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Chapter VII

Conclusion

The 74th Amendment introduced Part IX A (the Municipalities) containing Articles 243P to 243ZG in the Constitution. This amendment which came into effect on 1 June 1993 authorised 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 (Article 243W). The 12th Schedule lists out the 18 functions to be carried out by ULBs.

Audit Objective

1

Whether provisions of 74th CAA have been adequately covered in State legislations?

Each State had to enact a legislation to implement the 74th CAA. The ULBs in the State were governed by the KM Act, 1964 and the KMC Act, 1976. The State Government carried out necessary amendments to these Acts to comply with the provisions of 74th CAA. These amendments were, however, not supported by firm action thus, defeating the spirit of the constitutional amendment specifically with reference to devolution of functions and creation of appropriate institutional mechanisms.

Audit Objective

2

Whether ULBs were empowered by the State Government to discharge their functions effectively through the creation of appropriately designed institutions/institutional mechanisms and the functioning thereof?

Transfer of functions - The State Government transferred 17 out of the 18 functions. Fire Services was not transferred. Of the 17

functions, 12 were obligatory and 5 were discretionary for CCs and it was 11 and 6 respectively for CMCs/TMCs/TPs. Further, ULBs were solely responsible for only three functions. They had no role in two functions and had limited role in eight functions. While the ULBs were mere implementing agencies for three functions, they functioned as implementing agency under Roads and Bridges besides being responsible for implementation of this function within their jurisdiction. The discharge of devolved functions was thus, highly restricted.

Formation of Councils - Out of 273 ULBs, elections were not held, though due, in 23 ULBs as there were court cases relating to reservation policy of the Government in respect of wards. In 187 of the balance 250 ULBs where elections were held, councils were not formed owing to court cases regarding rotation in reservations for the offices of the Mayor/Dy. Mayor and President / Vice President. Hence, Administrators were appointed to these 210 ULBs. This rendered the democratic process meaningless.

Mayoral tenure - In the State, the term of office of Mayor and Deputy Mayor in the case of CCs was one year from the date of election while the term of the President and Vice President in the case of other ULBs was for a period of thirty months from the date of their election. The tenures were not coterminous with the duration of the Municipality. The term of Mayor was too little for bringing in stability and to provide a long term vision. The Mayors of cities in Karnataka are on a weak footing.

Committees – Ward Committees were not constituted in any of the CCs except BBMP. Hence, there was no community participation in local governance. Though District Planning Committees were constituted in 29 out of 30 districts, meetings were not held regularly resulting in non-preparation of the consolidated District Development Plan involving matters of common interest between the panchayats and the municipalities. Metropolitan Planning Committee, though constituted for Bengaluru area, did not prepare a comprehensive development plan.

State Finance Commission - There were delays in constitution of SFCs ranging from 10 days to 1,606 days (1st to 4th SFC). Hence, 4th SFC was in place instead of 6th SFC due. Acceptance and implementation of the SFC recommendations were also delayed by 238 days to 1,284 days. The State Government had not implemented many of the recommendations of SFC and undertook modifications of recommendations relating to fiscal devolution. This was a setback to the process of strengthening ULBs.

District Urban Development Cell – The action plans of ULBs for development works to be taken up under municipal funds were being approved by DUDC after approval by the Council. This system undermined the autonomy of ULBs.

Impact of parastatals on ULBs – The functions of urban/town planning, regulation of land use, water supply & sanitation and slum development were delivered by parastatals in the State. These parastatals had their own governing bodies which did not include elected representative of ULBs. The State did not amend the statutes so as to make the parastatals accountable to ULBs. This arrangement infringed on the ability of ULBs to discharge their mandated functions and undermined the objective of accountability to the people.

Audit Objective

3

Whether ULBs have access and powers to raise financial resources commensurate with their functions?

The 74th CAA provided for fiscal transfers from the Central and State Governments besides empowering them to raise their own revenue. The fiscal transfers constituted about 63 *per cent* of the revenue of ULBs during the period 2014-15 to 2018-19. However, there was shortfall in release of the committed funds by the State Government. As against ₹44,691 crore to be released to ULBs as per SFC recommendations, only ₹17,119 crore was released during the period 2014-15 to 2018-19. Grant of ₹12,007.65 crore released to parastatals to service borrowings on behalf of ULBs was deducted from the releases to all ULBs resulting in short release of funds to ULBs that had not availed any loan. The assigned revenue in the form of duty on transfer of immovable property was released belatedly each year during the period 2014-18 and it was yet to be released for the year 2018-19.

The share of own revenue to total revenue of ULBs for the period 2014-15 to 2018-19 was only 37 *per cent*. The ULBs lacked autonomy in generating their own revenue. While the authority to collect certain taxes like property tax, advertisement tax vested with ULBs, powers pertaining to the rates and revision thereof

(advertisement tax), procedure of collection (property tax), method of assessment, exemptions, concessions (property tax, advertisement tax) *etc.*, vested with the State Government. The intervention of the State Government constrained the ULBs. Besides, omissions such as absence of reliable and complete database of properties, deficiencies in maintenance of demand, collection and balance registers, non-revision of rates periodically though empowered *etc.*, hampered the revenue generation of ULBs.

Budget preparation exercise was flawed and unrealistic. Scientific estimation of cost of each municipal service was not carried out, leading to huge variations between estimates and actuals. ULBs were able to generate own resources to the extent of only 56 *per cent* of revenue expenditure and had utilised on an average about 69 *per cent* of the available funds. The expenditure constraints included limited financial and administrative powers to ULBs, rigid guidelines for allocation and utilisation CFC grants by the State Government and huge number of vacancies.

Audit Objective

4

Whether ULBs have powers to mobilise and incentivise human resources commensurate with their functions?

ULBs were not vested with the powers to assess staff requirement and recruit staff. These were vested with the State Government. Population alone was considered for assessment of requirement. Further, the State had the powers to regulate classification, method of recruitment, conditions of service, pay and allowances, initiate disciplinary action on staff of ULBs, transfer staff across ULBs or to other Government departments.

The C&R Rules framed by State Government failed to specify function wise requirement of staff. As a result, there was no transparency in terms of specifying the roles and responsibilities for each position, requirement of skills and qualification for each role *etc.*

The ULBs lacked adequate manpower as there were huge vacancies across all cadres affecting efficient delivery of services. Though the State Government was aware of the status of manpower, it had not

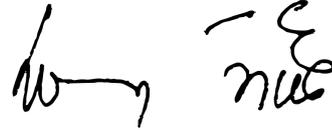
taken action to fill up the vacancies. Further, as many as 181 persons who were not from KMAS were discharging the duties of Municipal Commissioner/Chief Officer in violation of the statutory provisions. On the contrary, 21 KMAS officers were discharging duties as Revenue Officers/Managers/Sr. Health Inspectors. This impacts the efficacy of service delivery by ULBs. Capacity building exercise was also deficient.



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