Chapter - I

An Overview of Urban Local Bodies

CHAPTER I

AN OVERVIEW OF URBAN LOCAL BODIES

1.1 Introduction

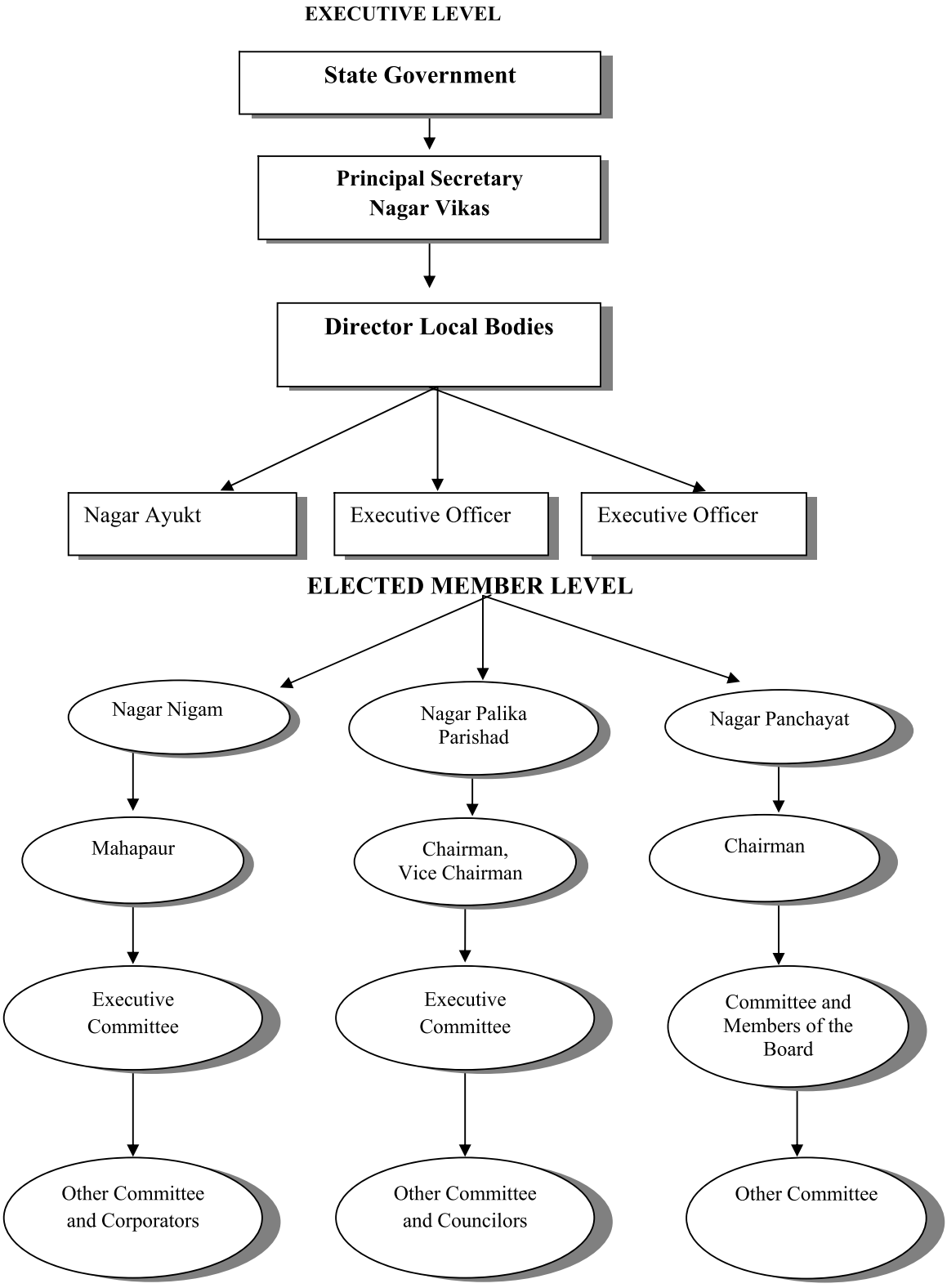
Government implemented the system of democratic governance down to grassroot level in Urban Local Bodies (ULBs) through Uttar Pradesh Municipal Corporation Act, 1959 and Uttar Pradesh Nagar Palika Act, 1916. The objective was to make the ULBs self reliant and to provide better civic facilities to the people of the areas under their jurisdiction. Further, the Seventy-Fourth Constitutional Amendment (1992) paved the way for decentralization of powers, transfer and devolution of more functions and funds to the ULBs. Consequently, more diversified responsibilities were devolved through a three tier structure namely Nagar Nigams[1](NNs), Nagar Palika Parishads[2](NPPs) and Nagar Panchayat[3](NPs). To incorporate the provisions of the Seventy-Fourth Constitutional Amendment, the legislature of Uttar Pradesh enacted the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994.

There were 627 ULBs in the state and governed by the elected board of its members with normally five years tenure. The last election to these 627 ULBs was held in the year 2006. The population profile of the ULBs was as under:-

Number and names of ULBs	Area (Sq.Km)	Average area/ULB (Sq Km.)	Population (as per census 2001)	Average population of ULBs	Density of population[4]
12 Nagar Nigam	1426.56	118.88	13149882	1095823.50	9217.90
194 NagarPalika Parishad	1980.76	10.21	13398815	69066.06	6764.48
421 Nagar Panchayats	1700.42	4.04	6053844	14379.68	3560.21
Total 627 ULBs	5107.74	133.13	32602541	1179269.24	19542.59

[1] Represents the ULBs, having the population of more than five lakh.
[2] Represents the ULBs, having the population between 20 thousand and five lakh.
[3] Represents the ULBs having the population below 20 thousand.
[4] Represents the average population/Sq. Km of ULBs .

1.2 Administrative Organisation of Urban Local Bodies



While a *Mahapaur* heads the Nagar Nigam, a *Adhyaksha* heads both Nagar Palika Parishads and Nagar Panchayats. The elected representatives exercise

their powers and discharge the duties through the committees of elected members. *Nagar Ayukt* in case of Nagar Nigam and Executive Officers in case of Nagar Palika Parishads and Nagar Panchayats are the administrative heads.

1.3 Database on finances

The Eleventh Finance Commission (EFC) recommended that a database on the finances of the ULBs should be developed at the district, State and Central Government levels and be easily accessible through computers and linking it through V-SAT[5]. The data were to be collected and compiled in standard formats prescribed (2003) by the C&AG of India. The objective was to facilitate comparison of performance of local bodies among the States at the Government of India level and the Government at the State level.

The Database was, however, not developed up to June 2008 and action in this regard taken at the Government level was awaited (June 2008).

Due to non-availability of the Database on finances of the ULBs, the Government could not assess their performance in the State by comparing it with the performance of the ULBs of other States. Besides this, releases of grants after reviewing their actual needs and fiscal performance were not ensured. This was more important in terms of the recommendation of the Twelfth Finance Commission (TFC) which observed that maintenance of the database was necessary to keep accurate information on the finances of the ULBs for need based assessment of their requirements.

1.4 Transfer of functions

In follow up to the Constitution (Seventy-Fourth) Amendment Act, 1992, the Legislature of the State enacted laws for devolving 13 functions out of 18[6] (enshrined in Twelfth Schedule of the Constitution) on the ULBs leaving 5[7] functions yet to be devolved. In addition, one function namely parking places for vehicles (beyond Twelfth Schedule of the Constitution) was also devolved. However, neither activities nor functionaries and funds in respect of six

[5] Very Small Aperture Terminal.

[6] Urban planning including town planning; regulation of land use and construction of buildings; planning for economic and social development; roads and bridges; water supply for domestic, industrial and commercial purposes; public health, sanitation, conservancy and solid waste management; fire services; urban forestry, protection of the environment and promotion of ecological aspects; safeguarding the interests of weaker sections of society including the handicapped and mentally retarded; slum improvement and up gradation; urban poverty elevation; provision for urban amenities and facilities such as parks, gardens, playgrounds; promotion of cultural, educational and aesthetic aspects; burials and burial grounds, cremations, cremation grounds and electric crematorium; cattle ponds, prevention of cruelty to animals; 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.

[7] Urban planning including town planning; regulation of land use and construction of buildings; roads and bridges; fire services and promotion of cultural and educational and aesthetic aspects.

functions out of 14 thus devolved were transferred to the ULBs as of March 2008.

Thus, partial devolution of the activities/ functions and funds restricted the activities of the ULBs.

1.5 Sources of revenue

Flow of revenue

In the mandate of the Eleventh Finance Commission, ULBs were brought within purview of the Finance Commissions for the first time. The objective was to augment Consolidated Fund of the State Government to supplement the resources of the ULBs. Accordingly, the TFC recommended release of grants to the State government for them. State Government also released grants to the ULBs as recommended by its own State Finance Commission (SFC). In all, the sources of revenues for the ULBs comprised:

- Grants assigned under the recommendations of the Eleventh Finance Commission (period: 2000-05) and Twelfth Finance Commission (period 2005-10).
- Devolution of 7.5 *per cent* of net proceeds of total Tax Revenue of the State Government under the recommendations of the Second State Finance Commission (2003).
- Funds from departments for functions transferred to the ULBs.
- Revenue earned by the ULBs out of their own resources such as taxes, rent, fees, *tehbazari*[8], taxi stands etc.

Aggregate receipt of grants

The aggregate receipts of grants by the ULBs under the recommendations of EFC, TFC and SFC and revenue realized from their own resources during the period 2004-07 were as under:

Sl No	Year	Eleventh and Twelfth Finance Commissions	State Finance Commission	Own resources	Total
		Rupees in crore			
1	2004-05	22.79 (1.74%)	877.00 (66.84%)	412.33 (31.42%)	1312.12
2	2005-06	51.70 (3.59%)	911.25 (63.33%)	475.98 (33.08%)	1438.93
3	2006-07	103.40 (5.00%)	1518.00 (73.34%)	448.36 (21.66%)	2069.76
4	2007-08	310.20 (11.04%)	1838.43 (65.40%)	662.23 (23.56%)	2810.86
Total		**488.09 (6.40%)**	**5144.68 (67.41%)**	**1998.90 (26.19%)**	**7631.67**

Source: Director, Local Bodies, Lucknow.

[8] Tax on trades and callings carried on within the municipal limits.

An analysis of the table revealed that there were increasing trends in the receipts by the ULBs in the state during 2004-07. There was increase of Rs. 126.81 crore in 2005-06 over the receipts of 2004-05 and Rs. 630.83 crore in 2006-07 over the receipts of 2005-06. The prime contributor to this was the grants received under the recommendations of the State Finance Commission the share of which to the total receipts was 67 *per cent*. This was followed by income generated through their own resources the share of which was 26 *per cent* during the same periods.

Devolution of State Finance Commission grant

Second State Finance Commission recommended that 7.50 *per cent* of the net proceeds of the Tax Revenue of the State Government should be devolved to the ULBs. The devolution of the funds and actual funds released by the State Government during the period 2004-07 were as under:

Year	Net proceeds of Tax Revenue of State Government	Funds to be devolved	Funds actually devolved	Short release (per cent short releases in bracket)
	Rupees in crore			
2004-05	15693	1177	877	300 (25)
2005-06	18858	1414	911	503 (36)
2006-07	22998	1725	1518	207(12)
Total	**57549**	**4316**	**3306**	**1010 (23)**

Source: Director, Urban Bodies.

An analysis of the table revealed that the Government did not devolve 7.5 *per cent* of the net proceeds of the Tax revenue during any of the years i.e. 2004-05, 2005-06 and 2006-07 and maximum short devolution of 36 *per cent* was during 2005-06.

The shortfall in devolution of funds deprived the ULBs at the grass root level to provide better civic facilities to the people of the areas under their jurisdiction besides denying ULBs an opportunity to be self reliant.

1.6 Application of funds

Utilization of grants under EFC, TFC and SFC

Based on data made available by Director, Local Bodies, Lucknow, the table below brings out the position of funds available under the Eleventh and Twelfth Finance Commissions and Second State Finance Commission and its utilization during 2004-07:

Name of the grant	Year	Funds available	Funds utilized	Funds not utilized
	Rupees in crore			
Eleventh Finance Commission	2004-05	22.79	22.79	--
Twelfth Finance Commission	2005-06	51.70	51.70	--
	2006-07	103.40	51.70	51.70
Second State Finance Commission	2004-05	877.00	877.00	-
	2005-06	911.25	911.25	-
	2006-07	1518.00	1518.00	-

Rupees 51.70 lakh of TFC pertaining to the year 2006-07 could not be utilized as the funds were released only during 2007-08.

The data, furnished by Director, Local Bodies, were not reliable as the funds made available to the ULBs was treated as final expenditure in the records of the Director, Local Bodies, Lucknow instead of treating the same as advance and adjusting in records after receipt of expenditure statements from them.

Revenue realized from own resources

The ULBs were required to generate revenues by collecting taxes, rent, fee etc from the people of the areas falling under their jurisdiction. Accordingly, Government fixed (2004-07) targets of revenue realisation for them. The table below brings out the targets fixed by the Government during 2004-07 and ULBs' achievement thereagainst during the corresponding periods:

Number and Name of ULBs	2004-05		2005-06		2006-07	
	Target	Achievement (Per cent achievement in bracket)	Target	Achievement (Per cent achievement in bracket)	Target	Achievement (Per cent achievement in bracket)
	Rs. In crore					
12 Nagar Nigams	318.87	272.52 (85)	261.52	299.88 (115)	298.93	254.41 (85)
194 Nagar Palika Parishads	147.73	116.83 (79)	158.92	132.10 (83)	161.90	116.73 (72)
421 Nagar Panchayats	52.28	22.98 (44)	19.81	44.00 (222)	19.81	77.22 (390)
Total	518.88	412.33 (79)	440.25	475.98 (108)	480.64	448.36 (93)

Source: Director, Urban Local Bodies.

The targets fixed for revenue realisation by the ULBs from their resources were not realistic. The table revealed shortfalls and over achievements in revenue realisation against the targets during 2004-07. Nagar Nigams and Nagar Palika Parishads could not achieve the targets in any of the years except the Nagar Nigams during 2005-06. The shortfalls against targets (Nagar Nigams: 15 *per cent* each during 2004-05 and 2006-07 and Nagar Palika Parishads: ranging between 28 and 17 *per cents* during 2004-07) occurred due to Government cancelling *chungi/tehbazari.* The Nagar Panchayats over achieved the targets by 222 to 390 *per cents* during 2005-07. The reason for this was the recovery of arrear of stamp duty of 2 *per cent*.

It was also noticed that 48 ULBs[9] out of 106 test checked[10] raised demands for Rs 151.20 crore of taxes etc., during 2006-07, which included Rs 83.39 crore on account of arrear dues. Out of Rs. 151.20 crore, a sum of Rs 31.61 crore was realised and balance of Rs. 119.59 crore was lying unrecovered (***Appendix- 1***) for no reason. It was also noticed that even the current demand could not be collected resulting in accumulation of arrears. As the age wise breakup of the unrecovered dues was not maintained by the test checked ULBs, the periodicity of the dues pending for recovery could not be assessed in audit.

1.7 Overall financial position of the ULBs

As mentioned at preceding Paragraph 1.3, the database on finances of the ULBs was not created as a result of which the overall financial position of the ULBs in the State depicting the opening balances, receipts, expenditure and closing balances could not be ascertained and hence could not be given.

In audit, records of ULBs were test checked during 2004-07 (2004-05: 100, 2005-06: 105 and 2006-07: 106). Their financial positions were as per the details brought out below:

Year	Number of ULBs test checked	Opening balances	Funds received	Total Funds available	Expenditure (per cent in bracket)	Closing balances
		Rupees in crore				
Nagar Nigams						
2004-05	5	39.05	302.97	342.02	287.47 (84)	54.55
2005-06	7	132.32	581.23	713.55	501.83 (70)	211.72
2006-07	7	211.72	605.50	817.22	595.48 (73)	221.74
Nagar Palika Parishads						
2004-05	38	27.48	98.16	125.64	92.40 (73)	33.24
2005-06	39	34.10	122.99	157.09	113.14 (72)	43.95
2006-07	39	43.95	124.01	167.96	126.32 (75)	41.64
Nagar Panchayats						
2004-05	57	11.47	25.82	37.29	23.14 (62)	14.15
2005-06	59	15.05	40.83	55.88	39.09 (70)	16.79
2006-07	60	17.20	49.63	66.83	51.37 (77)	15.46
Total					1830.24	

Source: Inspection report of the audited units.

[9] Nagar Nigams: 3, Nagar Palika Parishads: 16 and Nagar Palikas: 29.
[10] Nagar Nigams: 7, Nagar Palika Parishads: 39 and Nagar Panchayats: 60.

It was noticed that the ULBs could not maintain pace in expenditure with the flow of funds during 2004-07. The *per centages* of expenditure as against the available funds ranged between 70 to 84 in case of Nagar Nigams, 72 to 75 in case of Nagar Palika Parishads and 62 to 77 in case of Nagar Panchayats. Consequently, huge amounts were lying unspent with them at the end of each financial year which indicated poor planning for funds utilization for achieving intended objectives in a time-bound manner.

1.8 Internal Control

- The Nagar Palika Parishads and Nagar Palikas did not have any pre check system for bills. As such, payments were made without pre checking of the bills.
- The Executive Engineers and the Assistant Engineers were, in terms of the Rule 67 of UP Municipal Account Code, to check/ verify 5 and 25 *per cent* respectively of the measurements of the construction works entered in the measurement books. In test check of ULBs, it was, however, noticed that measurements were not checked and verified as such.

1.9 Budgeting and budgetary procedure

In terms of section 146 of UP Municipal Corporation Act, 1959 and Note 1 below Rule 104 of Municipal Account Code, each ULB in the State was to prepare the annual budget estimates and monthly accounts for subsequent control over the expenditure. However, test check of records of ULBs during 2006-07 revealed that no such estimates and accounts were prepared by the NPs and NPPs.

Thus, the NPs and NPPs were incurring expenditure without any budgetary control in disregard to the statutory provisions.

1.10 Accounting arrangements

- ***Adoption of account formats prescribed by the Comptroller and Auditor General of India***

  The Comptroller and Auditor General of India, on the recommendation of Eleventh Finance Commission prescribed the Budget and Accounting formats on accrual basis for ULBs which the Ministry of Urban Development circulated (June 2003) to the State Government for their acceptance. The Government acceptance thereto and maintenance of accounts in the prescribed formats was awaited (June 2008).

Due to non maintenance of accounts in the prescribed formats, the assessment of the assets and liabilities of the ULBs could not be done.

- ***Non reconciliation of cash balances***

Each item of receipts and expenditure as per cash book should be compared with the treasury/ bank statements at the end of each month. The differences, if any, should be reconciled. However, it was noticed in test check that three Nagar Nigams, eight Nagar Palika Parishads and 23 Nagar Panchayats had a total difference of Rs 22.66 crore as on 31 March 2007 in the cash book and treasury/bank statements (***Appendix-2***) The unreconciled differences were fraught with possibilities of misuse / misappropriation of funds.

1.11 Audit arrangements

- Director, Local Fund Audit is the primary auditor of ULBs in terms of Uttar Pradesh Local Fund Audit Act, 1984. Due to shortage of manpower, the arrears in audit of ULBs occurred ranging between 4.33 and 6.58 *per cents* during the year 2005-06 to 2007-08. The year wise position of the units to be audited and those actually audited have been brought out below:

Year	Number of units to be audited	Number of units actually audited	Units in arrear	Arrear in *per cent*
2005-06	623	596	27	4.33
2006-07	623	582	41	6.58
2007-08	623	586	37	5.94

Source: Information furnished by Director, Local Fund Audit

- Based on information furnished (June 2008) by Director, Local Fund Audit, position of para settled and para lying outstanding at the end of March 2008 was as under:-

Name of units	Number of paras up to 2007-08	Number of para settled during 2007-08 (per cent in bracket)	Number of paras outstanding at end of the year
Nagar Nigams	21543	06(0.03)	21537
Nagar Palika Parishads	148112	859(0.58)	147253
Nagar Panchayats	137627	2206(1.60)	135421
Total	307282	3071(1.00)	304211

Source: Information furnished by Director, Local Fund Audit

The position of paras settled was very poor as only one *per cent* of the paras were settled during 2007-08 due to ULBs' reluctance in submission of the compliance reports.

- Director, Local Fund Audit, in terms of section 8(3) of Uttar Pradesh Local Fund Audit Act, 1984 was required to prepare a consolidated audit report on the accounts of ULBs and submit it to the Government for placing it before the Legislative Assembly. It was noticed that while such annual audit report was not prepared since 2004-05 for no reason given, reports up to the year 2001-02 was only placed before the Legislative Assembly.

1.12 Position of entrustment of audit/Technical Guidance and Supervision to Comptroller and Auditor General of India

- The EFC recommended exercising of Technical Guidance and Supervision (TGS) over the proper maintenance of accounts of ULBs and their audit by the Comptroller & Auditor General under section 20(1) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971. The Government entrusted the audit of local bodies to the Comptroller and Auditor General of India in October 2001.
- Audit of seven Nagar Nigams, 39 Nagar Palika Parishads and 60 Nagar Panchayats for the year 2006-07 was conducted during 2007-08 and 1297 paragraphs on poor financial management and financial irregularities resulting into infructuous and excess expenditures, diversion of funds and loss of revenue etc were communicated to the Head of the Office of the concerned auditee unit, Director Local Bodies and Director, Local Fund Audit. However, the compliance of these paragraphs was awaited.

1.13 Other points

Recommendation of the State Finance Commission

Second State Finance Commission, constituted in February 2000 for the period 2001-2006, made 107 recommendations mainly on the issues relating to transfer of fixed shares of the net proceeds of the State to ULBs, formation of District Planning Committees (DPCs) to improve their resources through license fee etc and to implement e-governance and computerization in ULBs etc. The DPCs were also to approve the district development plan as a whole prepared by the ULBs for each financial year.

It was observed that Government accepted *in toto* 74 recommendations, partially 12 and did not accept remaining 21 which mainly related to imposing of property tax in rural areas, revision of rates of land revenue and enhancing income of PRIs through licenses etc.

1.14 Conclusion

Thus, Government, on one hand, did not devolve 7.5 *per cent* of the proceeds of Tax Revenue to the ULBs in terms of the recommendations of the Second State Finance Commission and on the other, funds made available to them were underutilized leading to accumulation of huge amounts of fund depriving thereby the people of the areas under their jurisdiction the basic civic amenities. The financial data were also not reliable as neither the data base was developed nor data of fund utilization compiled at the state level. The status of the assets and liabilities of the ULBs were also not available due to non maintenance of accounts in the prescribed formats.

1.15 Recommendations

- Government should take effective steps to develop database on finances of the ULBs for making need based assessment of their requirements at the Government level.
- The Government should adopt the norms prescribed by the Second Finance Commission for devolution of funds to the ULBs.
- Government should ensure that the Comptroller & Auditor General of India's standard Budget/Account formats are adopted by the ULBs.
- The ULBs should be made accountable towards the primary audit by the Director, Local Fund Audit and responsive to the Audit Inspection Reports prepared under the technical guidance and supervision of the Comptroller and Auditor General of India.