources, integrated infrastructure and environmental conservation.

The Eleventh Finance Commission (EFC) (2000-05) and Twelfth Finance Commission (TFC) (2005-10) suggested certain measures to augment State funds to supplement resources of the LBs, based on which Government of India (GOI) circulated guidelines together with Local Bodies grants scheme which among others provided for:

- Conducting of elections timely in all tiers of LBs as per the mandate of the Constitution.
- Amendment of laws for Schedule V areas.
- Accounts to be maintained in standardized formats.
- Performance Audit system was to be adopted.
- Best practices for augmenting resources of PRIs.

### **3.2 Audit coverage**

The review covering a period of five years 2003-08 was conducted during March - September 2008 with reference to records of selected 172 units: - Gram Panchayats (GP): 128, Panchayat Samities (PS); 32, and Zilla Parishads (ZP) ; 12 (**Appendix-XXII**). Evidences were gathered through questionnaires and study of files.

The audit findings in respect of PRIs are discussed in the succeeding paragraphs.

### **3.3 State Finance Commission**

Article 243 I of the Constitution had made it mandatory for the State Government to constitute a State Finance Commission (SFC) within one year from the commencement of the Constitutional Amendment Act and there after on expiry of every 5 years to review the financial condition of the PRIs and to make recommendations to the Governor for devolution of funds. GOI guidelines (June 2005) stipulated that State Government was to act within six months of SFC's recommendations.

The State Government constituted two Finance Commissions but the prescribed periodicity and action taken on reports of the Finance Commission were not maintained by the State.

<b>State Finance Commission</b>	<b>Date of constitution</b>	<b>Date of submission of reports by the FC</b>	<b>Date on which placed in the State Legislative Assembly</b>
First SFC	21 September 1996 Reconstituted on 24 August 1998	30 December 1998	9 July 1999
Second SFC	5 June 2003	29 September 2004	11 August 2006

Transfer of funds proposed by First SFC to the PRIs out of the assigned revenues and actual release of funds made by the State during the implementation period of First SFC (1998-2005) was as below:

*(Rupees in lakh)*

Name of the Department	Particulars of grant	Amount recommended for devolvement	Amount released	Shortfall in release
PR.Department	Kendu Leaf grant	160.37	128.06	32.31
	Minor Forest Produce	014.00	002.00	12.00
	Sairat Sources	007.00	005.00	02.00
	Entertainment Tax	000.98	-	00.98
	Land cess	063.98	052.44	11.54
<b>Total</b>		<b>246.33</b>	<b>187.50</b>	<b>58.83</b>

Apart from shortfall of Rs 58.83 lakh in release of funds to the PRIs by the State Government towards their share of taxes out of State revenues against the SFC's recommendation, transfer of funds during the period was too meagre varying between 0.53 and two *per cent* of the gross revenue of the State during 1998-2005.

The Second SFC was of the view that the LBs were functioning as mere deliberative bodies bereft of the powers and authority to function as institutions of self-government. To make the devolution of powers and functions more meaningful, SFC recommended activity mapping of 29 subjects of the Eleventh Schedule to be performed by different tiers of PRIs. Some of the major recommendations made by the Second SFC were related to merger of DRDA with ZP, resource mobilization of LBs, transfer of revenue earning sources to the LBs and devolution of funds to the extent of 10 *per cent* of the average gross revenue of the State. The second SFC made 41 recommendations of which 23 were accepted and the remaining 18 were either rejected or under consideration by State Government. But large number of recommendations were still to be implemented. Assignment of entertainment tax, surcharge on stamp duty, K L Grant, Land acquisition charges and fees collected from minor minerals etc. were not made to PRIs due to non-amendment of the relevant act. There was no centralized system of maintenance of a data base at the State level to monitor the actions taken and track the actual transfer of funds made by the State Government against the SFC's recommendations. The audit query (June 2008) on the above issue remained uncomplied.

### **3.4 Devolution of functions**

#### **3.4.1 Amendment of the Acts**

Pursuant to the provisions of 73<sup>rd</sup> Constitutional Amendment Act, 1992, the State Government amended through legislation the laws relating to the PRIs which included the Orissa Zilla Parishad Act, 1991 (OZPA), Orissa Panchayat Samiti Act, 1959, (OPSA) and Orissa Gram Panchayat Act, 1964 (OGPA) entrusting duties and responsibilities with regard to 21 out of 29 subjects listed in the eleventh schedule of the Constitution as given in the **(Appendix-XXIII)**. However, no legislation to amend laws on Land acquisition, Mining and minor minerals, Social Forestry, Small Scale Industries and Khadi and Village Industries etc. for empowering the PRIs of scheduled areas as suggested by the GOI under EFC recommendations was enacted (June 2008). This had led to number of Government Departments directly exercising the functions and control over GP resources without involvement of GPs in the subjects that were required to be transferred to them. No amendment was also made in codes, manuals and departmental instructions in respect of the functions like minor irrigation, roads and buildings, public health, parks, gardens etc.

#### **3.4.2 Transfer of Subjects listed in Eleventh Schedule**

In order to avoid overlapping of functions and its balanced distribution amongst the different levels of PRIs, an activity mapping concerning to 29 functions consisting of 83 activities listed in the eleventh schedule was evolved by the Second SFC along with the mechanism for inter tier co-ordination. Against the above, Government devolved 21 functions to the PRIs out of which activity mapping for 18 functions consisting of 43 activities were done by the department for implementation. Test check of records of selected PRIs revealed the actual implementation of the activities as per details in **(Appendix-XXIV)**.

It was seen that a large number of activities remained either unimplemented or partially implemented for which the activity mapping done by the Department was not made fully operational by the PRIs and the administrative exercise done at the Government level had no practical utility in the field.

### **3.5 Devolution of functionaries**

#### **3.5.1 Administrative structure**

As recommended by the Second SFC, the State Government was to provide required administrative structure and support to make the institutions and functionaries of the devolved functions accountable to the PRIs. The Panchayat Raj Department's Notification (4 July 2003) stipulated:

- (i) At district level, the Project Director (PD) of District Rural Development Agency (DRDA) was designated as Secretary-cum-Executive Officer of the ZP with Collector as the Chief Executive. The district level officers of the line departments were declared as Additional Executive Officers under ZP.
- (ii) The Block Development Officer (BDO) was designated as Executive Officer of the PS.
- (iii) One post of Executive Officer at Gram Panchayat level was created and the existing Village Agriculture Workers (VAW) / Village Level Workers (VLW) were posted as such in that post.
- (iv) The district, block and village level officers of the 11 line departments were made accountable to the ZPs, PSs, and GPs respectively for implementation of the functions and schemes transferred to the PRIs and for obtaining sanction of casual leave from head of respective PRI while continuing as employees of their respective departments. Besides, the PRIs were vested with powers to supervise the work and functions of these Departmental functionaries at their respective levels and for transmission of periodical progress reports on financial and physical performance of the departmental functions to the respective higher authorities.

Such an order of Government placing the officials associated with GPs and PS works under direct control of officials accountable to ZPs indirectly restricted the autonomy of PRIs. Resultantly, line departments of the State Government continued to formulate and prepare GP plans separately for each department and obtain approval of GP in piece meal; as such consolidated plan of GP was missing. The financial and administrative powers of GPs were being exercised by State Government officials while Section 98 of OGPA provided for approval of Budget together with regularization of excess /savings by way of supplementary and revised budgets by the GPs.

Section 93 of OGPA provided for constitution of Gram Fund and credit of all receipts therein and joint withdrawal of funds there from by the GP authorities. However, scheme funds received by the DRDA from State Government / GOI (other than schemes operated by PR Department) were being credited to savings accounts in nominated banks as per provisions of individual schemes and Bank Accounts were operated by State Government officials.

Rule 249 of OGP Rules provided for formation of committees at GP level dealing with social, economic and administrative sectors but these committees were not provided with administrative powers except such powers delegated to it by the GP.

Rule 282 of OGPR provided for preparation of annual administrative report on working of GPs to be forwarded to PS for consolidation. In the test checked GPs, no such report was found prepared. As such, the formal action of devolution of activities did not have any practical effect on the transfer the subjects or bring any structural change in the functioning of the GPs.

### **3.5.2 Non-Merger of DRDA with Zilla Parishad**

DRDAs created for implementation of Integrated Rural Development Programme were registered bodies under Societies Registration Act 1960 being sponsored by the Central Government. As per Section 3 (xiii) (a), (b) and (c) of OZP Act 1991, preparation, execution and supervision of the district plan, implementation of anti-poverty programmes with powers of monitoring and supervision and discharge of responsibilities and functions as assigned to DRDAs were transferred to the ZPs. In view of setting up of DPCs and the changed provisions of the Act, DRDAs were to be either abolished or legitimately merged with the respective ZPs to function as technical support agencies. Second SFC also recommended for merger of DRDAs with ZPs. However, in none of the test checked ZPs, DRDAs were found merged with ZPs. There was no full time Executive Officers in the ZPs and the PDs of DRDAs were designated as the ex-officio Executive Officers of the ZP instead of being designated as Secretary of Zilla Parishad as required under the Act. The President of ZP did not exercise any executive and administrative powers over the activities of DRDAs.

### **3.5.3 Non-involvement of PRIs in implementation of the CSP schemes**

There were a number of centrally sponsored plan schemes implemented by different line departments, the functions of which were within the ambit of the local bodies. However, the devolvement of funds made by the State to the PRIs was largely restricted to schemes implemented by the Union Ministries of Rural Development and Urban Development. There were major schemes of other departments as per list enclosed (**Appendix-XXV**), the funds of which were not devolved to the local bodies although the related activities were assigned to the PRIs. These schemes, in general had a tendency to prescribe programmatic committees at the base levels, which were outside the command of the PRIs. These programmes had their own perspective plans and annual action plans prepared by different committee at the grass root level such as village health and sanitation committee under NRHM, watershed committee under different watershed programmes without active involvement of the PRIs. As each programme oriented plan was implemented as a stand-alone process by different departments, the institutional mechanism of integrated planning through involvement of the PRIs was missing.

### **3.5.4 Assets not transferred to GPs**

GOI's guidelines (June 2005) stipulated that that all common property resources vested in GP were to be identified, listed and made revenue productive for augmenting resources of the PRIs as recommended by the TFC. Such assets included assets created under various States and Central Schemes i.e. PMGSY, EAS, SGRY, RLEGS, watershed development programmes, BKVY, RLTP, BKBK, GGY etc. The Government have not identified the various assets generated under these schemes and issued formal orders for transfer of assets created to the GPs.

## **3.6 Devolution of funds**

### **3.6.1 Non-provision of funds under Panchayat Sector**

As agreed (October 2005) in the meeting between the Chief Minister and the Union Minister for Panchayati Raj, 'Panchayat Sector' in the State budget was to be created from

the year 2006-07 for effective performance of the functions devolved to the panchayats through activity mapping by entrustment of all schemes pertaining to the activities devolved upon the PRIs. Panchayat Sector in the State budget was not opened even if in the State budget for the year 2008-09 and the respective line Departments continued to make separate budget for operation of departmental schemes. Consistent with the devolvement of functions, the matching funds to carry out the functions were not provided to the PRIs except assignment of the State revenue through SFC grants.

### **3.6.2 Taxation power and resources of PRIs**

As per section 83 of OGP Act 1964, the GPs were endowed with powers to impose taxes on 13 items (**Appendix-XXVI**). Besides, these were also empowered to issue licenses under the Act for carrying out dangerous and offensive trades and other specified purposes (Sections 55 to 57) and lease out the sairat sources (Section 71). In test checked GPs it was revealed that the generation of income from the above sources was either 'Nil' or negligible. No efforts were made by the GPs to levy and collect the tax and non-tax revenues indicating poor resource mobilization from own sources.

The Orissa Panchayat Samiti Act, 1959 did not empower the Panchayat Samities to levy any tax like the GPs. In the test checked Panchayat Samitis, it was noticed that they were only in receipt of funds from Government towards share of revenue and grant-in-aid as recommended by the Finance Commissions. Besides, they received funds for various schemes implemented by them from Government. There was no generation of income from internal sources.

As per Section 3 of Orissa Zilla Parishad Act, 1991, Zilla Parishad was defined as a body constituted at the district level which was empowered to prepare, execute and supervise the district plan relating to the anti-poverty programmes and implement schemes related to the matters enlisted in 11<sup>th</sup> Schedule. ZPs were not vested with appropriate funds and powers to levy taxes like the GPs.

Scrutiny of records in audit revealed that in test checked units, the ZPs only received funds from the Government to meet the establishment expenses of the parishads which included the salary and allowances of the staff, honorarium and traveling allowances payable to the elected bodies and other contingent expenses. The functions performed by the ZPs were mainly restricted to attending to the various committees and supervision of the works



related to the schemes implemented by the PSs and GPs, as such, establishment of the ZPs at district level in the State with an annual expenditure of around Rs.1.10 crore (2003-04) served no purpose, as they remained practically non-functional.

### **3.7. Monitoring, internal control and evaluation**

#### **3.7.1 Review of projects by DPCs**

The State Act provided for review of implementation of developmental programmes by DPCs which were not equipped with secretariat and inspection staff. As a result, implementation of various projects undertaken by PRIs was not reviewed by DPCs.

#### **3.7.2 Audit and Accounts**

GOI guidelines provided for preparation of budgets and maintenance of accounts in the formats prescribed by Comptroller and Auditor General of India (C&AG). These formats although forwarded to PR Department, were not circulated to PRIs as result, standardization could not be achieved. The budget was being prepared in piece meal basis in the formats devised by the State Government. As a result, consolidated position of revenue and expenditure were not available for evaluation in the PRIs.

### **3.8 Conclusion and recommendations**

The State Government was yet to devolve sufficient functions, funds and functionaries to ensure autonomy in functioning of PRIs. Annual plans together with District Development plans were found missing. Revenue collection at level of PRIs is very low and they are heavily dependent upon State Finances for their continued existence. Utilization of funds was less than 50 *per cent* of receipts. No concrete steps for maintenance of accounts and creation of data base on finances in prescribed formats together with training of personnel has been taken by Government except for issuing the formats. Monitoring and evaluation arrangements were not sufficient enough to ensure timely completion of schemes/programmes and preventing diversion, misuse of resources. Heavy advances are

found outstanding against employees and parties. Internal control and supervision was not effective.

The State Government was not able to carry its conviction and constitutional obligation for empowerment of the local bodies. Despite constitution of DPCs for preparation and review of implementation of integrated draft development plan of the districts, the same could not be achieved as these were virtually non functional due to absence of technical support teams and secretariat support staff and the LBs continued to formulate their own action plans under different schemes as a stand-alone process without concerning the holistic development of the area. Action initiated by the State Government so far, constituted a superficial compliance of directions of constitutional amendments and GOI guidelines; as the devolution of functions and functionaries on the existing administrative hierarchy without appropriate restructuring of organizational set up did not usher the intended autonomy of LBs in performing their devolved activities. The LB empowerment establishing linkage between revenue earning and expenditure was weak. The activity mapping exercise done by the Departments involved intervention of State Government through staff support without devolving functional autonomy to the local bodies in formulation of development plans, assessment of resources and devising of development plan for their area. As a result, the local bodies were practically made to act as agencies of Government for implementation of schemes and programmes at the base level bereft of the ethics of self-governance. Release of scheme based and purpose specific grants reduced the efficiency of the local bodies and forced them to play the subservient role of Government agencies with high level of financial dependence and low level of fiscal autonomy. The flow of untied funds to the local bodies was 'Nil'. The grant in aid and share of taxes released by the Government to the LBs were allocation oriented for which there no freedom was left to LBs for decision making, planning and utilization of funds as per the felt need of the people. Monitoring and evaluation mechanism was non existent. Despite elapsing more than fifteen years since the enforcement of the Constitutional amendment Act, there was considerable ambiguity about the role of the PRIs to play in the overall governance system of the State. The objectivity and vision behind the constitutional amendment act remained grossly un-achieved.

**Recommendations:**

The Government should ensure that: -

- A consolidated annual plan covering Central/State schemes and GP programmes should be prepared and approved by elected body so also annual accounts prepared and discussed in general body meeting;

- Annual Accounts should be prepared by the PRIs regularly and timely in prescribed format;
- Data base on finances are maintained in all levels of PRIs and made accessible to users;
- Schemes should be implemented as per Guidelines and completed timely;
- Assets created under various schemes/programmes should be put to revenue generating purposes;
- Effective control and supervision should be applied to prevent over stacking and misappropriation of food grains;
- Continuous monitoring and evaluation of performance of the PRIs should be made through specific and regular returns and reports;
- Statutory deductions should be remitted to Government accounts timely;
- Administrative restructuring of the departments of the Government should be made to devolve functions, functionaries and institutions to bring them under control of PRIs to ensure and evolve their autonomy;
- Legislation may be enacted to amend laws on the remaining eight subjects for administration of the same by the PRIs in the Schedule V areas of the State as recommended by the EFC and provided in the GOI's guidelines;
- DPC should be strengthened by providing secretariat, technical and inspection staff for discharging their function as intended in Constitution and the Act enacted there for separately;
- Share of state revenue and grant in aid to local bodies and transfer of funds should match the responsibility & functions devolved upon PRIs;

- Monitoring and evaluation of performance of PRIs by DPCs need to be strengthened;
- System of preparation of budgets and maintenance of accounts in prescribed formats need to be followed.

**Bhubaneswar**  
**The 1st day of December 2008**

**(N.S.PILLAI)**  
**Sr.Deputy Acconntant General**  
**(Local Bodies Audit & Accounts),**  
**O/o the Principal Accountant General (CA)**  
**Orissa, Bhubaneswar.**

Countersigned

**Bhubaneswar**  
**The1<sup>st</sup> day of December-2008**

**(B.R.KHAIRNAR)**  
**Principal Accountant General (Civil Audit)**  
**Orissa, Bhubaneswar.**