

CHAPTER I

ORGANISATION, DEVOLUTION AND ACCOUNTABILITY FRAMEWORK OF LOCAL SELF GOVERNMENT INSTITUTIONS

1.1 Introduction

The Seventy third and Seventy fourth amendments of Constitution of India gave constitutional status to the Local Self Government Institutions (LSGIs). The constitutional amendments established a system of uniform structure, regular election, regular flow of funds etc. After the 73rd and 74th constitutional amendments, the State Legislature passed the Kerala Panchayat Raj Act, 1994 (KPR Act) and the Kerala Municipality Act, 1994 (KM Act) to enable the LSGIs to work as third tier of Government. The State has also identified and amended other related laws to empower LSGIs. As a follow-up, the State was required to entrust these local bodies with such powers, functions and responsibilities as to enable them to function as Institutions of Self Government. In particular, the LSGIs were required to prepare plans and implement schemes for economic development and social justice including those included in the Eleventh Schedule of the Constitution.

1.2 State profile

The comparative demographic and developmental picture of the State is given in **Table 1.1**. Kerala's rate of population growth is India's lowest and Kerala's decadal growth (9.4 per cent in 2001) is less than half the all-India average of 21.3 per cent. Women compose 51.42 per cent of the population. Kerala has the highest literacy rate (90.86 per cent) among Indian states and life expectancy (73 years) is among the highest in India. The service sector along with the agricultural and fishing industries dominate Kerala's economy.

Table 1.1 : Important statistics of the State

SI No.	Indicator	Unit	State value	National value
1	Population	Crone	3.18	102.87
2	Population density	Sq Km	819	313
3	Urban population	Per cent	26	Not available
4	GSDP from primary sector	Per cent	14.47	20.01
5	Gender ratio	Females per 1000 males	1058	933
6	Population below poverty line	Per cent	15	27.5
7	Literacy	Per cent	90.86	64.84
8	Birth rate	1000 population	14.7	23.1
9	Infant mortality rate	1000 population	12	55
10	Unemployment rate	Per cent	13.7	Not available
11	Gross State Domestic Product	₹ in crore	189840.82	--

Source: Economic Survey 2010-11, Planning Commission

1.3 Size of LSGIs

As on 31 March 2010, there were 1223 LSGIs in the State. The details of the area, population etc., are presented in **Table 1.2**.

Table 1.2 : Comparative position of Local Bodies

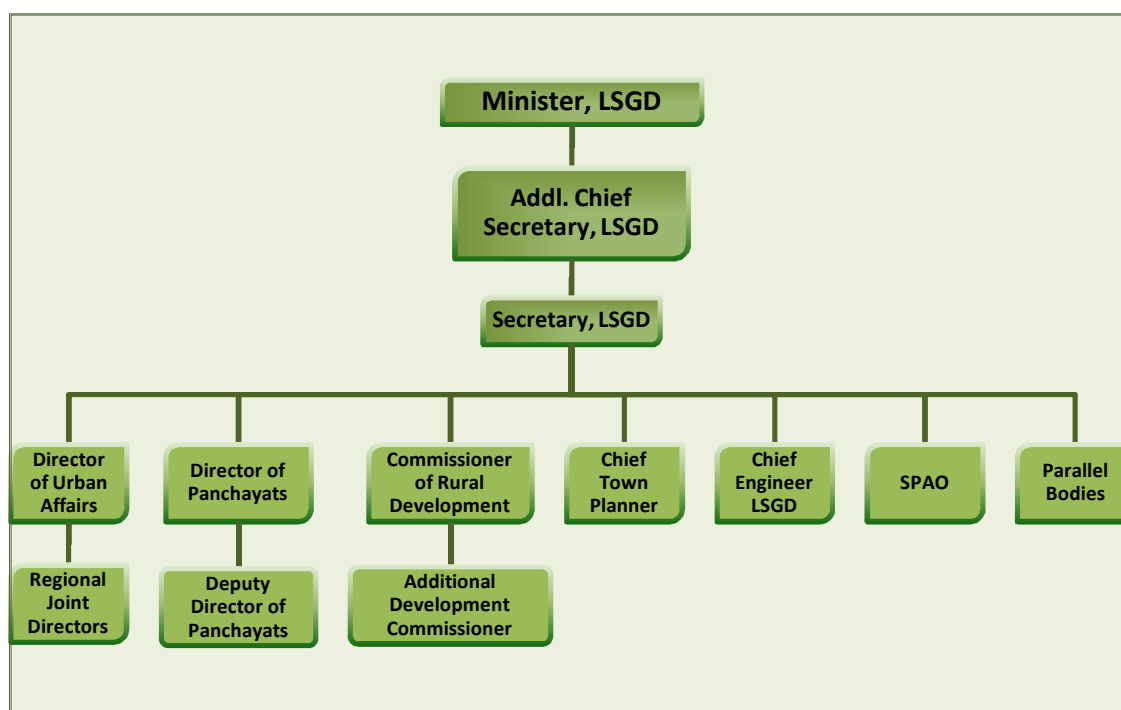
Level of LSGIs	No.	Average area per LSGI (Sq Km)	Average population per LSGI
District Panchayat	14	26.51	1903357
Block Panchayat	152	244.24	175309
Grama Panchayat	999	37.16	26674
Municipal Corporation	5	95.60	491240
Municipality	53	23.65	51664

1.4 Organisational set up in State Government and LSGIs

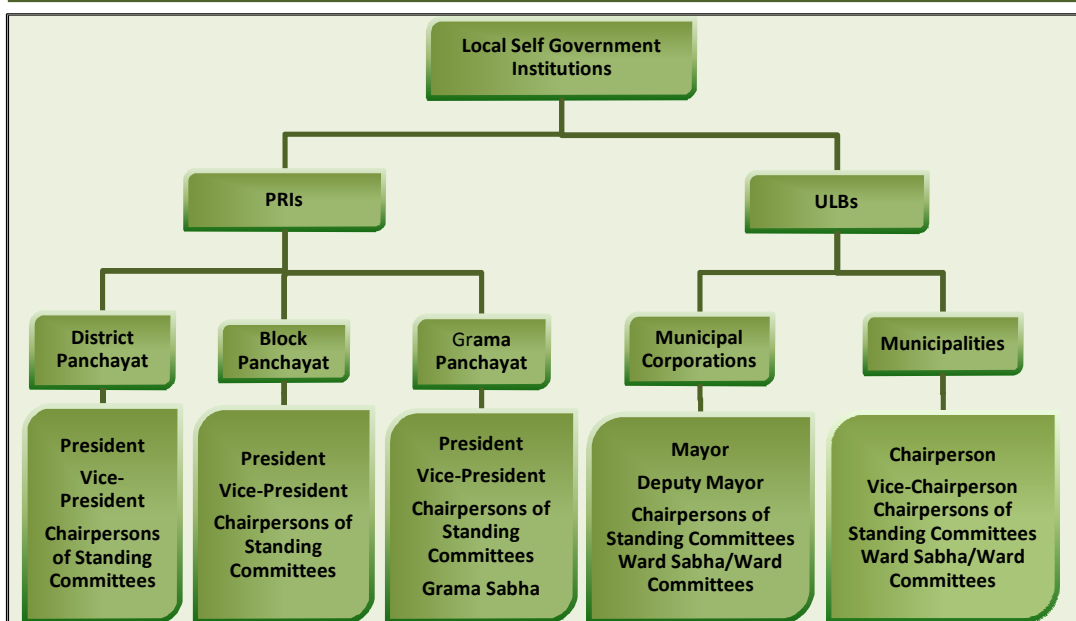
LSGIs constituted in rural and non-rural areas are referred to as Panchayat Raj Institutions (PRIs) and Urban Local Bodies (ULBs) respectively. In the three-tier Panchayat Raj system in the State, each tier functions independently of each other. The Government in the Local Self Government Department (LSGD) is empowered to issue general guidelines to the LSGIs in accordance with the National and State policies in matters such as finance, maintenance of accounts, office management, formulation of schemes, selection of sites and beneficiaries, proper functioning of Grama Sabha, welfare programmes and environmental regulations and the LSGIs have to comply with such directions. Government also conducts periodical performance audit in respect of the administration of the LSGIs. **Chart 1.1** depicts the organisational set up in the LSGD and LSGIs to execute the functions of the Government and that of the LSGIs.

Chart 1.1 : Organisation chart of LSGD and LSGIs

State Level



LSGIs Level



The members of each tier of the Panchayats elect the President, Vice President and Chairpersons of the Standing Committees. Similarly, Councillors of the Municipality/Municipal Corporation elect the Chairperson/Mayor, Vice Chairperson/Deputy Mayor and Chairpersons of the Standing Committees. The President/Chairperson/Mayor is the Executive Head of the LSGIs. Each LSGI has a Secretary who is the Executive Officer. While the Secretaries of LSGIs and employees of PRIs are Government servants, the employees of ULBs are Municipal staff.

1.4.1 Standing Committees

To execute the various functions of the LSGIs, Standing Committees have been constituted. The Committees in each type of the LSGI are given in **Table 1.3**.

Table 1.3 : Standing Committees in LSGIs

Level	Chief Political Executive	Standing Committees	Political Executive	Chief Executive Officer
Grama Panchayat	President	Standing Committee on Finance Standing Committee on Development Standing Committee on Welfare	Chairpersons of Standing Committees (Elected among the members of GP, BP, DP, Municipality and Municipal Corporation)	Secretary
Block Panchayat				
District Panchayat	President	Standing Committee on Finance Standing Committee on Development Standing Committee on Welfare		
Municipality	Chairperson	Standing Committee on Health Education Standing Committee on Works		
Municipal Corporation	Mayor	Standing Committee on Finance Standing Committee on Development Standing Committee on Welfare Standing Committee on Health Education Standing Committee on Works Standing Committee on Town Planning Standing Committee on Appeal relating to tax		

The roles and responsibilities of Standing Committee are given in **Appendix I**.

1.5 Decentralised Planning

1.5.1 Status of transfer of functions and functionaries

Under KPR Act and KM Act it shall be the duty of the LSGIs to meet the requirements of the area of their jurisdiction in respect of the matters enumerated in the respective Schedules of the Acts and the LSGIs shall have the exclusive power to administer the matters enumerated in the Schedules and to prepare and implement schemes relating thereto for economic development and social justice.

The Acts envisaged transfer of functions of various Departments of the State Government to the LSGIs together with the staff to carry out the functions transferred. The transfer of functions to different tiers of Panchayat was to be done in such a way that none of the functions transferred to a particular tier overlapped with that of the other as detailed in activity mapping.

The State Government has transferred (September 1995) 26 functions to the PRIs and 17 functions to the ULBs. The services of the related officers were also transferred to the LSGIs. The functions relating to minor forest produce, distribution of electricity and implementation of land reforms though listed in the XI Schedule of the Constitution and mandated under KPR Act for transfer to the PRIs, were not transferred. Besides legally transferred subjects and activities, PRIs also undertake agency functions on behalf of both Central and State Governments to implement development programmes.

1.5.2 District Planning Committees

In pursuance of Article 243ZD of the Constitution of India and Section 53 of KM Act, the State Government has constituted District Planning Committee (DPC) in each District. The procedure to be followed in the meeting of the Committee is governed by the Kerala District Planning Committee (Election of members and proceedings of meeting) Rules, 1995. The tenure of DPC is five years. The Committee consists of 15 members of whom:

- 12 members are from among the elected members of the Panchayats at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;
- President of the District Panchayat in that district;
- the District Collector;
- one person having considerable experience in the administration of planning nominated by the Government.

The members of the House of the people and members of the Legislative Assembly of the State, representing any area comprised in a district are permanent invitees to the DPC. A member of the Council of States (Rajya Sabha) representing the State is a permanent invitee to the DPC of the district in which he is registered as elector in the electoral roll of any Municipality or Panchayat. A member nominated to the Legislative Assembly of the State is a permanent invitee to the DPC of the district in which he ordinarily resides.

The President of the District Panchayat is the Chairman and the District Collector is the Secretary of the DPC.

The functions of the DPC include scrutiny and approval of annual plans of LSGIs, consolidation of plans prepared by LSGIs and preparation of draft development plan for the district. The DPC is to monitor the quantitative and qualitative progress, especially its physical and financial achievements in the implementation of the approved district plan schemes and State plan relating to the district and is to evaluate the action programmes already completed. The Government, while preparing the State plan consider the proposals and priority included in the draft development plans prepared for each district by the DPC. The DPCs had not forwarded the development plans to State Government for integration with the State plan.

1.6 Accountability Framework

1.6.1 Internal control system at the level of LSGIs

The internal control system at the level of each LSGI has been designed by State Government through KPR Act, KM Act, Kerala Panchayat Raj (Manner of Inspection and Audit System) Rules, 1997 and Kerala Municipality (Manner of Inspection and Audit System) Rules, 1997, application of State Government’s own rules and policies relating to finance, budget, personnel matters. The significant provisions are given in **Table 1.4**.

Table 1.4 : Rules and Policies relating to finance, budget, personnel matters

Provision	Authority	Applicability to LSGI	Gist of the provision
Accounts	Section 215 of KPR Act Sections 294 & 295 of KM Act	PRIs ULBs	The Panchayats and the Municipalities shall maintain such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts.
Reporting of loss due to fraud, theft or negligence	Article 297 of Kerala Financial Code	PRIs & ULBs	When any fact indicating that defalcation or loss of public moneys, stamps, stores or other property has occurred come to the notice of the Government servant he should inform the head of office immediately. The head of office should send a preliminary report immediately to the Accountant General and to the Head of the Department.
Asset register	Kerala Panchayat Accounts Rules, 1965 and Government order issued in December 2005 Kerala Municipal Accounts Manual	PRIs ULBs	A record shall be maintained for the movable and immovable fixed assets. The Panchayat and the Municipality shall have a system of conducting physical verification of fixed assets at least once in a year.
Works manual	KPR (Execution of Public Works) Rules, 1997 KM (Execution of Public Works and purchase of materials) Rules, 1997	PRIs ULBs	<ul style="list-style-type: none"> • Procedure for execution of public works • Power of various authorities to give administrative sanction • Fixing of rates for preparation of estimates • Preparation of plan and estimates • Invitation of tender • Execution of works directly by LSGIs and through beneficiary committees • Control and supervision • Purchase of materials

Provision	Authority	Applicability to LSGI	Gist of the provision
Budget	Section 214 of KPR Act, 1994 Section 293 of KM Act, 1994	PRIs ULBs	Budget proposals shall be prepared by the respective standing committees before 15 January every year and shall be submitted to the Standing Committee for Finance (SCF). The SCF shall prepare a budget for the ensuing year and present the same not later than the first week of March before the Panchayat/ Municipality for approval.
Internal audit	Rule 3 of KPR (Manner of Inspection and Audit System) Act, 1997 Rule 3 of KM (Manner of Inspection and Audit System) Act, 1997	PRIs ULBs	There shall be a Performance Audit Authority at the State Level for conducting performance audit. State Performance Audit Officer shall assist the Performance Audit Authority. The Regional Performance Audit Officers shall conduct performance audit once in three months in the LSGIs.
Inspection	Section 188A of KPR Act, 1994 Section 56(i) of KM Act, 1994	PRIs ULBs	Government or any officer empowered by Government may inspect any office under the control of any Panchayat/ Municipality.
External Audit	Section 215(3) of KPR Act, 1994 Section 295(3) of KM Act, 1994	PRIs ULBs	Director of Local Fund Audit shall be the auditor of Panchayats/ Municipalities.
Ombudsman	Section 271F to R of KPR Act	PRIs and ULBs	There shall be an authority for LSGIs at State Level known as 'Ombudsman' for making investigations and enquiries in respect of charges on any action involving corruption or maladministration or irregularities in the discharge of administrative functions by LSGIs and public servants working under them.
Citizen charter	Section 272A of KPR Act, KPR (Preparation of citizen charter) Rules, 2004 Section 256A of KM Act, KM (Preparation of citizen charter) Rules, 2000	PRIs ULBs	Every Panchayat/ Municipality shall formulate and publish citizen charter regarding the different categories of services rendered to the citizens by the Panchayat/Municipality. Citizen charter shall be renewed and updated periodically at least once in a year.
Right to Information	Section 271A to E of KPR Act Section 517 A to E of KM Act	PRIs ULBs	Every person bona fide requiring any information shall have the right to get such information from the Panchayat/ Municipality in accordance with the procedure prescribed.

1.6.2 Authority and Responsibility of State Government on LSGIs

In accordance with KPR Act and KM Act, the State Government exercises its powers in relation to LSGIs as detailed in **Table 1.5**.

Table 1.5 : Powers of State Government over LSGIs

Act/Rule/Authority	Powers exercised by Government
Section 254 of KPR Act & Section 565 of KM Act	Power to frame rules Government may, by notification in Gazette, make rules to carry out all or any purpose of KPR Act and KM Act subject to approval by the State Legislature.
Section 193 of KPR Act & Section 64 of KM Act	Power to dissolve LSGIs Government shall by notification in the gazette dissolve the LSGIs, if the LSGIs fail to pass the budget of the LSGIs for the succeeding financial year before the end of the financial year which causes financial crisis. Government may dissolve LSGIs if the Government is of the opinion that the LSGIs persistently make default in performing the duties imposed on it by law.
Section 191 of KPR Act & Section 57 of KM Act	Power to cancel and suspend a resolution or decision taken by LSGIs Government may cancel a resolution or decision taken by LSGIs if Government is of the opinion that it is not legally passed or in excess of the power conferred by KPR Act /KM Act / any other law or likely to endanger human life, health, public safety or communal harmony or in violation of directions issued by Government.
Sections 179,180 & 181 of KPR Act and Sections 48 & 227 of KM Act	Power of appointment, cadre control, transfer etc The Secretaries of LSGIs and the employees of the PRIs are Government servants. The Government shall regulate the classification, method of recruitment, conditions of service, pay and allowance, discipline and conduct of the Secretaries of the LSGIs. Government may at any time transfer the Secretary from a LSGI. The Government shall lend the service of Government officers and employees of the Panchayat as may be necessary for the implementation of any scheme, project or plan assigned to the Panchayat. An appeal against any order of the Panchayat imposing any minor penalty on any officer or employee shall lie with Government.
Sections 189 of KPR Act & 58 of KM Act	Power to issue guidelines and to conduct enquiry Government shall have the power to issue general guidelines to the LSGIs in matters such as finance, maintenance of accounts, formulation of schemes, proper functioning of Grama Sabha, selection of sites and beneficiaries, etc. If there is any default in the implementation of the schemes or maintenance of accounts or complaint is received in the matter Government may arrange enquiry into the matter and the Panchayat shall co-operate with such enquiry.

The KPR Act and KM Act entrust the State Government with the following powers so that it can monitor the proper functioning of the LSGIs.

- Call for any record, register, plan, estimate, information from the LSGIs;
- Inspect any office or any record or any document of the LSGIs;
- Arrange periodical performance audit of the administration of the Panchayat;
- Inspect the works and development schemes implemented by LSGIs;
- Take action for default by a Panchayat President or Secretary.

In addition, the KPR Act and KM Act, *inter alia*, empower the Secretary, LSGD who is the State Performance Audit Authority (SPAA) at the State level with the following powers:

- Rectification of defects and pointing out mistakes after inspecting the accounts, money transactions, office functioning and public works of the Panchayat;
- To give necessary instructions to the Panchayats to take follow up actions on the performance audit report;

- To ensure that the performance audit teams are conducting tri-monthly performance audit in all Panchayats.

Further, the Secretary of a Panchayat may adopt the following procedure to assist the State Government in preventing passing of illegal resolutions:

- When the Secretary is of the opinion that a resolution passed by the Panchayat has not been legally passed or passed in excess of the powers conferred by the Act, request the Panchayat, in writing, to review its decision;
- After discussion of the subject, if the Panchayat resolves to uphold its earlier decision, the Secretary shall forward the Panchayat resolution and his opinion thereon to the Government for its decision;
- The Secretary shall inform the President any direction received from the Government and shall take further action in accordance with the said direction.

Despite the above mentioned duties and powers vested in the Government for the enhancement of quality of public service and governance, Audit noticed numerous lapses / defects in the implementation of schemes, matters relating to finance, selection of beneficiaries etc., as mentioned in Chapters III and IV of this Report.

1.6.3 Role of Central Government as sanctioning authority

The Central Government transfers funds to local bodies under devolved grants on the recommendation of Finance Commission and development grants directly or through state budget. Both the grants enjoin upon sanctioning authorities in Central Government the responsibility to ensure proper utilisation of grant money. This is achieved through receipt of progress reports, Utilisation Certificates and internal audit of scheme accounts in local bodies by the Internal Auditors of line ministries. Each sanction of grant should contain certain conditions of grant-in-aid mentioned in General Financial Rules, 2005.

1.7 Vigilance mechanism

1.7.1 Ombudsman for LSGIs

As envisaged in the KPR Act and KM Act, an ombudsman for LSGIs was set up in the State in May 2000. The ombudsman is a high powered quasi judicial body functioning at the State level. A former judge of High Court is appointed as ombudsman. The ombudsman can conduct investigations and enquiries into instances of maladministration, corruption, favouritism, nepotism, lack of integrity, excessive action, inaction, abuse of position, etc., on the part of officials and elected representatives of LSGIs. He can even register cases suo moto if instances of the above kind come to his notice. During the period 2008-09, out of 3181 pending cases (including 1136 old cases), 1412 cases were disposed by the ombudsman.

1.7.2 Tribunal for LSGIs

As envisaged in the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994, a judicial tribunal for LSGIs was set up in the State in February, 2004 with a District Judge as the Tribunal to consider appeals by

citizens against decisions of PRIs taken in exercise of their regulatory functions like issue of licences, grant of permits etc.

1.8 Role of State Performance Audit Authority

The Additional Chief Secretary to Government in LSGD is the Performance Audit Authority at the State Level for conducting the performance audit. The State Performance Audit Officer assists the Performance Audit Authority. The performance audit teams constituted under Regional Performance Audit Officers conduct performance audit in the Municipalities and PRIs. The Performance Audit Authority shall submit annual reports to the Government which contain common defects in the assessment of tax and the fluctuation in the collection of tax of LSGIs, details regarding mobilisation of more resources, approximate figure of liability of LSGIs and progress regarding refund thereof, problems connected with the Panchayat/ Municipal administration to which Government may draw attention and remedies thereof.

1.9 Quality control systems in financial attest audit by DLFA

Director of Local Fund Audit (DLFA) is the Statutory Auditor of LSGIs as per Kerala Local Fund Audit Act, 1994, KPR Act and KM Act. Apart from LSGIs, other local funds such as Universities, Devaswom Boards, Religious and charitable institutions are also audited by DLFA. The Local Fund Audit Department under the State Finance Department is headed by a Director and has District offices in all the districts headed by Deputy Directors. DLFA shall maintain a continuous audit of the accounts of LSGIs and shall send a report to the LSGIs concerned and a copy thereof to Government. DLFA shall specify in the report all cases of irregular, illegal or improper expenditure or of failure to recover money or other property due to the LSGIs. The Acts empower the DLFA to disallow any illegal payment and surcharge the person making or authorising such payment. DLFA can also charge any person responsible for the loss or deficiency of any sum which ought to have been received. DLFA has adopted the auditing standards for Local Bodies prescribed by Comptroller and Auditor General of India (CAG). The guidelines issued by CAG for financial attest audit have been accepted by the DLFA. However no manual for the financial attest audit has been framed by DLFA.

1.10 Role of Comptroller and Auditor General of India

CAG conducts audit of substantially financed local bodies under section 14 (1) of CAG's (DPC) Act 1971 and audit of specific grants to local bodies under section 15 of the Act *ibid* in the office of sanctioning authority. The nature of audit by CAG is systems audit, performance audit and assessment of internal control system. The attestation of accounts is entrusted to DLFA. The State Government has entrusted technical guidance and support role of DLFA (Primary External Auditor) to CAG in October 2002 under section 20(1) of CAG's (DPC) Act 1971 for a period of five years. Government extended (December 2007) the scheme of Technical guidance and support for a further period of five years from April 2008.