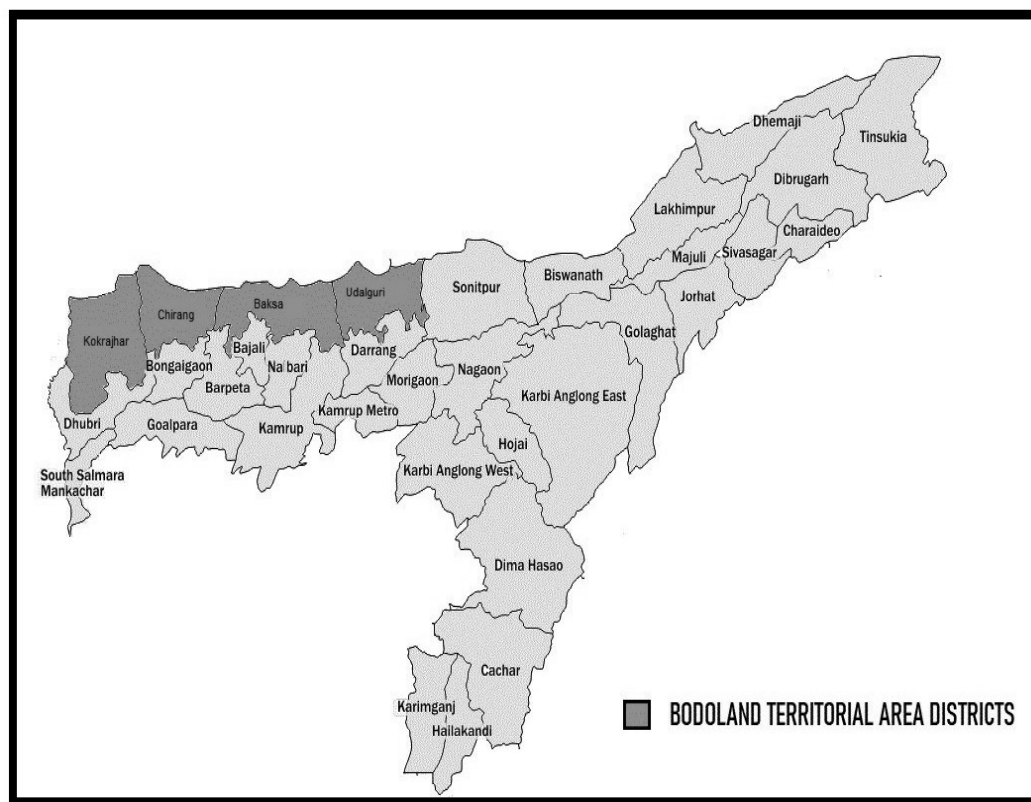


# Chapter-I

## Constitution, Rules and Maintenance of Accounts

### 1.1 Profile of Bodoland Territorial Council

Bodoland Territorial Council (BTC) is an Autonomous Council in Assam established in pursuance of a Memorandum of Settlement (MoS)<sup>1</sup> amongst Government of India, Government of Assam and Bodo Liberation Tigers. The BTC was set up on 05 December 2003 in terms of an amendment<sup>2</sup> to the Sixth Schedule of the Constitution of India. The BTC encompasses 8821.68 sq.km of area comprising four districts of the State (about 11.25 *per cent* of total area of Assam).



As per the amendment to the Sixth Schedule, the Council would have a maximum of 46 members, of whom, 40 are elected through adult suffrage, while six members are nominated by the Governor of Assam. Out of the 40 elected seats, thirty are reserved for Scheduled Tribes, five for non-tribal communities, five open for all communities. The nominated members are to be selected from amongst the unrepresented communities from the BTC area, of which at least two should be women.

The Sixth Schedule to the Constitution provides for administration of specified tribal areas by constituting a District/ Regional Council for each autonomous district/

<sup>1</sup> MOS of 10 February 2003 reached amongst Government of India, Government of Assam and Bodo Liberation Tigers

<sup>2</sup> The Sixth Schedule to the Constitution (Amendment) Act, 2003.

region with powers to make laws on matters listed in paragraph 3(1) of the Sixth Schedule, mainly in respect of allotment, occupation, use of land, management of forests (other than reserved forests), use of any canal or watercourse for agriculture, regulation of the practice of 'Jhum' or other forms of shifting cultivation, establishment of village or town committees or councils and their powers, village or town administration, public health and sanitation and inheritance of property, which are called inherent functions of the Council. Further, in terms of Paragraph 3B<sup>3</sup> of the Sixth schedule, the BTC was vested with additional powers to make laws on 40 subjects (**Appendix I**) as specified under serial (i) to (xl) in the Schedule *ibid*.

In terms of paragraph 6(1) of the Sixth Schedule, the Councils have the powers to establish, construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the respective autonomous districts. The BTC also has the powers to assess, levy and collect within Bodoland Territorial Area District (BTAD), taxes on land and buildings, professions, trades, employments, taxes on animals, vehicles and boats, the entry of goods into a market for sale therein, and tolls on passengers and goods carried by ferries, and taxes for maintenance of schools, dispensaries or roads, *etc.*, as listed in paragraph 8 of the Sixth Schedule.

In order to enable the BTC to exercise the above powers, the State Government resolved (31 October 2003) to extend the former's executive powers and delegated/entrusted functions in respect of 39 out of 40 subjects (except relief and rehabilitation). Accordingly, administrative procedure/modalities were framed (16 October 2004) by Government of Assam in consultation with BTC under which Plan funds would be made available as advance, primarily against Grant No. 78 of the State budget, for BTC to incur expenditure on 39 subjects. As a part of this administrative arrangement, BTC is required to render monthly detailed accounts to the Principal Accountant General (Accounts and Entitlements) for adjustment of such advance of funds provided for through State Budget. It was also provided for in the administrative procedure<sup>4</sup> that the State Government would decide the modalities for transfer of other Plan (Schemes/ Programmes) and Non-Plan funds to the BTC.

However, such procedure/ modalities were not framed as on the date of submission (July 2016) of accounts for the year 2016-17 by the BTC to Accountant General.

## **1.2 Organisational structure of BTC Secretariat**

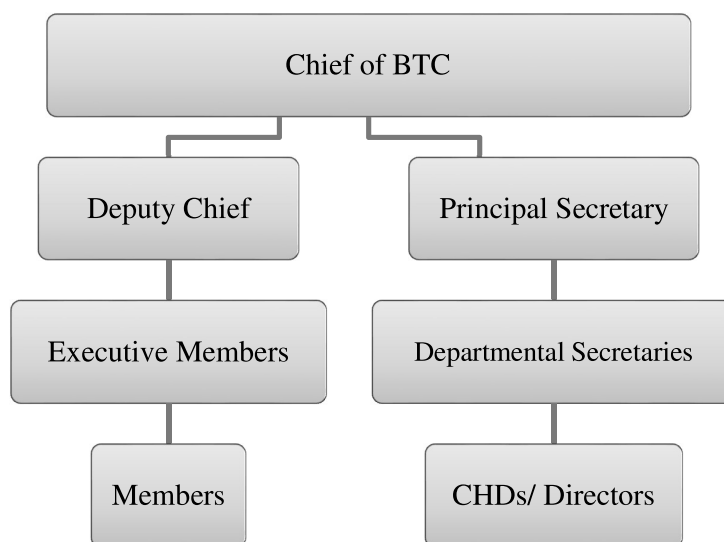
BTC Secretariat was headed by the Principal Secretary, BTC, Kokrajhar who was also functioning as the Drawing and Disbursing Officer (DDO) of the Council. Departmental Secretaries and Council Heads of Departments (CHD) cum Directors of different departments, assisted the Principal Secretary in carrying out the departmental activities. There were thirty-seven CHDs along with respective subordinate DDOs at field level to carry out the functions of BTC.

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<sup>3</sup> Included vide Sixth Schedule to the Constitution (Amendment) Act, 2003.

<sup>4</sup> Office Memorandum dated 16 October 2004.

The structure of BTC administration is given in the organogram below:



### 1.2.1 Human Resources

As per Rule 155 of the BTC Fund Rules, 2012 in April every year, a detailed statement of the permanent establishment existing on 01 April shall be prepared in the prescribed form and kept on record in the Council Office.

Audit observed that BTC did not prepare the detailed statement of its staff as mandated by the BTC Fund Rules as of March 2017.

Information furnished by BTC (May 2022) showed that Sanctioned Strength (SS) of BTC Secretariat was 565 (Government Sanctioned post: 246; Council Sanctioned post: 319) against which Persons-in-Position (PIP) during 2016-17 was 493, indicating a shortfall of 72. Copies of Government/Council orders pertaining to the actual SS to ascertain the authority could not be provided to audit. Moreover, BTC Secretariat did not maintain SS *vis-à-vis* PIP for various categories of staff of the entrusted departments. Due to failure to provide the information despite being specifically called for, Audit could not verify the actual staff position of BTC.

### 1.3 Rules for the Management of District Fund

As per Paragraph 7(2) of the Sixth Schedule, the Governor may make rules for the management of the District Fund detailing the procedure for payment of money into the said fund, withdrawal of moneys therefrom and the custody of moneys therein. In keeping with this, the Bodoland Territorial Council Fund Rules, 2012 was framed and notified in September 2012.

### 1.4 Maintenance of accounts

In terms of paragraph 7(3) of the Sixth Schedule, the form in which the accounts of the District Council are to be maintained is to be prescribed by the Comptroller and Auditor General of India (CAG). The approved format *inter-alia* provides for two divisions of the accounts, 'Part-I District Fund' and 'Part-II Deposit Fund'. The Fund,

as prescribed under paragraph 7(1) of the Sixth Schedule is maintained in Kokrajhar Treasury, as Personal Deposit Account (PDA) of BTC.

The accounts and records of the Principal Secretary, BTC, Kokrajhar are test audited by CAG under Paragraph 7(4) of the Sixth Schedule. BTC submitted its Annual Accounts for the year 2016-17 in the approved format in November 2018 *i.e.*, after a delay of 17 months. The submitted Annual Accounts, however, did disclose the Grant-wise, Heads of Account-wise funds received and disbursed. At the instance of audit, BTC resubmitted its account for the year 2016-17 in August 2019 appending Annexures disclosing Head of Account-wise receipts and disbursements of funds transferred to BTC by the State Government. The audit of Annual Accounts along with the transactions of the Council for the year 2016-17 was conducted from 03 December 2019 to 10 February 2020.

Result of audit of Annual Accounts for the year 2016-17 and test-check of the transactions of the Council during the year have been presented in Chapter-II to Chapter-IV of this Report.

### **1.5 Internal Control**

For efficient management of any organisation, an effective internal control mechanism should be in place to ensure that proper checks and procedures are exercised for effective discharge of its mandate, reliability of its financial reporting and compliance with applicable laws and regulations to avoid/minimise errors, detect and prevent instances of possible misappropriation, irregular payment, *etc.* As part of internal control, effective internal audit arrangement should be in place to ensure compliance with the provisions of the Financial Rules and Regulations.

Audit observed that there was no internal audit wing set up in BTC during 2016-17. Further, evaluation of internal control system in the Council revealed that internal control mechanism was weak as evident from the persistent irregularities such as discrepancies in cash balances as per annual accounts with that of Treasury records, non-deposit of revenue in the Treasury, non-disclosure of Head of Account-wise and funds-wise opening and closing balances, incurring of excess expenditure over fund received/unfruitful expenditure, failure to collect own revenue, lack of internal coordination among different departments, irregular submission of utilisation certificate, creation of liability, excess/avoidable expenditure, *etc.*, highlighted in the Inspection Reports (IRs) issued separately. A few instances of such are discussed in the succeeding Chapters. Weak internal control is fraught with risks of fraud, misappropriation and financial irregularities, which might remain undetected.

Thus, effective internal control reduces the risk of asset loss, and helps ensure that information generated is complete and accurate, financial statements are reliable, and day-to-day operations are conducted in accordance with the provisions of applicable laws and regulations. Council may establish an Internal Audit Wing to strengthen the internal control system for better management of its affairs.

## **1.6 Recommendations**

- *The Council should maintain detailed statement of sanctioned strength and persons-in-position for all the cadres for better human resource management.*
- *Council may ensure submission of Annual Accounts to the Principal Accountant General as per the prescribed timeline; and*
- *The BTC needs to strengthen its internal control mechanism, to reduce deficiencies in its Financial Management and to prevent possible frauds and misappropriation of funds.*