

Chapter - IV

An Overview of the Functioning of the Urban Local Bodies (ULBs) in Bihar

4.1 Introduction

The Seventy Fourth Constitutional Amendment Act (CAA) gave constitutional status to Urban Local Bodies (ULBs) and established a system of uniform structure, regular election, reservation of posts for weaker section of society and women and regular flow of funds through Finance Commission etc. As a follow-up, the States were required to entrust these bodies with powers, functions and responsibilities to enable them to function as institutions of local self-government and to carry out the responsibilities conferred upon them including those listed in the Twelfth Schedule of the Constitution.

Accordingly, the Government of Bihar (GoB) enacted Bihar Municipal Act (BMA), 2007 by repealing the Bihar and Orissa Municipal Act, 1922 and framed Bihar Municipal Accounts Rules, 2014 and Bihar Municipal Budget Manual. As per Census 2011, the urban population of Bihar was 1.18 crore which constituted 11 *per cent* of the total population (10.41 crore) of the State. As of March 2015, there were 141 ULBs²⁵ in the State. The last election to the elected bodies of the ULBs was held on 16 May 2012.

Section 7 and 20 of the BMA, 2007 lay down the criteria for classification of municipal area by the State Government on the basis of last preceding census, as given in **Table 4.1** below:

Table 4.1: Classification of ULBs

Category of ULBs	Grade	Population
Municipal Corporation	Larger urban areas	More than 2 lakh
Municipal Council	Class 'A'	1.5 to 2 lakh
	Class 'B'	1 to 1.5 lakh
	Class 'C'	0.40 to 1 lakh
Nagar Panchayat	Transitional areas	0.12 to 0.40 lakh

(Source: Section 7 and 20 of BMA, 2007)

Besides, the State Government may determine separate size of population for municipal areas in any hill area, pilgrim centre, tourist centre or *mandi* town.

4.2 Organisational setup of ULBs

The ULBs are under administrative control of Urban Development and Housing Department (UD&HD), GoB. The Municipal Commissioner is the executive head of the Municipal Corporation while Municipal Council or Nagar Panchayat is headed by the Executive Officer appointed by the State Government.

The ULBs have an Empowered Standing Committee (ESC) comprising of Councillors/Members elected by the people and headed by the Mayor (for

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Corporations)/Chairperson (for Councils and Nagar Panchayats) elected from members who preside over the meetings of the ESC. The organisational structure of ULBs is presented in **Chart 4.1** and **4.2** below:

Chart - 4.1: Elected Body

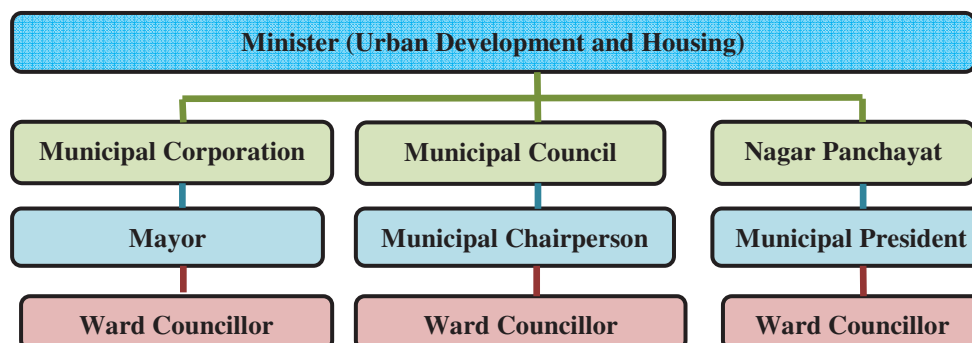
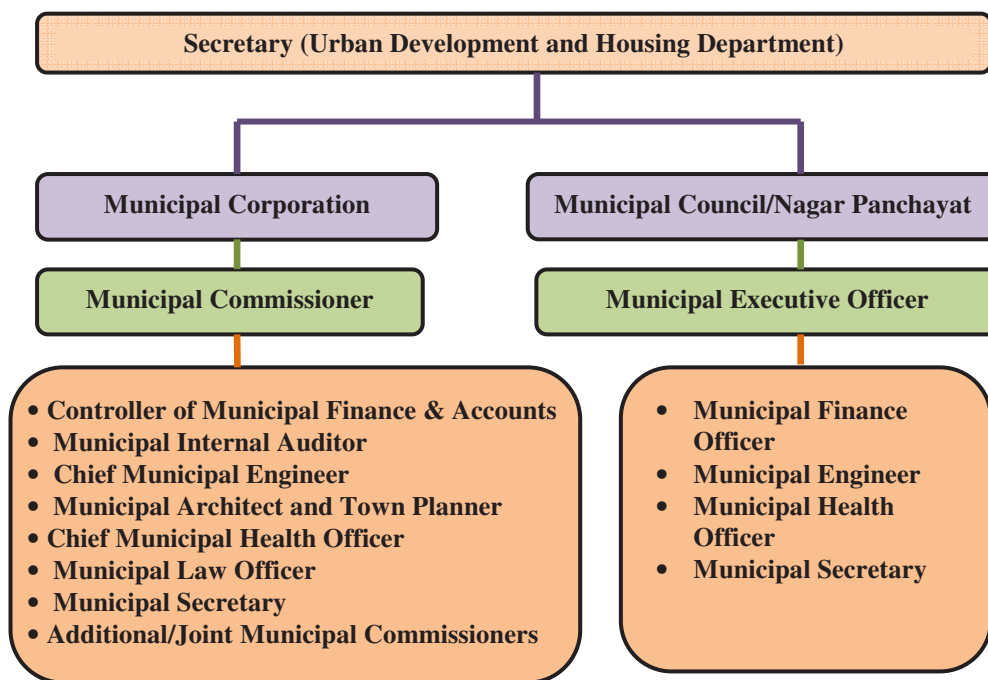


Chart - 4.2: Administrative Body



(Source: Section 36 of BMA, 2007 and www.urban.bih.nic.in)

4.3 Functioning of ULBs

4.3.1 Powers of the State Government

The BMA, 2007 entrusts the State Government with certain powers so as to enable it to monitor proper functioning of the ULBs. A brief summary of powers of the State Government is given in **Table 4.2** below:

Table - 4.2: Powers of the State Government

Authority	Powers of the State Government
Section 44 of BMA, 2007	State Municipal Vigilance Authority: The State Government may appoint <i>Lok Praharis</i> to inquire into any allegation of corruption, misconduct, lack of integrity or any kind of malpractice or mal-administration or misdemeanor of Chief/Deputy Chief councilor /officers and other employees of the municipality.
Section 65 and 66 of BMA, 2007	Power to inspect office, call for records etc.: The State Government may inspect any office or call for the records under the control of the ULBs.
Section 87 of BMA, 2007	The State Government shall prepare and maintain a Manual viz., the Bihar Municipal Accounting Manual for implementation of accrual based double entry accounting system containing details of all financial and accounting matters and procedures in Municipalities.
Section 419 of BMA, 2007	Power to make Rules: The State Government may, by notification, make rules to carry out the purpose of BMA, 2007 subject to approval by the State Legislature.
Section 421 and 423 of BMA, 2007	Power to make regulations: The Municipality may make regulations for the purpose of giving effect to the provisions of BMA, 2007 subject to approval of the State Government.
Section 487 of BMA, 2007	Removal of difficulties: If any difficulty arises in giving effect to the provisions of BMA, 2007, the State Government may do anything necessary to remove such difficulty.

4.3.2 Devolution of functions and funds

The Seventy fourth CAA, 1992 enables the State Government, under Article 243W of the Constitution of India to empower the ULBs with such powers and authority, by enacting law, to perform functions on 18 subjects enlisted in the Twelfth Schedule of the Constitution. But, the ULBs in Bihar were carrying out traditionally the functions on 13 subjects only as provided in Section 45 of the BMA, 2007 (*Appendix - 4.1*). No separate notification regarding devolution of functions in term of 74th CAA has been issued. The transfer of funds, functions and functionaries to ULBs related to the rest five subjects²⁶ was yet to be done by the State Government. The Government has created parastatal²⁷ organisations to facilitate the core functions of ULBs and funds are devolved to them to perform the functions assigned to ULBs.

4.3.3 Devolution of functionaries

Section 36 of BMA, 2007 provides a number of positions for ULBs but, most of these positions were vacant. The ULBs were short staffed and there was a freeze on recruitment since 1990. Efforts were not made for capacity building in ULBs.

²⁶ Regulation of land use and construction of buildings; Fire services; Urban forestry, protection of the environment and promotion of ecological aspects; Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded persons; and Promotion of cultural, educational and aesthetic aspects

²⁷ Bihar Urban Infrastructure Development Corporation Ltd (BUIDCO), Bihar Urban State Transport Ltd (BUSTL), Bihar Urban Development Agency (BUDA) and District Urban Development Agency (DUDA)

4.4 Formation of Committees

4.4.1 Empowered Standing Committees

Section 21 and 22 of BMA, 2007 provide that in every municipality, there shall be an Empowered Standing Committee (ESC) and the executive powers of a Municipality shall vest in ESC. The Chief Councillor shall exercise such powers and functions as are delegated to him by the ESC. The composition of ESC is shown in **Table 4.3** below:

Table - 4.3: Empowered Standing Committees

Category of ULBs	Presiding officer	Composition of ESC	Remarks
Municipal Corporation	Mayor	Mayor, Deputy Mayor and seven other councillors	Other members of ESC shall be nominated by the Chief Councillor from amongst the elected Councillors.
Class 'A' or 'B' Municipal Council	Municipal Chairperson	Municipal Chairperson, Municipal Vice-Chairperson and five other Councillors	
Class 'C' Municipal Council	Municipal Chairperson	Municipal Chairperson, Municipal Vice-Chairperson and three other Councillors	
Nagar Panchayat	Municipal President	Municipal President, Municipal Vice-President and three other Councillors	

(Source: Section 21 of the BMA, 2007)

The ESC is collectively responsible to the Municipal Corporation or the Municipal Council or the Nagar Panchayat, as the case may be.

4.4.2 District Planning Committees

As per Section 275 of BMA, 2007, all schemes to be executed by the ULBs should be included in the Draft Development Plans (DDPs) of the district prepared by the District Planning Committees (DPCs) and approved by the State Government. It was noticed that the schemes executed during 2010-15 by the ULBs from their own sources were not included in the DDPs of the district prepared by the DPCs and approved by the State Government.

4.5 Audit Arrangement

4.5.1 Primary Auditor

The State Government declared (November 2007) the Examiner of Local Accounts (ELA), Bihar, as statutory auditor to conduct the audit of the accounts of Urban Local Bodies (ULBs). Accordingly, audit of the accounts of ULBs in Bihar is being conducted by the ELA under supervision of the Accountant General (Audit), Bihar. The audit is conducted under Bihar and Orissa Local Fund Audit Act, 1925. Out of total 141 ULBs in the State, the audit of the accounts of 44 ULBs²⁸ was conducted by ELA during 2014-15.

²⁸ *Municipal Corporation (10): Ara, Bhagalpur, Biharsharif, Begusarai, Darbhanga, Gaya, Katihar, Munger, Muzaffarpur and Purnea; Nagar Parishad (19): Arwal, Aurangabad, Bagha, Barh, Buxar, Chhapra, Danapur, Dumrao, Hajipur, Jamalpur, Jehanabad, Khagaria, Lakhisarai, Masaurhi, Mokama, Nawada, Raxaul, Sasaram and Siwan; Nagar Panchayat (15): Belsand, Dighwara, Dumra, Haweli Kharagpur, Hisua, Islampur, Jagdishpur, Janakpur Road, Jhajha, Koilwar, Maharajganj, Mairawa, Maner, Parsa Bazar and Tikari*

4.5.2 Audit by Comptroller and Auditor General of India

The Eleventh Finance Commission had recommended that the CAG should be entrusted with the responsibility of exercising control and supervision over the proper maintenance of accounts and audit for all tiers/levels of panchayats. The Thirteenth Finance Commission had also recommended that the CAG must be entrusted with the Technical Guidance and Support (TGS) over the audit of all the Local Bodies (LBs) at every tier/category and his Annual Technical Inspection Report as well as Annual Report of Director of Local Fund Audit (DLFA) must be placed before the State Legislature. Fourteenth Finance Commission had also recommended that the initiatives made by the previous Finance Commissions regarding improvement in maintenance of accounts of LBs and their audit and TGS arrangement by the CAG should be continued.

In this regard, the State Government had created (October 2013) a cell²⁹ under the Finance Department for audit of LBs. Further, as per recommendations of Finance Commissions and continuous persuasion of the AG (Audit), Bihar, the State Government notified (June 2015) the establishment of Directorate of Local Fund Audit headed by the DLFA and it is functioning since 11 June 2015. Finance Department, GoB intimated (December 2015) that the State Government had accepted the Standard Terms and Conditions under Regulations on Audit and Accounts, 2007 for audit of Local Bodies under TGS arrangement.

4.6 Response to Audit Observations

4.6.1 Poor response to Inspection Reports

After completion of audit, Inspection Reports (IRs) containing audit findings were sent to the ULBs. The Executive Officers (EOs) of the ULBs concerned were required to respond to observations contained in the IRs and send compliance report to the ELA within three months. The EOs did not take effective steps to comply with the observations contained in the IR's which was evident from increasing number of paragraphs outstanding. Details of paragraphs outstanding are given in **Table 4.4** below:

Table – 4.4: Outstanding paragraphs in ULBs for the last five years

(₹ in crore)							
Year	No. of IRs	No. of paras in IRs	Amount involved	No. of paras settled	Amount of settlement	No. of paras outstanding	Money value of paras outstanding
1	2	3	4	5	6	7 (3-5)	8 (4-6)
2010-11	39	1043	71.57	386	3.04	657	68.53
2011-12	43	1237	52.94	230	2.81	1007	50.13
2012-13	61	1398	45.63	128	0.37	1270	45.26
2013-14	67	1141	75.35	82	3.52	1059	71.83
2014-15	93	1898	373.66	540	9.02	1358	364.64
Total	303	6717	619.15	1366	18.76	5351	600.39

(Source: Inspection reports on the accounts of ULBs)

It is evident from the **Table 4.4** that out of total 6,717 paragraphs, only 1,366 paragraphs (20 *per cent*) were settled and 5351 paragraphs involving ₹ 600.39 crore were pending for settlement as of 31 March 2015.

Increasing trend of outstanding paragraphs (except 2013-14) indicated lack of efforts by authorities concerned in furnishing compliance.

4.6.2 Compliance to the ELA's Annual Audit Reports

The Finance Department, GoB constituted (March 2010) three tier Committees – High Level, Departmental Level and District Level for review /compliance of the ELA's Annual Audit Reports. The District level committee³⁰ has the responsibility to ensure compliance of audit paragraphs/ reports received from PRIs and ULBs of that district. The department level committee³¹ had to review the status of compliance made by the district level committees. The High level Committee³² was to meet once in six months to review the functioning of District and Department level committees.

It was observed that only one district level committee meeting was held for ULBs during April 2014 to August 2015. No meeting of Department Level and High Level committee was held during 2014-15 and as such, the purpose of constitution of these committees was defeated.

4.6.3 Status of Local Bodies Report

As per provisions of section 91(2) of the BMA, 2007 (as amended in January 2014), the Annual Report of ULBs prepared by the CAG shall be laid on both the Houses of State Legislature. However, there is no provision for discussion of CAG's report on local bodies in Public Accounts Committee (PAC) or PAC like committee. The Finance Department, GoB informed (July 2015) that the Hon'ble Chairman, Bihar Legislative Assembly has been requested to select a committee for discussion and review of CAG's report on LBs.

Accountability Mechanism and Financial Reporting issue

4.7 Accountability Mechanism

4.7.1 Ombudsman

Section 44(1) of BMA, 2007 provided for appointment of *Lok Prahari* (Ombudsmen) for looking into any allegation of corruption, lack of integrity, malpractice etc., of the authorities of the ULBs. But, the *Lok Prahari*s had not been appointed by the State Government as of November 2015.

4.7.2 Property Tax Board

Section 138(A) of BMA, 2007 provides for putting in place a State level Property Tax Board for independent and transparent procedure for assessing property tax. Though the Bihar Property Tax Board Rules, 2013 was

³⁰ Headed by the District Magistrate/Deputy Development Commissioner

³¹ Headed by the Principal Secretary, UD&HD, GoB

³² Headed by the Principal Secretary to the Finance Department, GoB and have the Pr. A.G. (Audit), Bihar as a member

notified (April 2013) by the UD&HD, GoB, the Board was not constituted as of November 2015.

4.7.3 Service Level Benchmark

In pursuance of para 10.160(viii) of the Thirteenth Finance Commission (ThFC) recommendations, the UD&HD, GoB had fixed (February 2014) target for the years 2013-15 for ULBs to improve the level of service delivery in respect of water supply, sewerage, storm water drainage and Solid Waste Management on the basis of various indicators. But, status of implementation of Service Level Benchmark could not be monitored further and the department did not reply regarding their implementation by ULBs.

4.7.4 Fire hazard response

As per ThFC recommendation, all municipal corporations with a population of more than one million (2001 census) must put in place a fire hazard response and mitigation plan for their respective jurisdictions. The UD&HD, GoB had notified (March 2011) the Fire Hazard Response and Mitigation Plan for Patna Municipal Corporation.

4.7.5 Submission of Utilisation Certificates

The instruction contained in the allotment letters of the funds released to the ULBs required furnishing of the Utilisation Certificates (UCs) to the State Government within the prescribed date. It was noticed that the UD&HD released grants of ₹ 4,009.56 crore to ULBs during 2002-03 to 2014-15 under various assistance grant head. But, the UCs for only ₹ 1,978.44 crore (49 per cent) were submitted and UCs for ₹ 2,031.12 crore was pending as of March 2015.

Non - submission of UCs of ₹ 2,031.12 crore for such a long periods indicate weak internal control and possible misutilisation of funds.

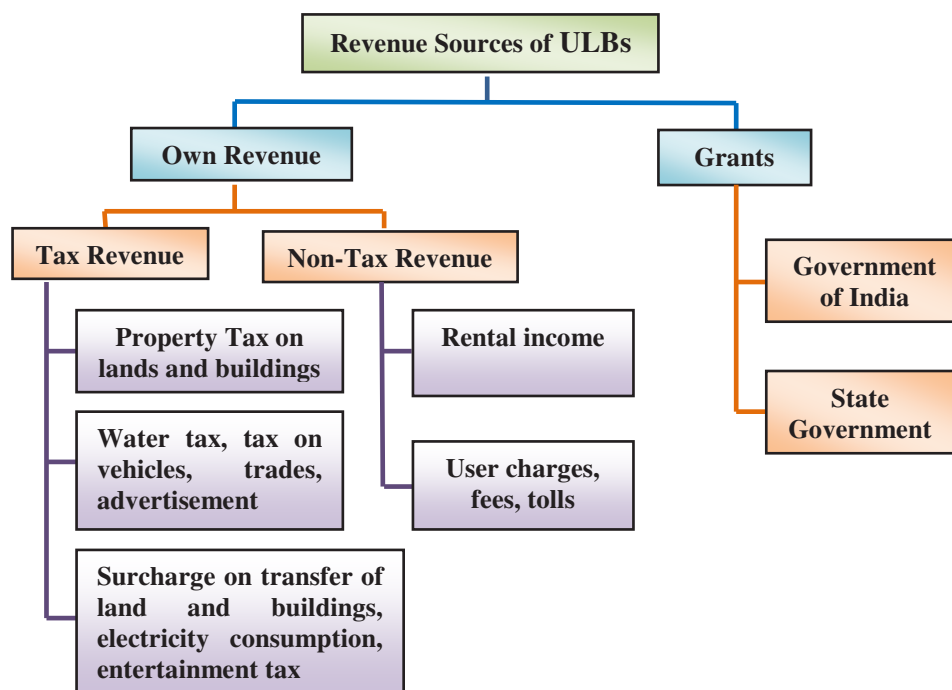
4.8 Financial Reporting Issues

4.8.1 Source of Funds

4.8.1.1 Sources of Finances

The ULBs receive funds for execution of development works from Government of India (GoI) and the State Government in the form of grants. The GoI grants include grants assigned under recommendation of the Central Finance Commission (CFC). The State Government grants are received through devolution of net proceeds of the total tax revenue on recommendations of the State Finance Commission (SFC) and grants for implementation of State Sponsored Schemes. Besides, the ULBs had its own resources of fund (tax and non-tax revenue). The property tax on lands and buildings was the mainstay of ULBs' own revenue. Flow chart of finances of ULBs is shown in **Chart 4.3**:

Chart - 4.3: Source of Funds



(Source: Section 127 BMA, 2007)

4.8.1.2 State Budget allocation vis-à-vis expenditure

The budget provisions made by the State Government to ULBs including State share towards GoI schemes and grants received under recommendations of CFCs for the year 2010-15 is given in **Table 4.5** below:

Table-4.5: Budget allocation vis-à-vis expenditure

(₹ in crore)

Sl. No.	Particulars	Head	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Budgetary Allocation	Revenue	2143.46	1374.83	1668.44	2537.40	3300.59
		Capital	7.00	7.00	2.00	1.00	1.00
		Total	2150.46	1381.83	1670.44	2538.40	3301.59
2.	Expenditure	Revenue	611.56	661.37	1263.72	1717.44	1778.46
		Capital	0	0	2.00	1.00	0
		Total	611.56	661.37	1265.72	1718.44	1778.46
3.	Savings (1-2)	1538.90	720.46	404.72	819.96	1523.16	
4.	Percentage of savings	72	52	24	32	46	

(Source: Appropriation Accounts of Government of Bihar)

It is evident from **Table 4.5** that the State Government did not transfer entire amount as provided in the budget to the ULBs and percentage of short-transfer ranged between 24 to 72 per cent. The allocation under Capital head was less than one per cent of the total allocation during 2010-15 while capital expenditure during 2010-12 and 2014-15 was nil.

4.8.1.3 Receipts and expenditure of ULBs

The consolidated position of receipts and expenditure of ULBs were not maintained at the State level. However, as per information furnished by the

UD&HD, status of funds received and expenditure of 28 ULBs³³ covered under Support Programme for Urban Reforms (SPUR) project³⁴ during the years 2012-15 is shown in **Table 4.6** below:

Table-4.6: Receipt and Expenditure of 28 ULBs

(₹ in crore)				
Sl. No.	Particulars	2012-13	2013-14	2014-15
1	Opening Balance	326.98	430.08	641.89
2	Receipts	300.79	444.33	735.17
3	Fund available (1+2)	627.77	874.41	1377.06
4	Expenditure	201.66	296.60	589.40
5	Percentage of Utilisation	32	34	43

(Source: Data provided by UD&HD)

(Details in *Appendix - 4.2*)

The above position indicated that only 32 to 43 *per cent* of available funds were utilised during 2012-14. The UD&HD provided (August 2015) figure of funds available/released and utilisation thereof for 28 ULBs only.

4.8.2 Recommendations of the State Finance Commission (SFC)

State Finance Commissions were constituted by GoB to review the financial position of local bodies (LBs) and recommend the principles to govern the distribution of net proceeds of taxes, duties *etc.*, between the State and the LBs. The GoB constituted (June 2007) the Fourth State Finance Commission (FSFC) which submitted its report in June 2010. Though recommended by FSFC to release in two installments, funds were released to ULBs by the UD&HD in one installment. Further, though the FSFC had recommended for release of funds on the basis of figures of receipts of the immediate preceding year, the UD&HD released funds on the basis of receipts of preceding two years. It was noticed that against the eligibility of ₹ 1250.12 crore, only ₹ 1247.61 crore was released (2010-15) to ULBs. Thus, there was a short release of ₹ 2.51 crore.

The fifth SFC was constituted in December 2013 and had to submit its report by March 2015 but the report has not yet been submitted (November 2015).

4.8.3 Maintenance of Records

Section 86, 88 and 89 of BMA, 2007 require the municipalities to prepare and maintain financial statements consisting of Income and Expenditure Account, Receipt and Payment account, and Balance Sheet. But, seven ULBs³⁵ did not prepare the annual accounts for the period 2011 to 2015. The

³³ Ara, Aurangabad, Begusarai, Bettiah, Bhagalpur, Biharsharif, Bodhgaya, Chapra, Danapur, Darbhanga, Dehri, Gaya, Hajipur, Jamalpur, Katihar, Khagaul, Kishanganj, Motihari, Munger, Muzaffarpur, Nawada, Patna, Phulwarisharif, Purnea, Saharsa, Sasaram, Sitamarhi and Siwan

³⁴ A GoB initiative funded by the United Kingdom's Department For International Development (DFID) to provide financial, technical and managerial support to enhance efficacy of ULBs

³⁵ Bhagalpur, Darbhanga, Dumrao, Hisua, Jamui, Mairwa and Nawada

Executive Officers of the ULBs concerned replied that the annual accounts would be prepared in future.

4.8.4 Maintenance of Accounts by ULBs

The Ministry of Urban Development, GoI in consultation with the Comptroller and Auditor General of India (CAG) prepared (2004) the National Municipal Accounts Manual (NMAM) for maintenance of accounts on accrual basis by the ULBs. Section 87 of the BMA, 2007 stipulates that the State Government shall prepare a Bihar Municipal Accounting Manual (BMAM) for implementation of accrual based Double Entry Accounting System (DEAS) containing details of all financial matters and procedures relating to the Municipalities. The Special Secretary, UD&HD stated that the BMAM has not been finalised as on December 2015.

Further, the UD&HD notified (January 2014) the 'Bihar Municipal Accounting Rules, 2014' for preparation and maintenance of financial statements³⁶ on accrual based Double Entry System in the municipalities from 1 April 2014. The Department issued (February 2014) instruction to all ULBs regarding migration from Cash System of accounting to accrual based DEAS from 1 April 2014.

The UD&HD stated (August 2015) that in 19 ULBs, first phase of implementation of DEAS including preparation of Fixed Assets Register (FAR), Opening Balance Sheet and Annual Financial Statement upto FY 2011-12 was completed and for other ULBs, appointment of competent Chartered Accountant firms for the purposes was underway.

4.8.5 Impact of Audit

Recoveries of ₹ 8.74 lakh were made from person(s) concerned in seven ULBs³⁷ in course of audit conducted during 2014-15.

4.8.6 Good Practices

The Geographic Information System (GIS) based property survey has been started and it was completed in Purnea and Katihar Municipal Corporations. In Purnea, the number of properties increased from 29,618 to 76,184 and the demand of property tax enhanced from ₹ 1.10 to ₹ 3.22 crore after GIS survey. In Katihar, the percentage increase in number of holdings and revenue from holding tax was 85 per cent and 158 per cent respectively after GIS survey.

A centralised Grievance Redress Cell had been operationalised to attend to complaints related to municipal services. The functioning of this Cell is based on a Citizen's Charter that defines the timeline for redressal of complaints.

³⁶ Receipt and Payment Account, Income and Expenditure Account and Balance Sheet of Assets and liabilities

³⁷ Aurangabad (₹0.29 lakh), Dumraon (₹2.39 lakh), Islampur (₹1.41 lakh), Jehanabad (₹2.04 lakh), Maner (₹0.38 lakh), Masaurhi (₹0.46 lakh) and Nawada (₹1.77 lakh)