CHAPTER III

Compliance to the provisions of the Seventy-fourth Constitutional Amendment Act

CHAPTER III

Compliance to the provisions of the Seventy-fourth Constitutional Amendment Act

Articles 243Q to 243ZG, introduced by the 74th CAA, enjoined the State to make provisions in the State Acts, to enable the ULBs to perform as local self-governments, with devolved functions. The State Government enacted the West Bengal Municipal Act, 1993, on 31 May 1994 and repealed the then existing Bengal Municipal Act, 1932. The Kolkata Municipal Corporation Act, 1980 and Howrah Municipal Act, 1980, were already in force. The West Bengal Municipal Corporation Act, 2006, governing the Corporations (except for *Kolkata* and *Howrah*), came into force on 29 May 2008 and replaced the Siliguri Municipal Corporation Act, 1990, the Asansol Municipal Corporation Act, 1990, the Chandernagore Municipal Corporation Act, 1990 and the Durgapur Municipal Corporation Act, 1994.

This Chapter presents the comparison of State level legislations with the provisions of the 74th CAA, empowerment of ULBs by the State Acts and compliance with provisions of 74th CAA. Audit observed that, although provisions were made in the State Acts to devolve the 18 functions enshrined in the 12th Schedule, ULBs had been accorded sole responsibility in only one function and had overlapping/minimum roles in most of the functions, with no role in one function. Extension of the tenure of the Administrators/Board of Administrators, delays in holding municipal elections, non-formation of Ward Committees, Standing Committees and Municipal Accounts Committees, non-formation and non-functioning of District Planning Committees (DPC), delays in constitution of State Finance Commissions (SFC), non-preparation and non-submission of Annual Financial Statements of ULBs and non-conduct of internal audits, were also observed. Audit could not analyse present status of the Kolkata Metropolitan Planning Committee (KMPC) and the role of parastatals, due to non-availability of information from the respective departments/ authorities.

3.1 Comparison of State level legislations with the provisions of the Seventy-fourth Constitutional Amendment Act

Article 243W of the Constitution (Seventy-fourth Amendment) Act, 1992, authorised the State Legislatures to enact laws to endow local bodies with powers and authority, as may be necessary to enable them to function as institutions of self-government and make provisions for devolution of powers and responsibilities, with respect to preparation of plans for economic development and social justice. A comparison of the State Acts, with the provisions under the 74th CAA, is given in **Table 3.1.**

Table 3.1: Comparison of State level legislations with the provisions of the 74th CAA

Provision of Constitution of India	Requirement as per the Constitution	Provision of State Act/Acts
Article 243Q	**Constitution of Municipalities:** provides for constitution of three types of Municipalities, namely Nagar Panchayats for transitional areas, Municipal Councils for smaller urban areas and Municipal Corporations for larger urban areas.	**Municipal Corporations:** • Section 2(21) and Sections 3 to 5 of the KMC Act • Section 2(6) and Sections 3 to 5 of the HMC Act • Section 2(18), Sections 3 to 10 of the WBMC Act **Municipalities:** • Section 2(38A) and Sections 3 to 13 of the WBM Act **Notified Area Authorities (NAAs) (Nagar Panchayats):** • Section 2(41A) and Sections 378, 379 and 381 of the WBM Act **In terms of Section 3 of the West Bengal Municipal Act, 1993, the State Government has the power to determine separate conditions, to constitute any area of the hill areas, as a municipal area.**
Article 243R	**Composition of Municipalities:** all the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration nominated by Government. The Legislature of a State may, by law, provide for representation to the Municipality of, Members of Parliament and Legislative Assembly, whose constituencies lie within the municipal area and Members of the Council of States and State Legislative Council, who are registered as electors within the city.	**Municipal Corporations:** • Sections 5 and 50 of the KMC Act • Sections 5 and 30 of the HMC Act • Sections 10 to 12 of the WBMC Act **Municipalities and NAAs:** • Sections 13, 26 and 28 of the WBM Act The provisions of the State Acts do not explicitly provide for representation for the Members of Parliament and Legislative Assembly, whose constituencies lie within the municipal area and Members of the Council of State and State Legislative Council, who are registered as electors within the city. However, Section 13 of the KMC Act, dealing with the remuneration of the Mayor, indicates that the Mayor can simultaneously hold the post of either a Member of Legislative Assembly or a Member of any House of Parliament.
Article 243S	**Constitution and composition of Wards Committee**: provides for constitution of Wards Committees in all municipalities with a population of three lakh or more.	**Municipal Corporations:** • Section 11A of the KMC Act • Section 11A of the HMC Act • Section 23 of the WBMC Act **Municipalities and NAAs:** • Section 23 of the WBM Act
Article 243T	**Reservation of seats:** seats to be reserved for Scheduled Castes (SC)/Scheduled Tribes (ST), women and Backward classes, for direct election.	Section 29 of the West Bengal Municipal Elections (WBME) Act, 1994, and the West Bengal Municipal Elections (Reservation of Seats) Rules, 1994, relating to election to the Municipalities and Municipal Corporations, including KMC, provide for the same.

Provision of Constitution of India	Requirement as per the Constitution	Provision of State Act/Acts
Article 243U	**Duration of Municipalities:** municipalities have a fixed tenure of five years from the date of their first meeting and re-elections are to be held within six months of the end of tenure.	**Municipal Corporations:** • Section 81 of the KMC Act • Sections 5 and 40 of the HMC Act • Sections 11 and 13 of the WBMC Act **Municipalities and NAAs:** • Sections 14 and 21A of the WBM Act As per the provisions of Section 5(4) of the HMC Act, Section 11(4) of the WBMC Act and Section 14(4) of the WBM Act, if it is not possible to hold general elections before expiry of the period of five years, the Board of Councillors shall stand dissolved on the expiry of the said period and all the powers or functions, vested with the municipal authorities, shall be performed, by person/persons appointed *vide* notification by the State Government, who are to be designated as the Administrator or Board of Administrators.
Article 243V	**Disqualifications for membership:** a Person shall be disqualified for a member of a Municipality- • If he is so disqualified by any law in force for the purposes of elections of the Legislature of the State concerned. • If he is so disqualified by or under any law made by the Legislature of the State.	**Municipal Corporations:** • Sections 61 and 61A of the KMC Act • Section 40A of the HMC Act • Section 14 of the WBMC Act **Municipalities and NAAs:** • Section 21B of the WBM Act Further, Sections 30 to 35 of the WBME Act, 1994, detail the terms for disqualification of membership.
Article 243W	**Powers, authority and responsibilities of the Municipalities:** all municipalities would be empowered with such powers as may be necessary to enable them to function as effective institutions of self-government and to carry out the responsibilities in relation to the 12th Schedule.	**Municipal Corporations:** • Sections 29, 30, 210B, 445 and Chapters XIX, XX, XXA, XXII, XXIIIA, XXIV, XXVII, XXVIII of the KMC Act • Sections 87, 226A and Chapters X, XIA, XIIA, XIII, XIV, XVIII of the HMC Act • Sections 96S, 96T, 97, 98, 244, 257, 332, 333, 402, 402A and Chapters XI, XIII, XV, XVI, XVIII, XX of the WBMC Act **Municipalities and NAAs:** • Sections 63, 64, 95B, 167, 194, 297 and Chapters XXIV, XXIVA, XVI, XVII, XVIII, XVIIIA, XIX, XXIII of the WBM Act (The Sections and Chapters relating to discharge of functions, as delineated in the 12th Schedule and as provided in **Paragraph 3.2** and **Table 3.2**)

Provision of Constitution of India	Requirement as per the Constitution	Provision of State Act/Acts
Article 243X	**Power to impose taxes by, and funds of the Municipalities:** • Municipalities are to be empowered to levy and collect taxes, fees, duties *etc.*, • Constitution of funds, for crediting and withdrawal of moneys by the Municipality. • Grants-in-aid are to be given to Municipalities from the State.	❑ **Power to levy and collect taxes, fees, duties *etc.*** **Municipal Corporations:** • Sections 131, 170, 199, 204, 210, 210A, 210B, 211, 212, 213, 217, 234, 237, 239, 248, 265, 307, 331, 355, 392, 393, 400, 430, 450C, 469, 499, 521, 543 and 610 of the KMC Act • Sections 60, 87, 87A, 88, 88B, 102 and 220 of the HMC Act • Sections 69, 102, 103, 104, 105, 106, 107, 109, 111, 113, 133, 141, 310 and 384 of the WBMC Act **Municipalities and NAAs:** • Sections 93, 94, 94A, 95, 95A, 95B, 97, 100, 117, 118, 276 and 440 of the WBM Act ❑ **Constitution of funds for crediting and withdrawal of moneys by the Municipality** **Municipal Corporations:** • Sections 119 and 124 of the KMC Act • Sections 55 and 56 of the HMC Act • Sections 62 and 63 of the WBMC Act **Municipalities and NAAs:** • Sections 67 and 69 of the WBM Act ❑ **Grants-in-aid to the Municipalities from the State** **Municipal Corporations:** • Sections 120, 121, 122, 123, 123A, 123B of the KMC Act • Section 60A of the HMC Act • Section 70 of the WBMC Act **Municipalities and NAAs:** • Section 71 of the WBM Act
Article 243Y	**Finance Commission:** State Government shall constitute Finance Commission for: • Reviewing the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies. • Determination of the taxes, fees, tolls and duties that are assigned to or appropriated by the Municipalities and distributing, between the State and the Municipalities, the net proceeds thereof, as charged by the State Government. • Allotting funds to the Municipal bodies in the State, from the Consolidated Fund of the State.	Section 123B of the KMC Act, Section 55A of the HMC Act, Section 62A of the WBMC Act and 70A of the WBM Act, provide for creation of a separate fund, namely, the Non-lapsable Basic Services for Urban Poor Fund in ULBs, for delivery of basic services to urban poor and for allocating funds from the State Finance Commission therein. **Provisions regarding review of financial position of the ULBs, taking steps that help in boosting the financial condition, determination of the taxes, fees, tolls and duties that are assigned to or appropriated by the ULBs and distributing the net proceeds thereof between the State and the ULBs, allocation of funds to ULBs from the Consolidated Fund of State, are not included in the State Acts related to governance of ULBs**.

Provision of Constitution of India	Requirement as per the Constitution	Provision of State Act/Acts
Article 243Z	**Audit of accounts of Municipalities:** Provision for maintenance of accounts by the Municipalities and the auditing of such accounts.	❒ **Maintenance of Accounts** **Municipal Corporations:** • Section 155 of the KMC Act and Section 73 of the HMC Act, deal with keeping of accounts of all financial transactions, in such manner and form, as the State Government may prescribe. • Section 83 of the WBMC Act states that the accounts of the Corporation is to be kept by Finance Officer. **Municipalities and NAAs:** • Section 84 of the WBM Act ❒ **Audit** **Municipal Corporations:** • Sections 156 to 159 of the KMC Act deal with audit of accounts by the Chief Municipal Auditor of the Corporation (*i.e.* Internal Audit). Section 160 of the Act *ibid* deals with audit of the accounts by the State Government or by auditor appointed by the State Government. • Sections 74 to 76 of the HMC Act deal with audit of accounts by the Chief Auditor of the Corporation (*i.e.* Internal Audit). Section 77 of the Act *ibid* deals with audit of the accounts by the auditor appointed by the State Government. • Sections 84 to 86 of the WBMC Act deal with audit of accounts by the Chief Auditor of the Corporation (*i.e.* Internal Audit). Section 87 of the Act *ibid* deals with audit of the accounts by the auditor appointed by the State Government. **Municipalities and NAAs:** • In terms of Section 86 of the WBM Act, the accounts of the ULBs may be audited by the auditor appointed by the State Government.
Article 243ZA read with Article 243K	**Elections to the Municipalities:** the superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC).	**Municipal Corporations:** • Section 50 of the KMC Act • Section 30 of the HMC Act • Section 12 of the WBMC Act **Municipalities and NAAs:** • Section 28 of the WBM Act
Article 243 ZD	**Committee for District Planning:** • Constitution of District Planning Committee at the district level. • Composition of District Planning Committee. • Preparation of draft development plan and forwarding to the Government.	**Municipal Corporations:** • Section 239 of the HMC Act • Section 333 of the WBMC Act **Municipalities and NAAs:** • Section 297 of the WBM Act There is no provision for preparation of a draft development plan in the KMC Act. Provision for constitution of the West Bengal District Planning Committee is contained in District Planning Committee Act, 1994.

Provision of Constitution of India	Requirement as per the Constitution	Provision of State Act/Acts
Article 243ZE	**Committee for Metropolitan Planning:** provision for constitution of a Metropolitan Planning Committee (MPC), in every Metropolitan area with a population of 10 lakh or more.	• Section 3 of the West Bengal Metropolitan Planning Committee Act, 1994, deals with the constitution, composition and functioning of the Metropolitan Planning Committee (MPC). • Section 239 of the HMC Act also refers to preparation of a draft plan, in consultation with District Planning Committee or Metropolitan Planning Committee, as the case may be.

(Source: provisions of the Acts)

The above table indicates that, barring areas relating to provisions of State Finance Commission and Central Finance Commission, reservation of seats and constitution of Metropolitan Planning Committees, the enacted statutes complied with the provisions of the 74th CAA. Provisions relating to reservation of seats and constitution of Metropolitan Planning Committees, were covered in separate Acts/Rules[12] enacted by the Government of West Bengal. Provisions regarding State Finance Commissions and Central Finance Commissions were not covered in any Acts, although an Act, namely the West Bengal Finance Commission (Miscellaneous Provisions) Act, 2011, came into effect from January 2012, pertaining to the powers, composition, requisite qualification of members, manner of selection *etc.*, of the State Finance Commissions.

3.2 Empowerment of Urban Local Bodies and their functioning

The 74th CAA sought to empower ULBs to perform functions and implement schemes, in relation to the 18 subjects specified in the 12th Schedule. The State was expected to enact legislation, to implement the Amendment.

Audit observed, however, that the legal provisions were not backed by decisive actions, in particular, with regard to provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, as discussed subsequently in this Report.

Audit also observed several overlaps in discharge of functions between the ULBs and parastatals/Government departments. The State Government, through Amendments, had transferred 17 functions, out of the 18 specified functions, to the ULBs (the only function not covered was Fire Services).

The function-wise role of the ULBs is depicted in **Table 3.2.**

[12] *The West Bengal Municipal Elections (WBME) Act, 1994, along with the West Bengal Municipal Elections (Reservation of Seats) Rules, 1994 and West Bengal Metropolitan Planning Committee Act, 1994.*

Table 3.2: Actual status of devolution of functions

<table>
<tr><th>Sl. No.</th><th>Functions</th><th>Activities</th><th>Status of devolution</th><th>Act provisions</th></tr>
<tr><td colspan="5">Functions where the ULBs have full jurisdiction</td></tr>
<tr><td rowspan="3">1</td><td rowspan="3">Vital statistics, including registration of birth and deaths</td><td>Coordinating with hospitals/ crematoriums etc., for obtaining information</td><td rowspan="3">The ULBs have full powers in exercise of all these functions.</td><td rowspan="3">• Chapter XXVII of the KMC Act, 1980
• Chapter XVIII of the HMC Act, 1980
• Chapter XX of the WBMC Act, 2006
• Chapter XXIII of the WBM Act, 1993</td></tr>
<tr><td>Maintaining and updating database</td></tr>
<tr><td>Issue of birth & death certificates</td></tr>
<tr><td colspan="5">Functions where the ULBs have dual role/overlapping jurisdiction</td></tr>
<tr><td rowspan="3">1</td><td rowspan="3">Regulation of slaughterhouses and tanneries</td><td>Ensuring quality of animals and meat</td><td>ULBs have overlapping role with the State Government in this activity.</td><td rowspan="3">• Chapter XXIV of the KMC Act, 1980
• Chapter XIV of the HMC Act, 1980
• Chapter XVIII of the WBMC Act, 2006
• Chapter XVIII of the WBM Act, 1993
• West Bengal Meat Control Order, 1966</td></tr>
<tr><td>Disposal of waste</td><td rowspan="2">ULBs have full powers in the exercise of all these functions.</td></tr>
<tr><td>Operation and maintenance of slaughterhouses</td></tr>
<tr><td rowspan="5">2</td><td rowspan="5">Urban planning, including town planning</td><td>Formulation of Master Plans/ Development Plans/ Zonal Plans</td><td>ULBs have an overlapping jurisdiction in devising development plans, in co-ordination with the Development Authorities.</td><td rowspan="5">• Section 29 of the KMC Act, 1980
• Section 226A(b) (i) of the HMC Act, 1980
• Section 97(3) of the WBMC Act, 2006
• Section 63(3) and Chapter XXVA of the WBM Act, 1993
• Section 13(1)(ii)(f) of the West Bengal Town and Country (Planning and Development) [WBT&C (P&D)] Act, 1979</td></tr>
<tr><td>Enforcing master planning regulations</td><td>Master planning regulations are prepared and enforced by the Development Authorities. ULBs have no role in areas where Development Authorities exist. Where there are no Development Authorities, this function is devolved to the ULBs.</td></tr>
<tr><td>Enforcing building bye-laws and licenses</td><td>ULBs have a shared role in enforcing building bye-laws and licenses, alongside the Development Authorities.</td></tr>
<tr><td>Group housing scheme</td><td>ULBs have a shared role with the development authorities and the concerned State Government Department (Housing), in this area of activity.</td></tr>
<tr><td>Development of industrial areas</td><td>Development of industrial areas is to be carried out by the Development Authorities; ULBs have no assigned role in this area.</td></tr>
</table>

Sl. No.	Functions	Activities	Status of devolution	Act provisions
3	Roads and bridges	Construction and maintenance of roads	ULBs have a dual role in this function, along with PWD and an overlapping role with the Development Authorities.	• Section 29(e) of the KMC Act, 1980 • Section 226A(b) (iv) of the HMC Act, 1980 • Sections 97(1) and 244 of the WBMC Act, 2006 • Sections 63(1) and 167 of the WBM Act, 1993 • WBT&C (P&D) Act, 1979 • Statutes of formation and functioning of various Development Authorities
		Construction and maintenance of bridges, drains, flyovers and footpaths		
4	Public amenities, including street lighting, parking lots, bus stops and public conveniences	Installation and maintenance of streetlights	ULBs have an overlapping role, with the Development Authorities and other State Government agencies.	• Section 29(e) and (f) of the KMC Act, 1980 • Section 226A(b) (xvi) of the HMC Act, 1980 • Sections 97(1) and 257 of the WBMC Act, 2006 • Sections 63(1), 167 and 194 of the WBM Act, 1993 • WBT&C (P&D) Act, 1979 • Statutes of formation and functioning of various Development Authorities
		Construction and maintenance of parking lots	ULBs have an overlapping role, with the Development Authorities, in this activity.	
		Construction and maintenance of public toilets	ULBs have an overlapping role in this function, with the Development Authorities	
		Deciding and operating bus routes	ULBs have no role in deciding and operating bus routes. This role is vested in the Transport Department of the State Government.	
5	Planning for land-use and construction of buildings	Regulating land use	Although empowered by the respective Acts in this regard, ULBs have practically no role in this area. Regulation of land use is dealt by the Development Authorities, in their respective jurisdictions. In ULBs outside the jurisdiction of any Development Authority, regulation of land use remains largely untouched.	• Section 29 of the KMC Act, 1980 • Section 226A(b) (ii) of the HMC Act, 1980 • Section 97(3) of the WBMC Act, 2006 • Section 63(3) of the WBM Act, 1993 • Sections 13 and 53 of the WBT&C (P&D) Act, 1979 • Rule 53 of the West Bengal Municipal (Building) Rules, 2007 • KMC Building Rules, 2009
		Approving building plans/high rises	ULBs, except KMC, have full powers in sanctioning of plans of buildings having height up to 14.50 meters. In case of buildings above this height, permission is to be obtained from the Municipal Engineering Directorate (MED), Government of West Bengal. KMC has full power in sanctioning building plans upto any height.	
		Demolishing illegal buildings.	ULBs have a shared role with the Development Authorities, in exercising these powers.	

Sl. No.	Functions	Activities	Status of devolution	Act provisions
6	Water supply for domestic, industrial and commercial purposes	Treatment of water	ULBs have an overlapping role in this function, with the Development Authorities and the Public Health Engineering Department (PHED), Govertment of West Bengal.	• Section 29, Chapter XVII of the KMC Act, 1980 • Chapter X of the HMC Act, 1980 • Section 97(1) and (3), Chapter XI of the WBMC Act, 2006 • Section 63(1) and (3), Chapter XV of the WBM Act, 1993 • Chapters VII and VIII of the WBT&C (P&D) Act, 1979
		Distribution of water		
		Storage of water		
		Providing water connection		
		Operation and maintenance		
		Collection of charges	ULBs have full powers in this area of activity.	
7	Public health, sanitation, conservancy and solid waste management	Maintenance of hospitals, dispensaries	ULBs have full powers in these areas, subject to observance of directives issued by regulatory agencies and competent authorities within the Central and State Government, in this regard.	• Sections 30, 210B and Chapters XIX, XX of the KMC Act, 1980 • Clause (h) of Section 87(1), Chapters X, XIV of the HMC Act, 1980 • Sections 97(2), 98(3), 105 and Chapters XI, XVI of the WBMC Act, 2006 • Sections 63(2), 64(3), 95B and Chapters XVI, XVII of the WBM Act, 1993 • Chapters VII and VIII of the WBT&C (P&D) Act, 1979 • NUHM Guidelines of Government of India, as well as guidelines issued by the Department of Health & Family Welfare, Government of West Bengal • **Provisions relating to legacy waste removal, basic service delivery and construction of household latrines, were not found in the Acts.**
		Immunization/ vaccination		
		Cleaning and disinfection of localities	ULBs have full powers in this area of activity.	
		Construction and O&M of SWM Treatment Plants	ULBs have an overlapping role in this function, with the Development Authorities, particularly KMDA and MED.	
		Legacy waste removal		
		Basic service delivery	ULBs have full powers in this area of activity.	
		Conservancy charge collection		
		Sewerage and drainage	ULBs have an overlapping role in this function, with the Development Authorities, particularly KMDA and Public Health Engineering Department (PHED), Govertment of West Bengal.	
		Construction of household latrines	ULBs have full powers in this area of activity.	
8	Urban forestry, protection of the environment and promotion of ecological aspects	Forestation and plantation	ULBs have an overlapping role in this function, along with the Forest Department, Govertment of West Bengal and Development Authorities.	• Section 29 of the KMC Act, 1980 • Sections 97(1) and 98(5) of the WBMC Act, 2006 • Sections 63(1) and 64(5) of the WBM Act, 1993 • Chapter VII and VIII of the WBT&C (P&D) Act, 1979 • The WB Trees (Protection & Conservation in Non-Forest Areas) Act, 2006 • **Provisions for protection of the environment and promotion of ecological aspects, were not found in the Acts.**
		Awareness campaign		
		Protection of the environment and promotion of ecological aspects		
		Maintenance of natural resources, like water bodies *etc*.		

Sl. No.	Functions	Activities	Status of devolution	Act provisions
9	Provision of urban amenities and facilities, such as parks, gardens, playgrounds *etc*.	Construction and O&M of parks and gardens	ULBs have an overlapping role in this function, with the Development Authorities, as well as Railways and various departments of the State Government.	• Section 29(o) of the KMC Act, 1980 • Section 226A (b) (xi) of the HMC Act, 1980 • Section 63(3) of the WBM Act, 1993 • Section 97(3) of the WBMC Act, 2006 • Chapters VII and VIII of the WBT&C (P&D) Act, 1979
10	Planning for economic and social development	Policies for social development	ULBs have a dual role in planning for economic and social development, along with the State Government.	• Section 226A (b) (iii) of the HMC Act, 1980 • Sec 333 of the WBMC Act, 2006 • Section 297 of the WBM Act, 1993 • **There is no provision for planning for economic and social development in KMC Act, 1980.**
11	Slum improvement and upgradation	Identifying beneficiaries Affordable housing Upgradation	ULBs have overlapping roles, with the Development Authorities, in the exercise of all these functions.	• Section 445 of the KMC Act, 1980 • Chapter XIII of the HMC Act, 1980 • Chapter XV of the WBMC Act, 2006 • Chapter XIX of the WBM Act, 1993 • WB Slum Areas (Improvement & Clearance) Act, 1972
12	Burial and burial grounds, cremations, cremation grounds and electric crematoriums	Construction and O&M of crematoriums and burial grounds and electric crematoriums	ULBs have shared roles with development authorities, in the exercise of all these functions. The Calcutta Burial Boards Act, 1881, vests the control and management of all Government Burial grounds, within Kolkata and its suburbs, on the Calcutta Burial Boards.	• Chapter XXVIII of the KMC Act, 1980 • Section 226A(b) (xiii) of the HMC Act, 1980 • Section 332 of the WBMC Act, 2006 • Chapter XXIV of the WBM Act, 1993 • Chapters VII and VIII of the WBT&C (P&D) Act, 1979 • Provisions of the Calcutta Burial Boards Act, 1881
13	Cattle pounds; preventing cruelty to animals	Catching and keeping strays Sterilizations and anti-rabies treatment Ensuring animal safety	ULBs have shared roles with State Government in the exercise of all these functions.	• Section 30(i), Chapter XXXI of the KMC Act, 1980 • Section 226A(b) (xiv) of the HMC Act, 1980 • Sections 96S, 96T and 98(3) of the WBMC Act, 2006 • Section 64(3), Chapter XXI of the WBM Act, 1993 • Section 35 of the Prevention of Cruelty to Animals Act, 1960

<table>
<tr><th>Sl. No.</th><th>Functions</th><th>Activities</th><th>Status of devolution</th><th>Act provisions</th></tr>
<tr><td rowspan="3">14</td><td rowspan="3">Urban poverty alleviation</td><td>Identifying beneficiaries</td><td rowspan="2">ULBs have dual role in this area of activity, being the executing agency in identification of beneficiaries, based on criteria set by the Central and the State Governments.

They also have a shared role with SUDA, West Bengal, in implementation of livelihood and employment generation programs of the State and Central Governments.</td><td rowspan="3">• Section 30 of the KMC Act, 1980
• Section 226A(b) (x) of the HMC Act, 1980
• Section 98(7) of the WBMC Act, 2006
• Section 64(5) of the WBM Act, 1993
• WB Urban Street Vendors (Protection of livelihood and regulation of street vending) Rules, 2018
• Scheme guidelines issued by the State and Central Governments, relating to various schemes</td></tr>
<tr><td>Livelihood and employment</td></tr>
<tr><td>Street vendors welfare</td><td>ULBs have full powers in exercise of this activity.</td></tr>
<tr><td>15</td><td>Promotion of cultural, educational and aesthetic aspects</td><td>Schools and education</td><td>As per municipal laws, except for KMC, the role of the ULBs is limited to maintaining and running pre-primary schools, civic education, adult education, social education, non-formal education etc. The KMC Act empowers KMC to establish, maintain and give aid to primary schools. Further, the UD&MA Department also implemented the Sishu Siksha Prakalpa (SSP), for providing primary education, in urban areas, through the Sishu Shiksha Kendras (SSKs), under the control of ULBs. Some ULBs have also been running primary schools historically, from the pre-independence era.

However, the primary schools in the State are under the control of the District Primary School Councils (DPSC), constituted as per the West Bengal Primary Education Act, 1973, and are under the control of Department of School Education, Government of West Bengal.

Thus, ULBs have an overlapping role with the Department of School Education, in the sphere of primary education and running primary schools.</td><td>• Section 30 of the KMC Act, 1980
• Section 226A(b) (xii) of the HMC Act, 1980
• Section 98(2) of the WBMC Act, 2006
• Section 64(2) of the WBM Act, 1993
• West Bengal Primary Education Act, 1973</td></tr>
</table>

Sl. No.	Functions	Activities	Status of devolution	Act provisions
		Fairs and festivals	ULBs have been devolved with the discretionary function of organisation and management of fairs.	• Section 30(f) of the KMC Act, 1980 • Section 226A(b) (xii) of the HMC Act, 1980 • Section 98(4) of the WBMC Act, 2006 • Section 64(4) of the WBM Act, 1993
		Cultural buildings/ institutions Heritage	ULBs have a dual role in this area, along with the West Bengal Heritage Commission.	• Chapter XXIIIA of the KMC Act, 1980 • Chapter XIIA of the HMC Act, 1980 • Sections 402 and 402A of the WBMC Act, 2006 • Chapter XIVA of the WBM Act, 1993 • West Bengal Heritage Commission Act, 2001
		Public space beautification	ULBs have an overlapping role in this function, along with the Development Authorities.	• Chapter XXI of the KMC Act, 1980 • Section 226A(b) (xi) of the HMC Act, 1980 • Section 97(3) of the WBMC Act, 2006 • Section 63(3) of the WBM Act, 1993 • Chapter VII and VIII of the WBT&C (P&D) Act, 1979
Functions where the ULBs have minimum/partial role or act as implementing agencies				
1	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded	Identifying beneficiaries Providing tools/ benefits Housing programs Scholarships	ULBs act merely as implementing agencies for some of the related Central and State Government schemes. They have a limited role in identifying beneficiaries, subject to approval of the State Government and providing benefits. Identification of beneficiaries, providing benefits *etc.*, are executed by other Departments as well.	• Section 30 of the KMC Act, 1980 • Section 226A(b) (viii) of the HMC Act, 1980 • Section 98(1) of the WBMC Act, 2006 • Section 64(1) of the WBM Act, 1993 • Scheme guidelines issued by the State and Central Governments, relating to various social welfare schemes
Functions where the ULBs have no role				
1	Fire Services	Establishing and maintaining fire brigades	This function has not been devolved to ULBs and is vested with the West Bengal Fire Services Department.	• Chapter XXA of the KMC Act, 1980 • Chapter XIA of the HMC Act, 1980 • Chapter XIII of the WBMC Act, 2006 • Chapter XVIIIA of the WBM Act, 1993 • WB Fire Services Act, 1950
		Issuing of fire safety certificates, in regard to high-rise buildings	Though empowered by respective Acts for issuing fire safety certificates, in practice, the West Bengal Fire Services Department, rather than ULBs, perform this activity.	

(Source: provisions of the Acts and information furnished by the UD&MAD)

It is evident from the **Table 3.2** that out of 18 functions, ULBs were solely responsible for one function; had minimum role or acted as implementing agencies in one function; had no role in one function and in respect of the fifteen functions, had dual role/overlapping jurisdiction with other departments/ parastatals.

Further, it is observed from **Table 3.2** that the State Government had not fully devolved functions, relating to land-use, to ULBs. The KMDA and other development authorities play a major role in these functions, thereby restricting the autonomy of ULBs. It is evident that the State Government did not completely devolve 17 out of the 18 functions to ULBs even after lapse of 27 years since the constitutional amendment came into effect which undermines the spirit of 74th CAA.

Recommendation:

1. **Government may ensure that the 17 functions that have been either partially devolved or not devolved at all, may be handed over to the ULBs, to the maximum extent possible on priority.**

3.3 Overriding powers of the State Government over the ULBs

Audit observed that the State Government had overriding powers over ULBs, which was against the provisions of the 74th CAA. A few such provisions are indicated in **Table 3.3**.

Table 3.3: Overriding powers of the State Government over the ULBs

Sl. No.	Subject	Provisions
1.	Power to determine the number of Wards in Municipal Areas	As per Section 7 of the WBMC Act and Section 8 of the WBM Act, the State Government has the sole authority to determine the number of Wards in ULBs, without obtaining the views of the concerned ULBs.
2.	Power to frame Rules	As per Section 600 of the KMC Act, Section 215 of the HMC Act, Section 361 of the WBMC Act and Section 417 of the WBM Act, the State Government is unilaterally empowered to make rules for the functioning of the ULBs, without consulting the latter in this regard.
3.	Decision with respect to doubts as to powers, duties or functions of the Municipal authorities	According to the provisions of Section 609 of the KMC Act, Section 29 of the HMC Act, Section 48 of the WBMC Act and Section 424 of the WBM Act, in case of any doubt with respect to any particular power, duty, function or rule pertaining to the Municipal authorities, the decision of the State Government thereon shall be final.
4.	Power to sanction and modify bye-laws/regulations of ULBs, by the State Government	As per the provisions of Section 604 of the KMC Act, Section 362 of the WBMC Act and Section 420 of the WBM Act, any regulation made by the ULBs shall not have any validity, unless and until it is approved by the State Government. Section 604 of the KMC Act and Section 362 of the WBMC Act also empower the State Government to modify regulations, without the concurrence of the ULBs. The HMC Act does not have any such provision.
5.	Power to cancel or modify bye-laws/regulations of ULBs by the State Government	Section 605 of the KMC Act, Section 218 of the HMC Act, Section 364 of the WBMC Act and Section 421 of the WBM Act, empower the State Government to modify or cancel by-laws/regulations. These sections also provide scope for representation by the ULBs, but the State Government is the ultimate authority to cancel or modify the regulation, either wholly or partially.

Sl. No.	Subject	Provisions
6.	Power to annul proceedings and to prohibit passing of orders by the ULBs	As per the provisions of Section 370 of the WBMC Act and Section 429 of the WBM Act, the State Government is empowered to annul any proceedings or resolution or order of the ULB, if they think that such proceedings are not in conformity with the provisions of law.
7.	Power to dissolve the ULBs	Section 117 of the KMC Act, Section 53 of the HMC Act, Section 60 of the WBMC Act and Section 431 of the WBM Act, empower the State Government to dissolve the elected board of the civic body, on grounds of incompetence, persistence default in discharge of duties or abuse of powers.
8.	Sanction to deposit and invest surplus funds	As per the provisions of Section 55 of the HMC Act, Section 62 of the WBMC Act and Section 68 of the WBM Act, the ULBs may invest money, not required for immediate use, in securities or in fixed deposits, with prior approval of and under direction from, the State Government. As per Section 130 of the KMC Act, surplus moneys, standing at the credit of any of the accounts of the Municipal Fund, cannot be transferred permanently by the Corporation, in whole or in part, from one account to another, without prior approval of the State Government. Money which is not transferred, may be invested in public securities or small savings accounts schemes, approved by the State Government.
9.	Sanction to borrow money	As per the provisions of Section 134 of the KMC Act, Section 61 of the HMC Act, Section 71 of the WBMC Act and Section 72 of the WBM Act, the ULBs may raise loans from any public financial institution, nationalised banks or any other lending institution. However, no such loans can be raised without the prior approval of the State Government. Further, the State Government may require the ULBs to observe financial discipline in the matter of debt servicing, including creation of sinking funds for repayment of loans.
10.	Approval of the State Government in case of estimated cost of works or purchases above certain limits	As per the provisions of Section 57A of the HMC Act, Section 66 of the WBMC Act, approval of the State Government is required to be obtained, if the estimated cost of purchases or works exceeds ₹ one crore. Similarly, in terms of Section 73A of the WBM Act, such approval is required in case of Municipalities, if the estimated value exceeds ₹ forty-five lakh.
11.	Lease/Sale of properties	As per the provisions of Section 80 of the WBM Act, prior approval of the State Government is necessary, to let out on hire, grant lease of, or sell or transfer, any immovable property belonging to the Municipality, but not required for carrying out the purposes of this Act, for valuable consideration.
12.	Improvement schemes for *bustee* or slums	As per provisions contained in Section 530 of the KMC Act, Section 185 of the HMC Act, Section 297 of the WBMC Act and Section 287 of the WBM Act, improvement schemes, for the purpose of effecting environmental or general improvement of *bustees* or slums, require the approval of the State Government.

(Source: respective Acts)

3.4 Institutional mechanism for empowerment of ULBs

As stated above, the State Government had transferred 17 functions to the ULBs. The discharge of these functions can be effective only when appropriate institutions are established and adequately empowered. The 74th CAA provided for the establishment of such institutional mechanisms, as can be seen from **Table 3.1**. This Para discusses the effectiveness of such institutional mechanisms.

3.4.1 State Election Commission

As per Article 243ZA(1) of 74th CAA, the powers of the State Election Commission (SEC) include superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to Municipalities.

In line with the provisions of the Constitution, Section 5 of the West Bengal State Election Commission (WBSEC) Act, 1994, also vests the same responsibilities on the West Bengal State Election Commission (WBSEC). Section 50 of the KMC Act, Section 12 of the WBMC Act, and Section 28 of the WBM Act, also contain similar provisions.

The West Bengal Municipal Elections (WBME) Act, 1994, came into effect in July 1994, to consolidate and amend laws relating to the holding of elections to the Municipalities in West Bengal. Audit observed that, in terms of the provisions contained in the WBME Act, 1994, WBSEC had been entrusted with powers for delimiting Municipal areas into Wards; preparation and revision of electoral rolls; reservation of seats for the Scheduled Castes, Scheduled Tribes and women; qualification and disqualifications from membership of a Municipality; and holding general elections.

As per Section 36(3) of the WBME Act, 1994, read along with Section 8 of the West Bengal State Election Commission (WBSEC) Act, 1994, the State Government, in consultation with the Commission, is to fix the date or dates, on which, and the hours during which, the polls would be conducted.

These provisions indicate that the State Election Commission can decide upon the dates of holding of General Elections, to any Municipality or Municipal Corporation, on the expiry of its duration, only with the consent of the State Government.

3.4.2 Reservation of seats

Section 29 of the West Bengal Municipal Elections Act, 1994 and the West Bengal Municipal Elections (Reservation of Seats) Rules, 1994, provide for reservation of seats for persons belonging to Scheduled Castes (SC) and Scheduled Tribes (ST), in the same proportion to the total number of seats to be filled by direct election to the ULB, as the population of the SCs or of the STs in the Municipal area, bears to the total population of that Municipal area. The Section and Rule, *ibid,* also provide for reservation of not less than one-third of the seats earmarked for SCs and STs, as well as of the total number of seats of the ULBs, for women.

As per reply furnished (May 2023) by the West Bengal State Election Commission, required number of seats for SC, ST and women were reserved in the last municipal elections held in 2015-16 and 2017-18.

3.4.3 Holding of elections of ULBs and formation of Boards

As per Section 81 of the KMC Act, Sections 5(3) and 40 of the HMC Act, Sections 11(2) and 13 of the WBMC Act and Sections 14(2) and 21A of the WBM Act, the duration of holding office of elected Councillors/Board of Councillors, is five years from the date of the first meeting after the general election and subsequent elections are to be conducted, by the State Election Commission, before the expiry period of five years. Further, as per provisions[13] contained in the HMC, WBMC and WBM Acts, if it is not possible to hold the general elections before the expiry of the period of five years, the Board of Councillors

[13] *Section 5(4) of the HMC Act, Section 11(4) of the WBMC Act and Section 14(4) of the WBM Act.*

shall stand dissolved on the expiration of the five years period. Section 117 of the KMC Act, Section 53 of the HMC Act, Section 60 of the WBMC Act and Section 431 of the WBM Act, also empower the State Government to dissolve the ULBs, in case of incompetence shown or persistent default in performing their duties/exercise of functions or in case of abuse of or exceeding their powers. Following dissolution, all the powers or functions, vested with the municipal authorities, are to be exercised by persons appointed by the State Government (in case of KMC) or the Administrator/Board of Administrators appointed by the State Government (in case of other ULBs). The provisions of the Acts *ibid* also mandate to hold general elections within six months of dissolution of ULBs for constitution of a new Board, thereby limiting the period of dissolution and tenure of the Administrator or Board of Administrators, to six months.

Article 243U of the Constitution and the respective Acts mandate holding of general elections within six months of the dissolution of the concerned ULBs, for constitution of a new Board, thereby limiting the period of dissolution and tenure of Administrator or Board of Administrators, to six months.

Audit observed that -

(i) During 2019-20, the State Government amended the HMC, WBMC and WBM Acts[14], by inserting the provision that, if it is not possible to hold the election before the expiry of the period of six months, the State Government may, by notification, extend the term of such Administrator or Board of Administrators, for a further period not exceeding twelve months. This is a contravention of Article 243U, which clearly states that the Municipality should have a fixed tenure of five years from the date of its first meeting and re-election to be held within six months of the end of tenure and it undermines the spirit of democratic decentralisation.

(ii) Between August 2018 and December 2018, 16 ULBs were dissolved and, between February 2020 and October 2020, 93 ULBs were dissolved, due to expiry of the tenures of their existing Boards out of which 91 ULBs were dissolved for more than six months, as on March 2021. On 18 June 2019, the *Darjeeling* Municipality was dissolved by the State Government, following Section 431 of the WBM Act. The *Chandernagore* Municipal Corporation was also dissolved by the State Government, following Section 60 of the WBMC Act, on 24 August 2018. As on 31 March 2021, elections had not been conducted in any of the ULBs, to constitute the new Boards. Instead, the municipal functions and administrations were being run by Administrators or Board of Administrators, appointed by the State Government, from time to time. Delays in holding elections and tenures of the Administrators/Board of Administrators, in 125 ULBs, are given in **Table 3.4.**

[14] *Amendment to Section 53, by the Howrah Municipal Corporation (Amendment) Act, 2019 dated 30 July 2019; amendment to Section 60, by the West Bengal Municipal Corporation (Amendment) Act, 2006 dated 30 July 2019; and amendment to Section 431, by the West Bengal Municipal (Amendment) Act, 2019 dated 7 January 2020.*

Table 3.4: Delays in holding elections in ULBs, as on 31 March 2021

Delay	6 months to 10 months	10 months to 11 months	13 months to 14 months	21 months to 22 months	27 months to 28 months	28 months to 29 months	29 months to 30 months	31 months to 32 months	Total
Number of ULBs#	3	87	1	1	4	1	11	1	109

(Source: data furnished by UD&MAD)

 # In 13 ULBs[15], the validity of the existing Boards did not expire and in two ULBs period of dissolution of ULBs did not exceed six months, as on 31 March 2021, hence, elections were not due. Election in HMC could not be held due to administrative reasons[16].

The municipal election in KMC was held in December 2021 and in the remaining 108 ULBs in February 2022, with a further delay of 10 months, in addition to the delays shown in **Table 3.4** above, in holding municipal elections from the date of dissolutions and date of elections.

The State Government (February 2021) stated that the elections were not held due to the pandemic. The reply, however, does not justify the delays in holding elections in 18 ULBs, including the *Darjeeling* Municipality and the *Chandernagore* Municipal Corporation, where the tenure of the elected Boards had expired between August 2018 and June 2019.

In the absence of elected councils, the involvement of elected representatives in decision making and implementation, was missing.

Further, the Central Finance Commissions (CFCs) have recommended of holding regular elections as a pre-condition for receipt of grants. However, during audit it was found that delays in holding elections in 109 ULBs ranged from six to 32 months. Thus, non/delayed holding of elections may result in the ULBs being rendered ineligible for the CFC grants.

Recommendation:

2. **Government may ensure that elections for the ULBs are held in a timely manner, in consultation with the State Election Commission.**

3.4.4 Composition of Municipalities/Corporations

Article 243R of the Constitution stipulates the composition of Municipalities. Section 3 of the KMC Act, Section 5 of the HMC Act, Section 9 of the WBMC Act and Section 12 of the WBM Act, state that the municipal authorities would consist of the Corporation/Municipalities, the Mayor-in-Council (in case of Corporations)/the Chairman-in-Council (in case of Municipalities and NAAs) and the Mayor/Chairman.

As per Section 5 of the KMC Act, Section 5 of the HMC Act, Section 10 of the WBMC Act and Section 13 of the WBM Act, the Corporations and Municipalities

[15] *Buniyadpur, Coopers' Camp NAA, Dhupguri, Domkal, Durgapur MC, Haldia, Kalimpong, Kurseong, Mirik NAA, Nalhati, Panskura, Pujali and Raiganj.*

[16] *The demerger of Bally Municipality, from Howrah Municipal Corporation, is subjudice, in the Hon'ble Kolkata High Court, after issue of notification regarding the demerger, by the State Government.*

consist of elected Members, as well as Members with special knowledge or experience of municipal administration, nominated by the State Government, in accordance with Article 243R of 74th CAA. The nominated Members do not have voting power. However, the said Acts do not contain provisions with respect to the nomination of Members of the Legislative Assembly, Members of the Legislative Council, Members of the Lok Sabha, Members of the Rajya Sabha, representing the constituencies which comprise wholly or partly the Municipal area, as members of the Municipalities/Corporations.

Thus, the representation of elected peoples' representatives in Municipalities/ Corporations, was not as per the prescribed norms.

3.4.5 Chairman/Mayor

Article 243R (2)(b) of the Constitution stipulates that the State Legislature may, by law, provide the manner of election of the Chairperson of the Municipality.

Audit observed that provisions contained in the Municipal/Municipal Corporation Acts[17], provide for selection of the Mayor/Chairman by the elected Councillors, from among themselves. Except for the KMC Act, the Acts also empower the State Government to elect a Mayor/Chairman from among the elected Members, if the elected Members (Councillors) of the ULB fail to elect a Mayor and/or a Chairman.

In case of Corporations, the respective Acts also provide for election of a Chairman (distinct from the Chairman of a Municipality or NAA), who convenes the meetings of the Corporation, presides over the meetings (except for the first meeting) and to whom the Councillors tender resignation in writing[18].

The Mayor/Chairman should be a whole-time functionary. However, as per Section 13 of the KMC Act and Section 28 of the WBMC Act, it is implicit that the Mayor may hold the post of either a Member of Legislative Assembly or a Member of any House of the Parliament, simultaneously. The Mayor presides over the meeting of Mayor-in-Council, presents the budget, allots business among members of the Mayor-in-Council *etc*. In case of Municipalities[19], the Chairman presides over the meeting of Chairman-in-Council, allocates business among members of the Chairman-in-Council *etc.*

The Model Municipal Law, 2003, circulated by the Ministry of Urban Development (MoUD), Government of India (GoI), provides that the term of office of the Mayor/President shall be coterminus with the duration of the Municipality and the executive powers of the Municipality shall be exercised by the Mayor-in-Council/Chairman-in-Council.

Audit observed that the tenure of the Mayor/Chairman is coterminus with the Councillors, *i.e.*, five years[20]. Audit also observed that, in terms of Section 33

---

[17] *Section 6 of the KMC Act, Section 8 of the HMC Act, Section 17 of the WBMC Act and Section 17 of the WBM Act.*

[18] *Sections 81, 94 and 98 of the KMC Act; Sections 40, 44 and 48 of the HMC Act; Sections 13, 50 and 55 of the WBMC Act.*

[19] *In terms of Section 16 of the WBM Act.*

[20] *As per Section 7 of the KMC Act, Section 9 of the HMC Act, Section 18 of the WBMC Act and Section 18 of the WBM Act.*

of the KMC Act, Section 22 of the HMC Act, Section 41 of the WBMC Act and Section 15 of the WBM Act, the executive powers of the ULBs have been vested in the Mayor-in-Council/Chairman-in-Council. Section 16 of the WBM Act envisages the Chairman as being the executive head of the Municipality/ NAA and vests the municipal administration under his control.

3.4.6 Ward Committees

Article 243S of the Constitution provides for Ward Committees in all Municipalities with a population of three lakh or more.

Section 11A of the KMC and HMC Acts, as well as Section 23 of the WBMC and WBM Acts, mandate the formation of Ward Committee, in each Ward of the ULBs, irrespective of the population of the ULBs. The Sections *ibid* also state that the Councillor, elected from a Ward, shall be the Chairperson of the Ward Committee for that Ward. They also prescribe the composition and function of the committee.

The Ward Committees are to consist of: (i) elected Councillors from the Wards and (ii) local residents, nominated by the Councillor and the Municipality. The term of Ward Committees is co-terminus with the council. The Ward Committees, subject to general supervision of the Borough Committee or the Municipality, are to supervise and monitor the detection of violations of various provisions of the WBM Act, execution of various obligatory and discretionary functions of the concerned ULBs, work of assessment, collection of property tax, other taxes and sums, planning and execution of development schemes for the Ward, maintenance of public utilities, safeguarding of the assets of the Municipality, redressal of public grievances *etc.*

Thus, the Ward Committees are required to act as a bridge between the municipal government and citizens and to provide a space for citizen participation in local level planning. They are expected to perform duties such as preparation and submission of Ward development schemes for allotment of funds, ensuring proper utilisation of allotted funds, maintenance of public utilities and safeguarding the assets of the ULBs.

Audit, however, observed that, out of the 27 test-checked ULBs, Ward Committees had been formed in 12[21] ULBs, had not been formed in 12 ULBs, while data regarding formation of Ward Committees was not furnished by three ULBs[22]. Non-formation of Ward Committees defeated the objective of facilitating community participation in local governance. The ULBs did not furnish any reason for non-formation of Ward Committees. The absence of community participation is expected to adversely impact the prioritisation of development works, and also lead to non-monitoring of the execution of schemes and utilisation of the assets created.

---

[21] *ULBs where Ward Committees were formed with latest period of formation: Bansberia (in 2015-16), Barasat (in 2017-18), Habra (in 2013-14), Jhalda (in 2015-16), Kaliyaganj (in 2015-16), Kharagpur (in 2017-18), Midnapore (in 2013-14), Panihati (date not furnished), Pujali (in 2017-18), Raiganj (in 2017-18), Ramjibonpur (in 2015-16) and Siliguri MC (in 2015-16 and 2016-17).*

[22] *ULBs where Ward Committees were not formed: Bongaon, Contai, Coochbehar, Gobardanga, Jiaganj-Azimganj, Kalna, Katwa, Kolkata MC, Mal, Suri, Tufanganj and Uttarpara-Kotrung. ULBs which did not furnish data: Asansol MC, Barrackpore and Konnagar.*

Recommendation:

3. **Ward Committees may be constituted, as per the Acts, so that the ground level priorities of citizens are factored into the decisions of the ULBs.**

3.4.7 District Planning Committee and Metropolitan Planning Committee

➢ **District Planning Committee (DPC)**

Article 243ZD of the Constitution provides for constitution of District Planning Committees (DPCs), for consolidation of plans prepared by the Panchayats and the Municipalities in a district and to prepare a draft development plan for the district.

Accordingly, the State Government enacted the West Bengal District Planning Committee (DPC) Act, 1994 and the West Bengal District Planning Committee (DPC) Rules, 1994. The Act extends to the whole of West Bengal, except for the KMC area and areas covered under the provisions of the Darjeeling Gorkha Hill Council Act, 1988. In terms of Section 3 of the Act, DPCs were to be constituted in all districts, while, for *Siliguri*, a Sub-division Planning Committee was to be constituted.

The main function of the DPC is to consolidate the plans of Panchayats/ ULBs in the district and prepare a draft development plan, for approval of the Government.

The West Bengal DPC Rules stipulates the formation of an Urban Development Sub-Committee, District Planning and Co-ordination Sub-committee and other sub-committees, to assist the DPCs in preparation of their draft development plans. The functions of the Urban Development Sub-Committees, *inter alia*, include examination and integration of plans drawn up by different ULBs of the districts, consideration of issues relating to water supply, solid waste management, disposal of sewage *etc*. The functions of the District Planning and Co-ordination Sub-Committees, *inter alia*, include preparation of the draft development plans of the concerned districts, with regard to the matters of common interest between the ULBs and the Panchayats, formulation of plans for integrated infrastructure, like water supply, disposal of solid waste and sewerage *etc*.

The status of formation of DPCs pertinent to test-checked ULBs is discussed in **Table 3.5.**

Table 3.5: Status of formation of DPCs

Sl. No.	District	ULBs under the districts	Status of DPC
1.	Birbhum	Suri	The DPC was constituted in FY 2014-15 but the Urban Development Sub-Committee and the District Planning and Co-ordination Sub-Committee, were not constituted. After that, the DPC was not constituted. Information regarding meetings of DPC was not furnished.

Sl. No.	District	ULBs under the districts	Status of DPC
2.	Hooghly	Bansberia, Konnagar, Uttarpara-Kotrung	The DPC was constituted in FY 2014-15. The Urban Development Sub-Committee and District Planning and Co-ordination Sub-Committee were also constituted. Thereafter, no DPCs were constituted. However, the ULBs submitted their Annual Development Plans pertaining to FYs 2018-19 and 2019-20, to the Planning Section of the district. During the period 2015-16 to 2020-21, only one meeting was held (in 2015-16).
3.	Uttar Dinajpur	Kaliyaganj, Raiganj	The DPC was constituted in FY 2013-14 and, thereafter, in FY 2019-20. Information about constitution of the Urban Development Sub-Committee and District Planning and Co-ordination Sub-Committee, was not available. Formal meetings of DPC were not held during the period 2015-16 to 2020-21.
4.	East Midnapore	Contai	The last DPC was constituted in FY 2018-19. The Urban Development Sub-Committee and District Planning and Co-ordination Sub-Committee were not constituted. Meetings of DPC were not held during the period 2015-16 to 2020-21.

(Source: information furnished by respective district authorities)

In the *Coochbehar* and *Murshidabad* districts, DPCs were not constituted during the period 2015-16 to 2020-21[23]. In case of *Darjeeling* district, the DPC was formed but was transferred to the *Gorkhaland* Territorial Administration (GTA)[24]. A Sub-division Planning Committee for *Siliguri* was not constituted.

➢ **Metropolitan Planning Committee (MPC)**

Article 243ZE of the Constitution provides for Constitution of a Metropolitan Planning Committee (MPC), in every Metropolitan area, to prepare a draft development plan for the Metropolitan area[25] as a whole, on matters of common interest between the Municipalities and the Panchayats. The State Government enacted the West Bengal Metropolitan Planning Committee Act, 1994. As per provisions of this Act, the Kolkata Metropolitan Planning Committee (KMPC) was constituted in October 2001, as one of the first Metropolitan Planning Committees in India. Chief Minister, West Bengal, is the Chairperson of KMPC and the Minister-in-Charge, Municipal Administration and Urban Development Department, is the Vice-Chairperson. Secretary, Kolkata Metropolitan Development Authority (KMDA), is the Member-Secretary of the KMPC and the office of the KMDA is the Secretariat of the KMPC. KMPC also constituted an Executive Committee, to finalise the sectoral plan, as well as five sectoral sub-committees, to prepare the perspective master plans of different sectors of development.

[23] *Information for seven districts was not available.*

[24] *Vide notification dated 10 September 2012, issued by the Department of Planning, Government of West Bengal.*

[25] *"Metropolitan area" means an area having a population of ten lakh or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas.*

The ULBs under the *Kolkata* Metropolitan Area (KMA)[26] were to submit the Draft Development Plans and Annual Development Plans, to KMPC, for approval.

However, information regarding the recent functional status of the KMPC was not furnished to Audit.

➢ **Preparation of Draft Development Plans by ULBs**

As per the provisions of Section 333 of the WBMC Act and Section 297 of the WBM Act, the Board of Councillors is to prepare a Draft Development Plan (DDP) for the municipal/notified area, in consultation with the District Planning Committee (DPC), for a period of five years and submit it to the Urban Development Sub-Committee, under the DPC, at least one year before completion of the term of the preceding Draft Development Plan.

Section 336 of the WBMC Act and Section 300 of the WBM Act, provide for preparation of an Annual Development Plan (ADP), for one financial year, covering only the relevant portion of the DDP, in consultation with the DPC, which is to be submitted to the State Government, within the last week of the month of October of the year preceding the period for which the ADP pertains. The State Government is to consider the ADP, based on the availability of funds for the purpose and to approve the ADP, with necessary modifications, if any.

Similar provisions exist in Sections 239 and 242 of the HMC Act. However, provisions relating to preparation of DDP and ADP, are not available in the KMC Act. Sections 333 to Section 336 of the WBMC Act provide for preparation and finalisation of Development plans by the Municipal Corporation.

Audit observed that none of the 27 test-checked ULBs had prepared DDPs, during FYs 2015-16 to 2020-21. Two ULBs (*Panihati* and *Pujali*) had prepared City Development Plans for five years, anchored with the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). The City Development Plans do not, however, supplement the statutory Draft Development Plans.

Audit further noticed that, during FYs 2015-16 to 2020-21, only six out of 27 selected ULBs (*Gobardanga, Jiaganj-Azimganj, Katwa, Konnagar, Midnapore* and *Uttarpara-Kotrung*) had prepared ADPs. Only two ULBs, *viz*., *Konnagar* and *Uttarpara-Kotrung,* had submitted the ADPs to the respective DPC (*Hooghly* DPC); both these ULBs were under the KMA area. However, information relating to submission of the ADP to KMPC, was not furnished by the two ULBs.

At the district level, non-constitution of DPCs and sub-committees under DPCs, non-functioning of the constituted DPCs, and, at the ULB level, non-preparation of draft development plans and annual development plans, in accordance with the codified provisions, defeated the purpose behind integrated planning and development of the concerned areas through the DPCs. Absence of holistic development plans by DPCs, encompassing areas of service delivery, such as supply of potable water, solid waste management and sewerage *etc.*, affected the implementation of devolved functions by ULBs**.**

[26] *KMA area is a planning area, as specified in the First Schedule, under Section 16 of the West Bengal Town and Country (Planning and Development) Act, 1979. KMA extends over six districts (Kolkata, Howrah, Hooghly, Nadia, North 24 Parganas and South 24 Parganas). The area comprises of four Municipal Corporations, 37 Municipalities and 23 Panchayat Samities.*

The observation regarding non-formation of DPC was forwarded to the Department of Planning and Statistics, Government of West Bengal, in November 2022, but reply was not received.

Recommendation:

4. **Government may ensure constitution and effective functioning of the District Planning Committees, for integrated planning and development.**
5. **ULBs may prepare Draft Development Plans and Annual Development Plans, for strategic and holistic development of their jurisdictional areas.**

3.4.8 State Finance Commissions (SFCs)

Articles 243I and 243Y of the 73rd and 74th Constitutional Amendment Act, 1992, make it mandatory for the State Government to constitute a Finance Commission, within one year of the commencement of the CAA and, thereafter, on expiry of every five years. SFCs are required to review the financial position of local bodies (*i.e.*, Panchayats and Municipalities) and to make recommendations to the Governor for devolution of funds.

In West Bengal, there were delays in formation of SFCs and their subsequent recommendations, as shown in **Table 3.6.**

Table 3.6: Delays in constitution of State Finance Commissions

Finance Commission	To be constituted as per Constitution	Actual date of appointment	Actual date of report submission	Date of submission of Action Taken Report	Period of delay in constitution of SFC, in terms of Constitutional norms
1st	1993-1998	30 May 1994	27 November 1995	22 July 1996	-
2nd	1998-2003	14 July 2000	6 February 2002	15 July 2005	2 years
3rd	2003-2008	22 February 2006	31 December 2008	16 July 2009	3 years
4th	2008-2013	30 April 2013	2 February 2016	6 June 2022	5 years
5th	2013-2018	23 May 2022	-	-	9 years
6th	2018-2023	-	Not constituted	-	-

(Source: SFC Reports and Orders/Notifications, issued by the Finance Department, Government of West Bengal)

It was also noticed that the tenure of 4th SFC was extended for 22 months, in place of its original tenure of 12 months, which ultimately led to delayed submission of its report. Significant delays in constitution and subsequent submission of recommendations of the SFCs, as per Constitutional norms, deprived the ULBs from getting their share of State revenues, at an enhanced rate, in a time-bound manner.

Out of 46 recommendations made by the 1st SFC, the State Government accepted 35 recommendations. In case of the 2nd SFC, out of 18 recommendations made, six were accepted. The 3rd SFC made 32 recommendations, out of which 16 were accepted, three recommendations were agreed to in principle and the rest were either already implemented or left for further examination[27]. The status of

[27] *4th SFC Report, Part-III.*

recommendations of the 4th SFC, as per the Action Taken Report (ATR) of the State Government is detailed in **Table 3.7**.

Table 3.7: Action taken on the recommendations of the 4th SFC

Sl. No.	Recommendations	Action Taken by the State Government
1.	**Recommendations relating to Fiscal Devolution**: The Commission recommended grants of ` 1,103.80 crore for the financial year 2015-2016 and progressive enhancement at the rate of 15 *per cent per annum,* from 2016-2017 to 2019-2020. *(vide Para Nos. 14.5 & 14.15 of Part-I of the Report).*	The State Government agreed to devolve ` 900 crore to the Local Bodies for the year 2016-2017 from its Own Tax Revenues and an annual increase of three *per cent* from 2017-2018 to 2019-2020. Necessary budget provisions were made accordingly.
2.	**Further recommendations relating to Fiscal Devolution**: The Commission recommended that 60 *per cent* of the recommended grant should be spent towards creation of new assets and 40 *per cent* of the grant should be spent as expenditure towards payment of electricity bills, O & M, cost of water supply schemes, street lights and regular maintenance of other assets created by the Urban Local Bodies *(vide Para No. 14.20 of Part-I of the Report).*	The State Government accepted the recommendation of the Commission.
3.	**Other recommendations**: In addition to the above, the Commission made some other recommendations, relating to improvement of the functioning of the Rural Local Bodies (RLBs) and Urban Local Bodies (ULBs), like institutional strengthening, structural changes and resource generation. The Commission suggested that an Empowered Committee, under the Chief Secretary, may be set up, consisting of the Secretary-in-charge of Panchayats & Rural Development Department, Secretary of the Municipal Affairs Department, Secretary of the Finance Department and Secretary of the Law Department, to follow-up the accepted recommendations and ensure full implementation. *(Chapter VI to Chapter XII and Para Nos. 14.8, 14.11, 14.17, 14.21, 14.35, 14.36 & 16.11 of Part-I of the Report).*	A State Level Committee of Secretaries, under the Chairmanship of the Chief Secretary, Government of West Bengal and comprising of Additional Chief Secretary, Panchayats & Rural Development Department, Principal Secretary, Finance Department and Secretary, Urban Development & Municipal Affairs Department, was constituted to look into other measures recommended by the Commission. The Committee held meetings and deliberated over several issues, *viz.* inclusion of solid waste management as an obligatory duty of the Gram Panchayats, issue of notification relating to minimum standards of service delivery, waste management by the Urban Local Bodies, Ward level vigilance for prevention of pollution, recovery of unpaid tax, handing over of operation and maintenance of motor supply projects to the concerned Municipalities by the Public Health Engineering Department, revitalizing the Gram Samsads, Gram Sabha and Ward Sabhas, audit at regular intervals, revitalizing the statistical cells of the Directorate/ Offices of P&RD Department *etc.*

Observations relating to release of SFC grants have been discussed in **Paragraph 4.3.**

Recommendation:

6. **Government may constitute the SFCs and implement their recommendations in a timely manner.**

3.4.9 Accounts and Audit

As per Article 243Z of the Constitution, the Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the

Municipalities and the auditing of such accounts. Maintenance of accounts in the ULBs and the audit arrangements are discussed below.

3.4.9.1 Annual Accounts of the ULBs

The Task Force constituted[28] by the Comptroller & Auditor General of India (C&AG), to recommend budget and accounting formats for the ULBs in India, *inter alia*, suggested adoption of accrual-based accounting, by the ULBs. Based on the recommendations of the Task Force, the Ministry of Urban Development (MoUD), Government of India, had prepared a National Municipal Accounting Manual (NMAM), with the support of the C&AG. In terms of the recommendations of the Task Force of the C&AG and the National Municipal Accounting Manual, the Government of West Bengal introduced an accrual-based Double Entry System, in place of the existing cash-based accounting system, in the ULBs in the State[29].

The Change Management Unit (CMU)[30], under the Kolkata Urban Services for the Poor (KUSP) programme, of the Government of the West Bengal, assisted by the Department for International Development (DFID) of the Government of United Kingdom, brought out an Accounting Manual for ULBs, covering aspects of the accrual-based double entry system and facilitated the introduction of the accrual-based double entry accounting system, in 40 ULBs in the *Kolkata* Metropolitan Area (KMA), except for KMC.

Under the accrual-based double entry accounting system, the ULBs are required to prepare the following five reports. (1) Balance Sheet (2) Income & Expenditure Statement (3) Receipts & Payments Account (4) Trial Balance and (5) Cash Flow Statement. All the ULBs were also required to prepare Opening Balance Sheets for the inception years.

Provisions for following the accrual-based double entry system were made by amending Section 84 of the WBM Act and insertion of Section 86A of the WBMC Act[31], which specifically mandate ULBs to prepare their Annual Financial Statements.

Audit observed that:

(i) There was lack of uniformity in the Acts/Rules, in regard to the components of the mandatory Annual Financial Statements required to be prepared by ULBs, as shown in **Table 3.8.**

---

[28] *Based on the recommendations of the Eleventh Finance Commission and Guidelines issued by the Ministry of Finance, Government of India.*

[29] *The Government of West Bengal was also committed to introducing the double entry accrual-based Accounting System, in view of the Memorandum of Understanding (MoU) signed with Government of India, to access funds under the Urban Reforms Incentive Fund (URIF).*

[30] *A registered society; CMU was merged with SUDA vide order of UD&MAD dated 7 June 2017.*

[31] *With effect from 1 October 2006 and 1 March 2010, respectively.*

Table 3.8: Components of Annual Financial Statements as per different Acts/Rules

Components of Annual Financial Statements, as per Accounting Manual of ULBs published by erstwhile CMU	Components of Annual Financial Statements, as per WBM Act and WBMC Act	West Bengal Municipal (Finance & Accounting) Rules, 1999 (Rule 260)
(1) Balance Sheet, (2) Income & Expenditure Statement, (3) Receipts & Payments Account, (4) Trial Balance and (5) Cash Flow Statement	(1) Balance Sheet, (2) Income & Expenditure Account, (3) Receipt & Payment Account and (4) Cash Flow Statement	(1) Balance Sheet, (2) Income and Expenditure Statement, (3) Statement of Cash Flow, (4) Receipts and Payments Account, (5) Revenue Trend Analysis and (6) Notes to Accounts

(Source: respective Acts/Rules/Orders)

As on 31 March 2021, the ULBs prepared and submitted the Annual Financial Statements including notes to accounts comprising of – Balance Sheet, Income and Expenditure Statement, Receipt and Payment Accounts and Trial Balance.

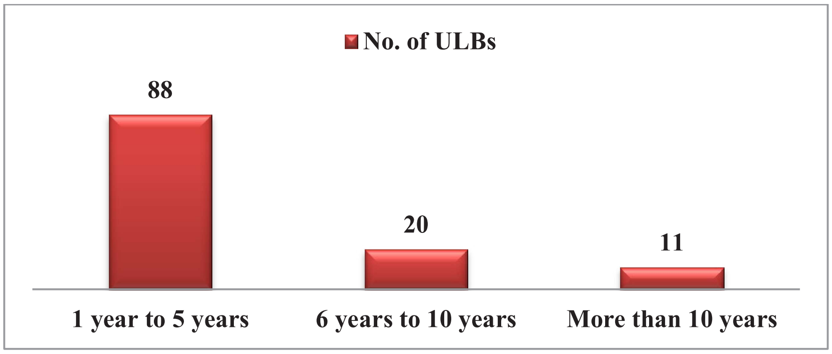
(ii) The ULBs in the *Kolkata* Metropolitan Area (KMA) started preparation of annual accounts, following the accrual-based double entry accounting system, from 2006-07, while the ULBs in non-KMA areas started following it from 2007-08. As on 31 March 2021, all the 124 ULBs, including HMC, were following the accrual-based double entry accounting system and preparing the above reports as per the Accounting Manual of ULBs. KMC also follows the accrual-based double entry accounting system.

Audit observed that as on 31 March 2021, three ULBs *viz*., *Bishnupur* (for the period 2007-08), *Buniadpur* (for the period 2014-15) and *Domkal* (for the period 2015-16) did not prepare and submit to the Examiner of Local Accounts (ELA), the Opening Balance Sheets as well as subsequent Annual Financial Statements. As on 31 March 2021, 544 Annual Financial Statements of 124 ULBs[32], had not been submitted to the ELA for audit. The year-wise number of Annual Financial Statements, pending for submission to the ELA, are shown in ***Appendix-3***.

It can be seen from ***Appendix*** that Annual Financial Statements, pertaining to financial years as far back as 2007-08, are still due for preparation and submission for audit.
As on 31 March 2021, the pendency in the number of years in preparation and/or submission of Annual Financial Statements of 125 ULBs, is shown in **Chart 3.1.**

[32] *Out of these 124 ULBs, the annual accounts of five erstwhile ULBs (Jamuria, Raniganj, Kulti, Rajarhat Gopalpur and Bally Municipalities), which were later merged with three Municipal Corporations, were not prepared and submitted.*

Chart 3.1: Pendency in the preparation and/or submission of Annual Financial Statements



Six ULBs, *viz.*, *Arambagh, Basirhat, Jangipur, Purulia, Suri* and *Taki,* had no pendency in the preparation and submission of Annual Financial Statements, as of March 2021. Thirty-four Annual Financial Statements, of five erstwhile Municipalities, which have been merged with three Municipal Corporations and have ceased to exist as individual ULBs, were also not prepared (as on 31 March 2021), as detailed in **Table 3.9**.

Table 3.9: Pendency in preparation of Annual Financial Statements by five erstwhile Municipalities

Sl. No.	Name of the Municipality	Municipal Corporation with which the Municipality was merged	Date of merger	Period of Annual Financial Statements not prepared and submitted	Number of Annual Financial Statements
1	Rajarhat Gopalpur Municipality	Bidhanangar Municipal Corporation	June 2015 (2015-16)	2012-13 to 2015-16	4
2	Bally Municipality	Howrah Municipal Corporation	June 2015 (2015-16)	2008-09 to 2015-16	8
3	Jamuria Municipality	Asansol Municipal Corporation	June 2015 (2015-16)	2008-09 to 2015-16	8
4	Raniganj Municipality			2011-12 to 2015-16	5
5	Kulti Municipality			2007-08 to 2015-16	9

(Source: data maintained by the ELA)

Non-preparation of Annual Financial Statements, within the prescribed period, indicates failure on the part of the ULBs and raises serious concerns about the management of Municipal Funds and utilisation of public money provided to the ULBs, in the form of grants-in-aid. Further, the FC-XIV recommended that to be eligible for Performance Grants, the ULB has to submit audited annual accounts that relate to a year not earlier than two years preceding the year in which it seeks to claim the Performance Grant. The FC-XV also recommended timely availability of accounts, both before and after audit, of individual ULBs online in the public domain from 2021-22, as the entry level conditions to qualify for its recommended grants. Owing to non/delayed preparation of accounts by ULBs, the audit of the accounts has been delayed. This may result in the ULBs being rendered ineligible for the CFC grants.

Recommendation:

7. **Government may stipulate a uniform timeframe for preparation of the Annual Financial Statements of all ULBs, as also for timely submission of Annual Financial Statements, for audit by the statutory auditor (ELA).**

3.4.9.2 Audit

(i) Statutory Audit by the Examiner of Local Accounts (ELA), preparation of Audit Report, laying of Audit Report in the State Legislature and discussion thereon in the specific committee constituted for that purpose.

In terms of Municipal laws[33], the accounts of all the ULBs are to be examined and audited by an Auditor appointed by the State Government. Accordingly, the State Government appointed an Examiner of Local Accounts (ELA), an officer of the Indian Audit & Accounts Department, in the rank of Deputy Accountant General, as the Auditor for audit of accounts of the ULBs. The ELA, thus, is the Primary/Statutory Auditor of the accounts of ULBs. The ELA also conducts the Compliance Audit and Performance/Detail Compliance Audit of the ULBs.

The ELA prepares Separate Audit Reports (SARs) on the annual accounts of ULBs[34], audited and examined by the ELA. The ELA also prepares a Compliance Audit Report, namely the 'Report of the Examiner of Local Accounts on Urban Local Bodies', for each year, which is laid in the State Legislature, by the State Government, in terms of Section 163A of the KMC Act, Section 80A of the HMC Act, Section 91A of the WBMC Act and Section 90A of the WBM Act.

The 'Committee on Local Fund Accounts' (CLFA) was constituted through the Rules of Procedure of the Committee on Local Fund Accounts of the West Bengal Legislative Assembly (Internal Working) Rules, 2018[35], for discussion of the Report of the ELA on ULBs and reporting thereon[36]. The said Committee came into operation with effect from 3 August 2018. As on 31 March 2021, evidence taking of four paragraphs had been discussed by the committee.

(ii) Internal Audit

Section 156 of the KMC Act, Section 74 of the HMC Act and Section 84 of the WBMC Act, provide for monthly internal audit of accounts of the Corporations, by the Chief Municipal Auditor/Chief Auditor, who is a staff of the Corporation. Section 157 of the KMC Act, Section 75 of the HMC Act and Section 85 of the WBMC Act, contain provisions for the reports of the Chief Municipal Auditor/ Chief Auditor, in matters in addition to the accounts, as well as submission

---

[33] *Section 160 (1) of the KMC Act, Section 77 (1) of the HMC Act, Section 87 (1) of the WBMC Act and Section 86 (1) of the WBM Act.*

[34] *In terms of Section 161 of the KMC Act, Section 78 of the HMC Act, Section 88 of the WBMC Act and Section 87 of the WBM Act.*

[35] *Made under Rule 279 of the Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly.*

[36] *Previously, the State Level Audit Committee (SLAC) had been constituted, in February 2006, to examine the findings of the Report of the ELA on ULBs. However, no paras had been discussed in the SLAC.*

of these reports to the Municipal Commissioner (in case of KMC and other Corporations)/Mayor-in-Council (in case of HMC).

Similar provisions for Municipalities and NAAs exist in Rule 24 of the WB Municipal (Finance and Accounting) Rules, wherein an officer is to be authorised by the Chairman-in-Council, to conduct checking of the Municipal Fund, at least once every month and submission of a report thereon, to the Municipal Accounts Committee. This Rule is also applicable to the Municipal Corporations[37], except for KMC and HMC. The West Bengal Municipal (Internal Audit) Rules, 1997, provide for conducting internal audit of the accounts, by engaging Audit Officer/s, under the Director of Cooperative Audit or Government registered Auditor(s) (Chartered Accountant Firms) and reporting in this regard, to the Chairman.

Audit noted that *Asansol* MC and *Siliguri* MC had not appointed Chief Municipal Auditor/Chief Auditor. During the period 2015-16 to 2020-21, Audit observed that 17 ULBs[38], including *Asansol* MC and *Siliguri* MC, had conducted internal audit, by engaging external agencies, but there was pendency of one to three years, in conducting internal audit, in 15 ULBs. Six ULBs had not conducted internal audit at all, while data was not available for three ULBs[39].

In *Kolkata* MC, as on 31 March 2021, internal audit for the year 2018-19, was conducted by the Chief Municipal Auditor and, thus, there was pendency of two years, in the conduct of internal audit.

Audit observed that, out of 26 test-checked ULBs (except *Kolkata* MC), only 12 ULBs had conducted monthly checking of the Municipal Fund, while only two ULBs (*Panihati* and *Raiganj*) had conducted quarterly checking of accounts of the Municipal Fund, during FYs 2015-16 to 2020-21. The quarterly audit reports had neither been submitted to the Municipal Accounts Committee, nor had they been further forwarded to the Director of Local Bodies.

Recommendation:

8. **Government may ensure that ULBs conduct internal audit regularly and take remedial action to strengthen their internal control system.**

3.4.10 Municipal Accounts Committees

Section 10 of the KMC Act and the HMC Act, Section 21 of the WBMC Act and Section 92 of the WBM Act, envisage the formation of Municipal Accounts Committees (MAC), each year, by the Board of Councillors, to examine the

[37] *The WBM (Finance and Accounting) Rules, 1999, were made applicable for Municipal Corporations (except KMC and HMC), vide Order No. 248/MA/O/C-5/A/2A-2/1999 dated 26 June 2013, by the erstwhile Department of Municipal Affairs, Government of West Bengal. The order also specified that the powers vested with the Chairman in the said rules, would be exercised by the Commissioner of the Corporation, or, in the Commissioner's absence, by the Secretary.*

[38] *Upto 2016-17: one ULB (Asansol MC); upto 2017-18: one ULB (Kalna); upto 2018-19: nine ULBs (Bansberia, Barrackpore, Habra, Kaliyaganj, Kharagpur, Konnagar, Midnapore, Raiganj and Uttarpara-Kotrung); upto 2019-20: four ULBs (Gobardanga, Panihati, Pujali and Ramjibonpur); upto 2020-21: one ULB (Barasat). Siliguri MC, conducted internal audit but did not specify upto which period the internal audit was conducted.*

[39] *Bongaon, Contai, Jiaganj-Azimganj, Katwa, Mal and Tufanganj did not conduct internal audit. Data was not furnished by Coochbehar, Jhalda and Suri.*

accounts of the ULBs, scrutinise the report on the accounts by the Auditor and submit a report to the ULBs, from time to time, on such examination and scrutiny. The Municipal Accounts Committees consist of three to five Councillors, elected from the Councillors themselves and a maximum of two nominated persons, having special knowledge and experience in financial matters, not being members/employees/officers of the ULBs.

Formation of MACs, in ULBs, during the period for the FYs 2015-16 to 2020-21, is shown in the **Table 3.10**.

Table 3.10: Constitution of Municipal Accounts Committee in the test-checked ULBs

Financial Year	No. of ULBs where MAC was formed	No. of ULBs where meetings of MAC were held	No. of ULBs where MAC was not formed	No. of ULBs who did not furnish data/specific data
2015-16	9	4	14	4
2016-17	3	1	20	4
2017-18	4	3	19	4
2018-19	5	3	18	4
2019-20	Nil	-	22	5
2020-21	1	1	21	5

(Source: data furnished by the ULBs)

Two ULBs (*Asansol* MC and *Raiganj*) did not furnish the relevant data. The *Mal* and *Panihati* Municipalities stated that MACs had been formed but did not specify whether MACs had been constituted in each year, for the period 2015-16 to 2020-21. Details of the ULBs are provided in ***Appendix-4***.

Audit observed that, during FYs 2015-16 to 2020-21, the *Kolkata* MC had constituted MACs twice, in FYs 2015-16 and 2017-18. The MAC formed in FY 2015-16 had continued in FY 2016-17 and it had held meetings in FY 2016-17, to discuss the audit reports. In FY 2017-18, a fresh MAC was formed, which continued till FY 2018-19 and discussed the audit reports in its meetings. Thus, in contravention to the provisions of the Act, new MACs were not constituted every year in the KMC. Similar instances of continuation of MACs beyond the stipulated time of one year were noticed in the case of the *Siliguri* MC, *Coochbehar* Municipality and *Habra* Municipality.

It is also evident from **Table 3.10** that MACs had not been constituted in most of the test-checked ULBs, due to which their audit reports had not been discussed and corrective measures with respect to observations made by Audit could not be taken.

Recommendation:

9. **Government may ensure that MACs are constituted every year and meetings held regularly, to discuss the audit reports (including internal audit reports) of the concerned ULBs.**

3.4.11 Standing Committees

Section 23AA of the WBM Act mandates the formation of six different Standing Committees, consisting of not less than three and not more than nine

Councillors. In terms of Section 23B of the Act *ibid,* the Standing Committees are responsible for submitting recommendations, indicating the difficulties relating to implementation of development programmes under their respective jurisdictions and also indicating therein, possible measures to remove such difficulties.

Section 24 of the WBMC Act also envisages the formation of six Standing Committees[40]. The Municipal Corporations have the power to recast the shape of Standing Committees, by way of segregating or amalgamating the functions. As per Section 25 *ibid*, the functions of the Standing Committees are the same as in the case of Municipalities. The KMC Act does not have a provision for formation of Standing Committees.

The status of formation of six Standing Committees, in 24 of the test-checked Municipalities, was as shown in **Table 3.11.**

Table 3.11: Status of formation of Standing Committees in Municipalities

<table>
<tr><th>Sl. No.</th><th>Name of the Standing Committees</th><th>Municipalities in which constituted (Period of constitution)</th><th>Municipalities in which not constituted</th><th>Municipalities which did not furnish data</th></tr>
<tr><td>1.</td><td>Finance and Resource Mobilisation Standing Committee</td><td rowspan="6">1. Bansberia (2015-16)
2. Barrackpore (2015-16)
3. Contai (2015-16)
4. Coochbehar (2017-18)
5. Habra (2013-14) #
6. Jhalda (2015-16)
7. Kaliyaganj (2016-17)
8. Katwa (2015-16)
9. Kharagpur (2018-19)
10. Mal (2015-16)
11. Midnapore (2013-14)
12. Panihati (2015-16)
13. Pujali (2017-18)
14. Ramjibonpur (2015-16)
15. Suri (2015-16)</td><td rowspan="6">1. Bongaon
2. Kalna
3. Raiganj
4. Tufanganj
5. Uttarpara-Kotrung</td><td rowspan="6">1. Barasat
2. Gobardanga
3. Jiaganj–Azimganj
4. Konnagar</td></tr>
<tr><td>2.</td><td>Solid Waste Management Standing Committee</td></tr>
<tr><td>3.</td><td>Water Supply Standing Committee</td></tr>
<tr><td>4.</td><td>Public Works Standing Committee</td></tr>
<tr><td>5.</td><td>Health Education and Urban Poverty Alleviation Standing Committee</td></tr>
<tr><td>6.</td><td>Public Health and Sanitation Standing Committee</td></tr>
</table>

(Source: data furnished by the ULBs)

 # Public Health and Sanitation Standing Committee was not formed in Habra Municipality

In *Siliguri* MC, five out of six Standing Committees were constituted, although information about the period of constitution was not furnished; the Standing Committee on Health and Sanitation was not formed. *Asansol* MC did not furnish information.

[40] *(i) Finance and Resource Mobilisation Standing Committee, (ii) Solid Waste Management Standing Committee, (iii) Water Supply Standing Committee, (iv) Public Works and Public Safety Standing Committee, (v) Health and Sanitation Standing Committee and (vi) Education and Urban Poverty Alleviation Standing Committee.*

3.4.12 Parastatals and their role in urban governance

Parastatals are institutions/organisations, which are wholly or partially owned and managed by the Government (formed as autonomous bodies or through a specific legislation) and discharge some of the functions of the ULBs.

The UD&MA Department did not furnish the details of parastatals and directorate and or other departments functioning in the sphere of urban governance in the State along with ULBs. However, Audit observed that there are a number of parastatals, which are performing significant roles with regard to ULBs, in urban governance; the role of parastatals is discussed in **Table 3.12.**

Table 3.12: Role of parastatals, directorates and other departments related to urban governance

Name of the Parastatals	Functions
Directorate of Local Bodies (DLB)	DLB is a directorate under the UD&MA Department, with two divisional offices. The functions of DLB include – (i) regular inspection of all ULBs, except all Corporations; (ii) release of salary, dearness allowance, dearness relief and pension, to ULBs, for municipal employees; (iii) monitoring of the Atal Mission for Rejuvenation and Urban Transformation (AMRUT) and Deendayal Antyodaya Yojana-National Urban Livelihoods Mission (DAY-NULM) projects, under the guidance of SUDA; and (iv) examination of the replies of ULBs, in regard to Statutory Audit, by the Examiner of Local Accounts. DLB has also been empowered to dispose of all matters relating to appointments and promotion, with regard to already sanctioned vacant posts existing in different Municipalities and Notified Area Authorities.
Municipal Engineering Directorate (MED)	MED was constituted as a full-fledged directorate in 1981. MED provides technical support relating to civil, mechanical and electrical engineering to the ULBs (except KMC and HMC). It also conducts technical evaluation of the tenders/e-tenders floated by ULBs, under the two-bid system. MED has been assigned the duty of executing projects/schemes relating to AMRUT, DAY-NULM, National Urban Health Mission (NUHM) *etc.*
State Urban Development Agency (SUDA)	SUDA is a registered society, under the West Bengal Society Registration Act, 1961, constituted *vide* an order of the erstwhile Municipal Affairs Department, issued in May 1991. The functions of SUDA include – (i) supporting ULBs in ensuring reforms and systematic planning towards improved urban governance, (ii) providing basic citizen centric services and establishing infrastructure facilities related to water supply, roads, drainage, sanitation, solid waste management, sewerage, streetlight, in their respective jurisdictions. Presently, SUDA is responsible for implementing and monitoring several National Flagship Programmes, including the AMRUT, Special Backward Region Grant Fund (BRGF) Programme, Pradhan Mantri Awas Yojana (PMAY)/Housing for All (HFA)-Urban, DAY-NULM, NUHM, Swachh Bharat Mission (SBM)-Urban, National Social Assistance Programme (NSAP), health schemes sponsored by the State Government, such as Community Based Primary Health Care Services (CBPHCS) and Urban Primary Health Care Services (UPHCS) *etc.* SUDA provides handholding support to ULBs, to execute activities funded by the State and Central Finance Commissions.

Name of the Parastatals	Functions
West Bengal Municipal Service Commission (WBMSC)	WBMSC was constituted for recruitment of personnel for ULBs and Development Authorities, as per requisitions sent directly by the ULBs and Development Authorities.
West Bengal Valuation Board (WBVB)	WBVB conducts periodic general valuation, to revise the annual value of all municipal holdings, for revision of property tax of the holdings under the ULBs (except KMC and HMC).
Kolkata Metropolitan Development Authority (KMDA)	KMDA, which substituted the erstwhile Calcutta Metropolitan Development Authority (CMDA), was established in 1970, under a Presidential Ordinance and was later provided statutory status, under the KMDA Act of 1972. With the enactment of the West Bengal Town and Country (Planning and Development) Act, 1979, KMDA was designated as the statutory planning and development authority for the Kolkata Metropolitan Area (KMA). The primary function of KMDA is to prepare the Land Use & Development Control Plan (LUDCP) and execute various development schemes. The Water & Sanitation Sector of KMDA implements/executes the augmentation of water supply scheme, in different Municipalities of West Bengal, under AMRUT, State Fund and Special Infrastructure Fund. All repair and maintenance works of such projects, during their warranty periods and thereafter, are undertaken by this sector. The Sewerage Drainage and Solid Waste Management Sector of KMDA looks after different Storm Water Drainage schemes throughout West Bengal. This Sector also looks after Solid Waste Management schemes within the Kolkata Metropolitan Area. At present, it has been assigned with the works of bio-remediation and bio-mining of legacy waste, in a scientific manner, in different dumpsites throughout the State of West Bengal. KMDA is also involved in the operation and maintenance of a large number of pumping stations, of both clear water and sewage water, in different municipalities. It also plays a vital role in the vetting of Detailed Project Reports (DPRs)/Estimates of electro-Mechanical works of ULBs. KMDA is empowered to levy and collect development charges for granting permission for carrying out any development or change of use of land, in terms of Section 102 of the West Bengal Town and Country (Planning and Development) Act.
Asansol Durgapur Development Authority (ADDA) and Siliguri Jalpaiguri Development Authority (SJDA)	These development authorities prepare Land Use & Development Control Plans (LUDCPs) and execute development schemes for the planning regions under their jurisdictions. ADDA and SJDA are also empowered to levy and collect development charges for granting permission for carrying out any development or change of use of land.
Institute of Local Government & Urban Studies (ILG&US)	Provides training to the personnel of the ULBs (excluding KMC).
Public Health Engineering Department (PHED)	Provides water supply to a few ULBs outside the KMA area. STPs in some Urban Areas are constructed and operated by PHED.

(Source: data available from the websites of the respective departments)

The roles of the parastatals, directorates and other departments, in mobilisation of resources, human resource and service delivery, are discussed in the suceeding chapters.