

# **Executive Summary**



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This Report contains significant results of the performance audit on ‘Efficacy of implementation of the Constitution (Seventy-fourth) Amendment Act, 1992’ covering the period from April 2015 to March 2020.

### Introduction

The Constitution (Seventy-fourth Amendment) Act, 1992 (74<sup>th</sup> CAA) was enacted, which came into force on 1 June 1993, to give Constitutional recognition to the Urban Local Bodies (ULB) for decentralising urban governance along with the Constitutional right to exist. The 74<sup>th</sup> CAA authorised the State Government to enact laws to empower ULBs with powers and authority as may be necessary to enable them to function as institutions of self-government to transfer various responsibilities to Municipalities and to strengthen Municipal level governance. The Twelfth Schedule of the Constitution enumerates 18 specific functions to be devolved to ULBs.

In the State of Punjab, ULBs are categorised into three types of Municipalities *viz.* Municipal Corporation, Municipal Council and Nagar Panchayat on the basis of population, revenue generated by local administration and such other factors as may deem fit, specified by a notification in the Official Gazette. As of March 2020, there were 167 ULBs in Punjab. The Municipal Corporations and other Municipalities *viz.* Municipal Councils and Nagar Panchayats are governed by the Punjab Municipal Corporation Act, 1976 (PMC Act) and the Punjab Municipal Act, 1911 (PM Act) respectively, amended in 1994.

### Audit framework

The overall objective of this performance audit was to ascertain whether ULBs have indeed been empowered in terms of funds, functions and functionaries to establish themselves as effective institutions of local self-government and whether the 74<sup>th</sup> CAA has been effectively implemented in the State. The main objectives of the performance audit were to assess whether provisions of 74<sup>th</sup> CAA have been adequately covered in the State legislation; whether ULBs in the State were empowered to discharge their functions effectively through creation of appropriately designed institutions/institutional mechanisms; and whether ULBs have access to financial resources and human resources commensurate with their functions.

The audit findings, conclusions and recommendations relating to each of the four audit objectives have been reported in four distinct chapters *viz.* Chapters III to VI to facilitate easy comprehension and follow up.

## **Compliance with provisions of Seventy-fourth Constitutional Amendment Act**

The State statutes largely complied with the provisions under 74<sup>th</sup> CAA. However, compliance with the Constitutional provisions by law did not give assurance to effective decentralisation on ground unless followed by effective implementation of functions enlisted in Twelfth Schedule of the Constitution.

**[Paragraph 3.1]**

## **Empowerment of Urban Local Bodies and their functioning**

Though the State Government carried out necessary amendments in State statutes *viz.* PMC Act, PM Act, etc., to comply with the provisions of 74<sup>th</sup> CAA, these amendments were not supported by firm action in terms of empowerment of ULBs to discharge their functions freely and effectively, thus, defeating the spirit of the Constitutional amendment, as is evident from the following inconsistencies noticed during the course of performance audit:

The State Government had overriding powers over the Urban Local Bodies in various matters *viz.* power to frame rules, power to cancel and suspend a resolution or decision taken by ULBs, power to dissolve ULBs, sanction of regulations/bye-laws, sanction to borrow money, lease/sale of property, power in regard to taxes, budget estimates, etc.

**[Paragraph 4.1]**

Notification regarding devolution of functions had not been issued by the State Government and the ULBs were performing functions what were already entrusted to them before 74<sup>th</sup> CAA. Out of 18 functions, ULBs were solely responsible for five functions except for framing of rules and budgeting; with minimal role in six functions; had overlapping jurisdictions with State departments and/or parastatal bodies in four functions; were mere implementing agencies in two functions; and had no role in one function.

**[Paragraph 4.2]**

The State Government delayed the delimitation process on two occasions, which in turn delayed the election process for up to two years in 130 ULBs.

**[Paragraph 4.3.1]**

Composition in respect of test-checked ULBs was in accordance with the provisions. The seats for direct elections were being reserved for SCs/STs and women as per the prescribed norms and the seats of Councillors were being rotated as per reservation policy for each election. The term of office of Mayor in the case of a Municipal Corporation and the President in case of a

Council was coterminous with the term as Councillor and Municipality respectively.

**[Paragraphs 4.3.1.1, 4.3.1.3 and 4.3.2]**

Wards Committee and District Planning Committee were not constituted in any of the ULBs.

**[Paragraphs 4.3.3 and 4.3.4]**

Reports of the Third, Fourth and Fifth State Finance Commissions (SFC) submitted in December 2006, May 2011 and June 2016 respectively were accepted by the Government between 175 to 675 days.

**[Paragraph 4.3.5]**

The parastatal bodies being controlled by the Government were having their own governing bodies which did not include elected representatives of ULBs, thereby making them unaccountable to the elected body of ULBs. Though these parastatal bodies were handling various activities in urban areas of the State, it undermined the powers and authority of the ULBs as may be necessary to enable them to function as institutions of self-government to transfer various responsibilities to Municipalities and to strengthen Municipal level governance in line with the 74<sup>th</sup> CAA.

**[Paragraph 4.4]**

There was no substantial role of ULBs in implementation of Atal Mission for Rejuvenation and Urban Transformation (AMRUT) and Smart Cities Mission in the State.

**[Paragraph 4.5]**

## **Recommendations**

In the light of the audit findings, the State Government may like to consider:

- *taking decisive action in order to translate the vision of decentralisation into reality, besides providing adequate degree of autonomy to ULBs in respect of functions assigned to them in line with the Constitutional provisions;*
- *entrusting the task of delimitation to State Election Commission to avoid delay in conducting elections of ULBs;*
- *constituting requisite committees viz. Wards Committee, District Planning Committee, etc. for effective planning and better execution at ULBs' level; and*
- *involving democratically elected representatives of ULBs in functions such as urban/town planning, regulation of land use, water supply,*

*sewerage and sanitation, besides ensuring role of ULBs in AMRUT, Smart Cities Mission, etc. in line with the provisions of 74<sup>th</sup> CAA.*

## **Financial resources of Urban Local Bodies**

The 74<sup>th</sup> CAA provided for fiscal transfers from the Central and State Governments to the ULBs besides empowering them to raise their own revenue. However, the ULBs were having limited access to the financial resources, which were not commensurate with their functions.

The fiscal transfers constituted about 18 *per cent* of the revenue of ULBs during the period 2015-16 to 2019-20. However, there was shortfall in release of committed funds by the State Government. Out of mandated devolution of ₹ 3,287 crore during 2015-2020 as per SFC recommendations, only ₹ seven crore (0.21 *per cent*) were released to ULBs during the same period.

**[Paragraphs 5.1 and 5.1.1]**

Against the allocation of ₹ 1,962.36 crore and ₹ 490.59 crore as Basic Grant and Performance Grant as per recommendations of 14<sup>th</sup> Central Finance Commission, GoP received ₹ 1,902.65 crore and ₹ 200.15 crore, thereby resulting into short receipt of ₹ 59.71 crore and ₹ 290.44 crore respectively during the period 2015-2020.

**[Paragraph 5.1.2]**

Recovery on account of Municipal tax (₹ 127.81 crore) from Punjab State Power Corporation Limited (PSPCL); property tax (₹ 216.84 crore); user charges (₹ 535.96 crore); rent/lease (₹ 40.30 crore); amount of ₹ 229.31 crore from Greater Mohali Area Development Authority (GMADA) was outstanding; thereby showing ineffectiveness of the ULBs in augmenting their own revenue.

**[Paragraphs 5.1.3 to 5.1.7]**

As against the recommendations of the Fourth and Fifth SFCs requiring the user charges to cover 90 *per cent* of the cost of expenditure on operation and maintenance (O&M), the average collection of user charges during 2015-2020 was only 18 *per cent*. The underlying reasons for short collection of user charges was short assessment of demand which was only 20 *per cent* of the expenditure incurred on O&M during the same period.

**[Paragraph 5.1.5]**

There was short release of ₹ 866.13 crore on account of Grants-in-aid by the State Government to Punjab Municipal Fund during 2017-2020.

**[Paragraph 5.1.8]**

Percentage of actual receipts *vis-à-vis* budget estimates ranged between 34.59 *per cent* and 108.61 *per cent*, and that of actual expenditure *vis-à-vis* budget estimates ranged between 38.93 *per cent* and 120.41 *per cent* in ULBs during the period 2015-16 to 2019-20. Thus, the budget estimates with variation of more than 10 *per cent* could be termed as unrealistic.

**[Paragraph 5.2.1]**

The powers and role of ULBs were limited in respect of administrative approvals in emergent maintenance of essential services, technical sanctions, acceptance of financial bids and other expenditure, thereby restricting the autonomy of ULBs.

**[Paragraph 5.3]**

During the five years' period from 2015-16 to 2019-20, despite increase in population and expansion of services, the expenditure on O&M decreased from 20.22 *per cent* in 2015-16 to 19.16 *per cent* in 2017-18.

**[Paragraph 5.4]**

## Recommendations

In the light of the audit findings, the State Government may like to consider:

- *ensuring release of mandated share to ULBs as per recommendations of Central/State Finance Commissions and due Grants-in-aid to Punjab Municipal Fund;*
- *putting in place an effective mechanism for the recovery of outstanding dues from the organisations/bodies concerned by ULBs to augment their own resources;*
- *taking appropriate action on the recommendations of SFC with regard to levy such charges on water supply and sewerage by ULBs so that they are able to recover 90 per cent expenditure on O&M incurred on these services, besides improving O&M on the water supply and sewerage system;*
- *ensuring preparation of realistic budget estimates by ULBs in respect of receipts and expenditure; and*
- *providing adequate powers and enhancing role of ULBs in administrative and executive spheres to enable them to function as institutions of self-government and to strengthen Municipal level governance in line with the provisions of 74<sup>th</sup> CAA.*

## **Human resources of Urban Local Bodies**

The ULBs were having minimal access to human resources, as is evident from the following:

The ULBs neither had the powers to assess the staff requirement nor to recruit the required staff. These powers were vested with the State Government. The State Government assessed the requirement of staff based on consideration, requirements and financial capacity of the Corporations/Councils/Nagar Panchayats. The State Government had the powers to regulate classification, method of recruitment, conditions of service, pay and allowances, initiate disciplinary action on staff of ULBs, transfer of staff across ULBs, etc.

**[Paragraph 6.1]**

There was shortage of staff ranging from 29.08 *per cent* to 36.48 *per cent* amongst various cadres/categories during 2015-2020. In 13 Municipal Corporations, for every thousand people, four ULBs had only two employees, five ULBs had three employees, three ULBs had four employees and one ULB had five employees. Evidently, the ULBs lacked adequate manpower to carry out efficient delivery of services.

**[Paragraph 6.2.1]**

Training to staff for capacity building was deficient, as only 0.75 *per cent* to 1.44 *per cent* of total men-in-position (excluding Group D employees) were nominated for capacity building training programmes during 2017-18 to 2019-20.

**[Paragraph 6.3]**

## **Recommendations**

In the light of the audit findings, the State Government may like to consider:

- *empowering autonomy to ULBs to assess, recruit and manage human resources commensurate with their needs and functions; and*
- *ensuring adequate manpower to ULBs, besides imparting need-based training to staff to enable them to carry out efficient delivery of services.*