



PART – B
URBAN LOCAL BODIES



CHAPTER – III

**An Overview of the Functioning, Accountability
Mechanism and Financial Reporting issues of
Urban Local Bodies**

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3.1 Introduction

The Seventy-Fourth Constitutional Amendment Act (CAA), 1992 had envisaged creation of local self-government for population of urban areas. Accordingly, the Municipalities were provided constitutional status for governance. The States were required to entrust Municipalities with powers, functions and responsibilities to enable them to function as institutions of local self-government and carry out the responsibilities conferred upon them including 18 subjects listed in the Twelfth Schedule of the Constitution.

Accordingly, the Government of Bihar (GoB) enacted the Bihar Municipal Act (BM Act), 2007 by repealing the Bihar and Orissa Municipal Act, 1922 and framed Bihar Municipal Accounting Rules, 2014, the Bihar Municipal Accounting Manual and the Bihar Municipal Budget Manual for preparing and maintenance of accounts in the Municipalities of the State.

Sections 7 and 20 of the BM Act, 2007 lay down the criteria for classification of municipal areas by GoB. As of March 2019, there were 142 Urban Local Bodies (ULBs) in the State. The last election to the ULBs was held in May 2017.

The number and class of ULBs on the basis of population as ascertained in Census 2011 as of December 2019 have been given in **Table 3.1** below:

Table-3.1: Classification of ULBs

Category of ULBs	Grade	Population	No. of ULBs
Municipal Corporation	Larger urban areas	More than 2 lakh	12
Municipal Council	Class 'A'	1.5 lakh to 2 lakh	0
	Class 'B'	1 lakh to 1.5 lakh	14
	Class 'C'	0.40 lakh to 1 lakh	35
Nagar Panchayat	Transitional small urban areas	0.12 lakh to 0.40 lakh	81
Total			142

(Source: Information provided by UD&HD)

Municipal areas of the State were divided into a number of Wards on the basis of population that were determined and notified by the State Government. There were minimum 10 Wards and maximum 75 Wards across different classes of Municipalities in the State. As of December 2019, there were 3,398 Wards in the State.

3.1.1 State Profile

The State of Bihar is among the least urbanized States in the country. As per Census 2011, urban population of Bihar was 1.18 crore constituting 11.29 per cent of the total population (10.41 crore) of the State. The national average for urbanization stands at a much higher level at 31.2 per cent. Though, Bihar

has 8.6 per cent of India's total population, yet only 3.1 per cent of the total population of India lives in urban areas of Bihar and only one city (Patna) of the State has more than one million population. The comparative demographic and development statistics of the State have been given in **Table 3.2** below:

Table-3.2: Important statistics of the State

Sl. No.	Indicators	Unit	State	All India
1	Urban Population	Million	11.76	377.11
2	Urban Population Density	Person per Sq. km	4811	3836
3	Urban Literacy	Per cent	76.86	84.11
4	Urban Sex ratio	females per thousand males	895	900
5	Urban poverty level	Per cent	31.2	13.7
6	Municipal per capita own revenue	₹	58	2540
7	Number of ULBs	Number	142	4526
8	Number of districts	Number	38	734

(Source: Sl. no. 1 to 6 from Census 2011 and sl. no. 7 & 8 from Local Government Directory published by Ministry of Electronics & Information Technology, GoI)

3.2 Organisational set up in ULBs

The ULBs are under administrative control of Urban Development and Housing Department (UD&HD), GoB and headed by the Principal Secretary/Secretary. The Municipal Commissioner-cum-Chief Executive Officer is the executive head of the Municipal Corporation while Municipal Council and Nagar Panchayat are headed by the Executive Officers appointed by the State Government. The Chief Municipal Officer is the Principal Executive Officer of the Municipality and all officers and other employees of the Municipality are subordinate to him. Executive functions for carrying out the administration of the Municipality are vested in the Chief Municipal Officer. Joint/Additional/Deputy Municipal Commissioner is appointed in Municipal Corporation to assist the Municipal Commissioner and City Manager is appointed on contractual basis in Municipal Corporation and Municipal Council/ Nagar Panchayat to assist the Joint/Additional/Deputy Municipal Commissioner and Municipal Executive Officers respectively.

The ULBs have an Empowered Standing Committee (ESC) comprising Councilors elected by the people and headed by the Mayor (for Municipal Corporations), the Chairperson (Municipal Councils) and the Municipal President (Nagar Panchayats) elected among Ward Councilors who preside over the meetings of the ESC. The Chief Councilor is the head of the ESC and executive power of a Municipality is exercised by the ESC. The Municipal Administration functions under its supervision and control and the Chief Councilor exercises such powers and functions as are delegated to him by the ESC and conferred on him by or under BM Act, 2007. The organisational structure of ULBs is presented in **Chart-3.1** and **Chart-3.2** below:

Chart-3.1: Elected Body

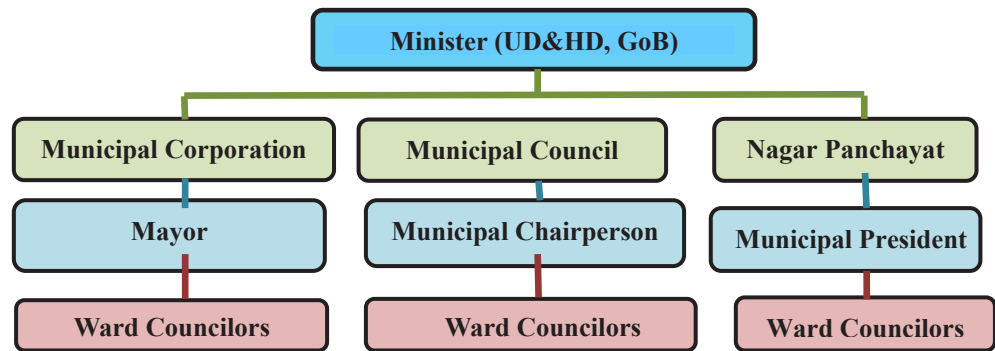
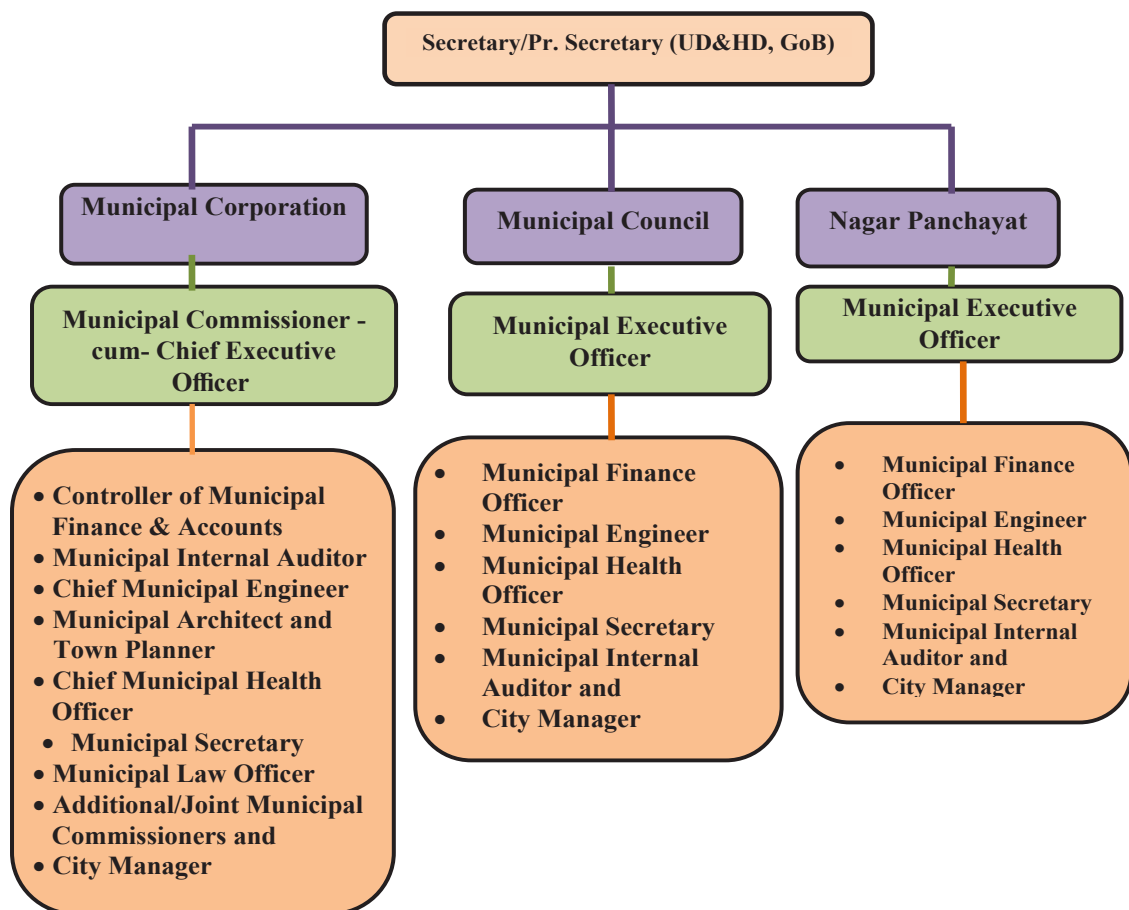


Chart-3.2: Administrative Body



(Source: Section 36 of BM Act, 2007 and information provided by UD&HD)

3.3 Functioning of ULBs

3.3.1 Powers of the State Government

The BM Act, 2007 entrusts the State Government with certain powers so as to enable it to monitor proper functioning of the ULBs. The ULBs have been devolved some powers for delivery of services as stipulated in BM Act, 2007, but decision on all key issues rests largely with the State Government. A brief summary of powers of the State Government is given in **Table-3.3** below:

Table-3.3: Powers of the State Government

Authority	Powers of the State Government
Section 3 and 6	Constitution of Municipal Area: The State Government may, after making such enquiry as it may deem fit, and having regard to the population of any urban area, density of population therein, the revenue generated for the local administration of such area may by notification constitute such large urban area, city, town or transitional area or any specified part thereof as a municipal area under this Act.
Section 44	State Municipal Vigilance Authority: The State Government shall appoint <i>Lok Prahari</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	Power to inspect office, call for records etc.: The State Government may depute officer inspect any office or call for the records under the control of the ULBs.
Section 87	Preparation of Manual: The State Government shall prepare and maintain a Manual <i>viz.</i> , 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	Power to make Rules: The State Government may, by notification, make rules to carry out the purpose of BM Act, 2007 subject to approval by the State Legislature.
Section 421 and 423	Power to make regulations: The Municipality may make regulations for the purpose of giving effect to the provisions of BM Act, 2007 subject to approval of the State Government.
Section 487	Removal of difficulties: If any difficulty arises in giving effect to the provisions of BM Act, 2007, the State Government may do anything necessary to remove such difficulty.

(Source: BM Act, 2007)

3.3.2 Devolution of functions, funds and functionaries

(i) Devolution of Functions

The 74th Constitutional Amendment Act (74th CAA), 1992 enables the ULBs to perform functions related to 18 subjects referred to in the Twelfth Schedule of the Constitution. Accordingly, GoB made provisions in BM Act, 2007 for functions relating to 17 subjects (except fire services) to be carried out by the ULBs (*Appendix – 3.1*).

Audit observed that out of 17 subjects, functions relating to 12 subjects were carried out directly by the ULBs and functions relating to remaining five³² subjects were performed by the functional departments³³/ Parastatal Bodies (PBs)³⁴ of the GoB. Separate notification regarding devolution of functions in

³² (1) Water supply by Public Health Engineering Department except in Patna (2) Urban forestry and protection of environment by Forest & Environmental Change Department (3) Flood, draught and other disaster by Disaster Management Department (4) Primary education by Education Department (5) Land resource and revenues by the Revenue and Land Reform Department.

³³ Public Health Engineering Department, Forest & Environment Department, Art & Culture Department and Education Department.

³⁴ A company or agency owned or controlled wholly or partly by the government (Bihar Urban Infrastructure Development Corporation, Bihar Urban State Transportation Ltd, Bihar Urban Development Agency, District Urban Development Agency and Bihar Rajya Jal Parshad).

terms of 74th CAA was not issued and activity mapping for clarification of roles and responsibilities to be carried out by ULBs was also not done.

Due to poor staffing and technical incapability of the ULBs, a number of PBs were created for performing various function of ULBs and funds were accordingly devolved to them. On this being pointed out by audit, Assistant Director-cum-Joint Secretary of the Department replied (December 2019) that devolution could not be done completely due to shortage of infrastructure and manpower.

Thus, the functions of ULBs were overlapped by the functional departments of GoB/PBs and even after a lapse of more than 27 years of the 74th CAA, ULBs were not able to carry out their mandated functions.

(ii) Devolution of Funds

Section 72(3) of BMA 2007 provided that the State Government to provide grants to the Municipalities for implementation in full or in part of any scheme included in the Annual Development Plan of the Municipality. The Central/ State Government had provided funds under different heads such as Central Finance Commission (CFC), SFC and Sate Plan *etc.* to carry out the mandated functions related to 18 subjects listed in the Twelfth Schedule of the Constitution to ULBs.

Details of grants released under 14th FC, 4th SFC and 5th SFC are given in **Table-3.4** below:

Table-3.4: Release of grants under 14th FC, 4th SFC and 5th SFC

Sl. No.	Grant Head	Period	Grant Released (₹ in crore)
1.	14 th FC	2014-2019	1489.86
2.	4 th SFC	2014-2015	406.79
3.	5 th SFC	2015-2019	3431.72

(Source: Information provided by UD&HD)

Details regarding short receipt/release, non-release and delay in release of grants related to 14th FC and 5th SFC have been discussed in the succeeding paragraphs.

(iii) Devolution of functionaries

Section 36 of BM Act, 2007 provided a number of posts for ULBs but most of these posts were vacant. On being asked by audit to provide data related to men-in-position in respect of all categories of posts in all ULBs, UD&HD furnished only the details of posts of Municipal Commissioners/Executive Officers, Assistant and Junior engineers and City Managers (as of October 2019) as detailed in **Table-3.5** below:

Table-3.5: Vacant posts of Executive and technical staff in ULBs

Sl. No.	Designation	Sanctioned Post	Men- in position	Vacancy	Percentage of vacant posts
1.	Municipal Commissioner	12	11	01	8
2.	Executive Officers	137	110	27	20
3.	City Manager	227	64	163	72
4.	Assistant Engineer (AE)	256	1	255	100
5.	Junior Engineer (JE)	517	54	463	90
Total		1149	240	909	79

(Source: Information provided by UD&HD, GoB)

It was evident from the table above that out of total 1,149 sanctioned posts, 909 posts (79 per cent) belonging to different categories were vacant especially shortage of technical manpower (AE-100 per cent and JE-90 per cent) and City Manager (72 per cent) who had to play very important role in carrying out the functions of ULBs.

Audit observed that the State Government framed Bihar Municipal Officers (Appointment and Service Conditions) Rules, 2008 for appointment of regular Municipal Executive Officer in Municipalities and 5,813 posts of various categories were sanctioned (March 2019) by the Department for the ULBs.

Thus, there was acute shortage of manpower which adversely affected its functioning.

3.4 Formation of various Committees

3.4.1 Empowered Standing Committees (ESC)

Section 21 and 22 of BM Act, 2007 provided that in every Municipality, there would be an ESC and the executive powers of a Municipality would be vested in the ESC. The Chief Councilor would exercise such powers and functions as delegated to him/her by the ESC. The composition of ESC is shown in Table-3.6 as below:

Table-3.6: Empowered Standing Committees

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

(Source: Section 21 of the BM Act, 2007)

The ESC was collectively responsible to the Municipal Corporation, the Municipal Council and the Nagar Panchayat as the case may be. On current status of the constitution of ESC, UD & HD replied (December 2019) that ESC had been constituted in every municipality.

3.4.2 District Planning Committees

Article 243 ZD of the Constitution envisaged formation of a District Planning Committee (DPC) to consolidate the plans prepared by both the panchayats and Municipalities in the district and to prepare a Draft Development Plan (DDP) for the district as a whole. Accordingly, GoB made provisions in BM Act, 2007 and framed constitution of Bihar District Planning Committee and Conduct of Business Rules, 2006. Section 275 of BM Act, 2007 also provides that all development plans to be executed by the ULBs should be included in the DDP of the district consolidated by the DPCs and approved by the State Government.

Audit observed that DPC was constituted in February 2018 after election of Panchayats and Municipalities in the year 2016 and 2017 respectively. Thus, DPC did not exist during the period between 2016 and 2017. As a result, the

plans for execution of development works approved by the GPs and Municipalities could not be consolidated at district level and therefore the DDP could not be prepared and submitted to the Departments.

On being asked by Audit in respect of constitution of DPC in every district, Assistant Director-cum-Joint Secretary of UD&HD replied (December 2019) that DPCs had been constituted by the PRD.

3.4.3 Municipal Accounts Committees

Section 98 of BM Act, 2007 provided that the Municipality shall, at its first meeting in each year or as soon as may be at any meeting subsequent thereto, constitute a Municipal Accounts Committee. The important functions of the Committee were as follows;

- to examine the accounts of the Municipality showing the appropriation of sums granted by the Municipality for its expenditure and the annual financial accounts of the Municipality;
- to examine and scrutinize the report on the accounts of the Municipality by the Auditor appointed under BM Act, 2007; and
- to review and approve the Action Taken Report following each report by the Auditor and the Internal Audit.

On constitution of the Municipal Accounts Committee in ULBs, the Assistant Director-cum-Joint Secretary of UD&HD stated (February 2020) that Municipal Accounts Committee had not been constituted in ULBs and its constitution was under process.

Thus, due to non-constitution of Municipal Accounts Committees, necessary scrutiny of accounts of Municipalities could not be ensured.

3.4.4 Subject Committee

Rule 32 of BMA 2007 Provided that a Municipal Corporation or a Class 'A' Municipal Council, from time to time to constitute Subject Committees consisting of Councilors to deal with the matters (a) water-supply, drainage and sewerage and solid waste management; (b) urban environment management and land use control; and (c) slum up-gradation and basic services for urban poor. The recommendations of a Subject Committee were to be submitted to the ESC for its consideration. In this regard the Assistant Director-cum-Joint Secretary of UD&HD stated (December 2019) that information regarding constitution of Subject Committee was not available in Department.

3.4.5 Wards Committee

Rule 30 of BMA, 2007 provided that every Municipal Corporation having a population of three lakh or more, at its first meeting after the election of Councilors thereto or as soon as may be thereafter, group the Wards of the Corporation in such manner that each group consists of not less than three Wards, and constitute a Wards Committee for each such group. Each Wards Committee was to be consisting of the Councilors elected from the Wards constituting the group. A Wards Committee was subject to the general supervision and control of the ESC, discharge, within the local limits of the group of Wards, the functions of the Municipality relating to the provision of supply-pipes and drainage and sewerage connections to premises, removal of accumulated water on the streets or public places due to rain to otherwise, collection and removal of solid wastes, disinfection, provision of health immunization services and slum services, provision of lighting *etc.* In this regard the Assistant Director-cum-Joint Secretary of UD&HD replied (December 2019) that system of Wards Committee had been established in the all ULBs.

3.5 Audit Arrangement

3.5.1 Primary Auditor

Section 91(1) of BM Act, 2007 provides that the accounts contained in the financial statement, including the accounts of special funds, if any, and the balance sheet shall be examined and audited by the Director Local Fund Audit (DLFA) or his equivalent authority or auditor appointed by the State Government from the panel of professional Chartered Accountants. Further, as per section 91(2) of BM Act, 2007 (amended in 2013) the CAG of India shall provide Technical Guidance and Support (TGS) over proper maintenance of accounts and audit of the accounts of ULBs and an Annual Report prepared by the CAG shall be laid before both the Houses of State Legislature.

The State Government authorised (November 2007) the ELA of the office of the Accountant General (Audit), Bihar to work as Director Local Fund Audit (DLFA). Accordingly, audit of ULBs was conducted by the ELA till adoption (December 2016) of TGS System for audit of the accounts of Local Bodies.

Further, in pursuance of the Central Finance Commissions, the State Government had notified (June 2015) the establishment of Directorate of

Local Fund Audit headed by the Chief Controller of Accounts-cum-DLFA under Finance Department of GoB to conduct the audit of Local Bodies and it had been functioning since 11 June 2015. Terms and conditions for audit of the accounts of LBs under TGS arrangement as laid in the Regulations on Audit and Accounts, 2007 were accepted by the GoB in December 2015 and subsequently, audit of the accounts of LBs under TGS was commenced by the CAG since January 2017 and since then the DLFA started functioning the role of primary external auditor.

The DLFA had conducted audit of the accounts of only 82 ULBs during 2015-16 to 2018-19 as detailed in **Table- 3.7** below:

Table-3.7: Audit conducted by DLFA

Year	Total No. of ULBs	Audit conducted				Percentage of audit conducted
		Municipal Corporation	Municipal Council	Nagar Panchayat	Total	
2015-16	142	0	7	1	8	6
2016-17	142	11	4	0	15	11
2017-18	142	0	16	15	31	22
2018-19	142	0	15	13	28	20
Total		11	42	29	82	

(Source: Information furnished by DLFA)

It is evident from the table above that DLFA had audited very less number of units ranging from six *per cent* to 22 *per cent* during 2015-19. On this being pointed out in audit, the DLFA replied (February 2020) that out of sanctioned post of 314 for local fund audit, men in position was only 44 (14 *per cent*). Out of aforesaid 44 posts, 13 auditors were on deputation to various Departments and only 31 auditors were available for audit.

Thus, due to manpower constraints, DLFA was not able to perform completely the function of primary auditor in respect of audit of accounts of LBs.

(i) Poor response to Inspection Reports (IRs) issued by DLFA

Audit observed that status of compliance of audit paragraphs contained in the IRs was not satisfactory as evident from huge number (almost 100 *per cent*) of audit paragraphs were outstanding for settlement as of February 2020 as detailed in **Table - 3.8** below:

Table-3.8: Outstanding paragraphs in ULBs for the period 2014-19

Year	No of IRs issued	No. of paras in IRs	Amount involved (in lakh)	No of paras settled	Amount of settlement	No of Paras outstanding	Money value of paras outstanding (₹ in lakh)
2014-15 to 2018-19	27	404	11943.83	2	0.79	402	11943.06

(Source: Information furnished by DLFA)

It is evident from the table above that out of total 404 paragraphs contained in 27 IRs, only two paragraphs (0.50 *per cent*) were settled and 402 paragraphs involving ₹11943.06 lakh were pending for settlement as of February 2020.

Thus, huge paragraphs outstanding for settlement indicated weak internal control in ULBs and inaction at the part of the authorities concerned to ensure compliance of outstanding audit paragraphs.

(ii) Preparation of Annual Reports by DLFA

As per the recommendations of 13th FC, Annual Technical Inspection Report (ATIR) prepared by the CAG and Annual Report prepared by the DLFA were to be placed before State Legislature.

On this being pointed out by audit, Assistant Director, DLFA replied (April 2020) that due to lack of technical expertise, less coverage of units audited and less availability of manpower required for audit, DLFA was not able to prepare Annual Report.

3.5.2 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 (13th FC) had also recommended that the CAG must be entrusted with the TGS over the audit of all the LBs at every tier/category and his ATIR as well as Annual Report of DLFA must be placed before the State Legislature. Fourteenth Finance Commission (14th FC) 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 cell³⁵ under the Finance Department for audit of Local Bodies. 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 had been 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 LBs under TGS arrangement.

Audit under TGS arrangement was commenced in the State from January 2017. The DLFA conducted audit of the accounts of 882 LBs units during 2017-19 but they did not forward any IR for TGS till August 2020 to AG (Audit) despite the requisition made to provide 25 IRs.

Thus, technical guidance and quality improvement in IRs could not be suggested by this Office and therefore the objective to provide TGS to audit of LBs could not be fulfilled.

3.6 Response to audit Observations

3.6.1 Poor response to IRs issued by AG (Audit)

Consequent upon completion of field audit, IRs containing audit findings were to be sent to the audited entities with a copy to the Department concerned of

³⁵ Comprising 39 Senior Auditors and one Deputy Finance Controller

GoB. The Municipal Commissioners/Executive Officers of the audited entities concerned were required to respond to observations contained in the IRs and submit compliance report within three months from the date of receipt of the IRs.

Audit observed that Municipal Commissioners/Executive Officers did not take effective steps to furnish compliance of the audit observations contained in the IRs which was evident from increasing number of outstanding audit paragraphs year by year. Details of paragraphs outstanding for the last five years as of October 2019 are given in **Table -3.9** below:

Table-3.9: Outstanding audit paragraphs for the last five years (2014-19)

Year	No. of IRs	No. of paragraphs in IRs	Amount involved (₹ in crore)	No. of paragraphs settled	Amount of settlement (₹ in crore)	No. of paragraphs outstanding	Money value of paragraphs outstanding (₹ in crore)
1	2	3	4	5	6	7 (3-5)	8 (4-6)
2014-15	89	2887	348.16	728	5.64	2148	342.53
2015-16	33	939	68.5	346	3.27	586	65.23
2016-17	86	2386	377.31	616	0.66	1763	376.65
2017-18	32	884	957.61	314	3.36	568	954.25
2018-19	31	644	383.46	0	0	644	383.46
Total	271	7740	2135.04	2004	12.93	5709	2122.12

(Source: Inspection Reports of ULBs)

It is evident from the table above that out of total 7,740 audit paragraphs contained in 271 IRs, only 2,004 paragraphs (26 per cent) were settled and 5,709 paragraphs involving ₹ 2,122.12 crore remained outstanding as of October 2019.

Thus, a large number of paragraphs outstanding for settlement indicated lack of efforts by the Municipal authorities in furnishing compliance to audit observations. Lack of action on compliance of IRs was fraught with the risk of perpetuating serious financial irregularities pointed out in these reports.

3.6.2 Compliance to the ELA's and CAG's Annual Audit Reports

In the State, report of the ELA was prepared for the period 2005-06 to 2013-14 and thereafter CAG's Audit Reports on LBs for the period 2014-15 and 2015-16 were prepared.

(i) ELA's Annual Audit Report

The Finance Department, GoB constituted (March 2010) three-tier Committees – High Level, Department Level and District Level for review/ compliance of the Annual Audit Reports prepared by the ELA. The District Level Committee³⁶ has the responsibility to ensure compliance of audit paragraphs/ reports received by ULBs of that district. The Department Level Committee³⁷ has to review the status of compliance made by the District Level Committees. A High Level

³⁶ Headed by the District Magistrate/Deputy Development Commissioner

³⁷ Headed by the Principal Secretary/Secretary of the UD&HD, GoB

Committee³⁸ has to meet once in six months to review the functioning of District Level and Department Level Committees.

Audit observed that during the period 2018-19, only 17 District Level Committee meetings were held against proposed 129 meetings but no para contained in the ELA report was discussed. On this being pointed out by audit, UD&HD replied (January 2020) that the District Magistrates were reminded repeatedly by the Department for convening the meeting at their levels and the Executive Officers/Municipal Commissioners of the ULBs were directed to participate in these meetings. Further, it was decided that Public Account Committee would discuss on the ELA reports placed before State Legislature.

Audit further observed that last Department Level Committee meeting was held in July 2015 while no High Level Committee meeting was held since August 2013. On this being pointed out, Finance Department intimated (January 2020) that despite constant pursuance, no review report had been submitted by UD&HD to Finance Department which led to non-conduction of Department Level Committee meeting. Due to non-holding of meetings of Department level Committee (since July 2015) and High Level Committee (since August 2013) and holding of a few meetings (13 *per cent*) of District Level Committee, the compliance of ELA's annual report could not be ensured even after lapses of ten years since constitution of these Committees.

Thus, purpose of constitution of three level Committees was defeated and the audit observations contained in the Annual Audit Report of ELA remained unattended.

(ii) Compliance to C&AG's Report on LBs

As per provisions contained in Section 91(2) of the BM Act, 2007 (amended in January 2014), the Annual Report on account of ULBs Prepared by the CAG shall be laid before both the Houses of State Legislature.

The first CAG's report on LBs, GoB for the year ended March 2015 was tabled in the State Legislature on 4 April 2016. Four paragraphs of the report were discussed in the Public Accounts Committee and out of that only one audit observation was settled till June 2020.

Further, the CAG's report on LBs, GoB for the year ended March 2016 was tabled in the State Legislature on 23 August 2017. Discussion on the report had not been started in the Public Accounts Committee till June 2020.

3.7 Accountability Mechanism

3.7.1 Lok Prahari (Ombudsman)

Section 44(1) of BM Act, 2007 provides for appointment of *Lok Prahari* (Ombudsman) for looking into any allegation of corruption, lack of integrity, malpractice *etc.*, of the authorities of the ULBs. The qualification, terms and conditions and tenure of appointment and the powers and duties of the *Lok*

³⁸ Headed by the Principal Secretary to the Finance Department, GoB and the Principal Accountant General (Audit), Bihar as a member.

Prahar (Ombudsman) shall be as may be prescribed by the Government. The 13th FC and the 5th SFC had also recommended to put in place a system of independent LB *Lok Prahar* (Ombudsman). Further, a letter was communicated (February 2018) from Ministry of Housing & Urban Affairs, GoI to the Chief Secretary, GoB regarding appointment of “*Lok Prahar* (Ombudsman)” for the Urban Local Bodies in Bihar.

Audit observed that a common *Lok Prahar* (Ombudsman) for both PRIs and ULBs was to be appointed. The UD&HD had written letters (January 2015 and September 2018) to get the opinion of PRD in this context, but no response was received from PRD.

Thus, despite provision in BM Act 2007 and the recommendations of 13th FC & 5th SFC in addition to the instruction of Ministry of Housing & Urban Affairs, GoI, *Lok Prahar* (Ombudsman) who was required for looking into any allegation of corruption, lack of integrity, malpractice *etc.*, of the authorities of the ULBs, was not appointed by GoB.

3.7.2 Social Audit

The basic objective of the Social Audit is to ensure public accountability in the implementation of projects, laws and policies through public participation. The 5th SFC had recommended that social audit was to be conducted in ULBs as an accountability measure and social audit for slum and poverty alleviation programmes should be a must though the BM Act, 2007 does not provide for Social Audit in ULBs.

One society registered under Society Registration Act 1862 namely *Samajik Ankechhan* Society has been persuaded (October 2018) for conducting Social Audit of schemes executed by ULBs as per the directive of Rural Development Department (RDD).

Further, UD&HD requested (November 2018) Social Audit Society (SAS) for social audit of the five Schemes³⁹ as per RDD’s directives. But, the SAS had recommended for training of the officials for this purpose and social audit was not conducted in ULBs.

Thus, despite recommendation of 5th SFC, arrangement for conducting social audit was not made. As a result, public accountability in implementation of projects, laws and policies through public participation could not be ensured by ULBs.

3.7.3 Property Tax Board

Section 138(A) of BM Act, 2007 provides for putting in place a State level Property Tax Board for independent and transparent procedure to optimize assessment, collection and recovery of Property Tax. The 13th FC had also recommended setting up of a State Level Property Tax Board to assist the ULBs to put in place an independent and transparent procedure for assessing Property Tax.

³⁹ *Pradhan Mantri Shahri Aawas Yojana, Shauchalya Nirman Yojana (Shahri), Mukhyamantri Shahri Nali-Gali Pakkikaran Nischay Yojana, Mukhyamantri Shahri Peyjal Nischay Yojana and Deendayal Antyodaya Yojana-National Urban Livelihoods Mission (DAY-NULM)*

Further, UD&HD, GoB had framed and notified (May 2013) the Bihar Property Tax Board Rules, 2013. Roles and responsibilities of Property Tax Board were envisaged in Property Tax Board Rules, 2013 as follows:

- a) to undertake directly or through an agency, enumeration of all lands and buildings in each municipality once in five years to widen the tax net and maintain an updated database of properties in the ULBs in the state;
- b) suggest the State Government methods and procedures for review and updating the rental values or market values of lands and buildings every 5 years or earlier;
- c) suggest measures for making the Holding Tax system more buoyant; and
- d) to review and evaluate performance of each ULB in regard to assessment of land from Holding Tax against a pre-determined target and suggest improvements on a continuous basis.

Regarding the present status of constitution of Property Tax Board, the UD&HD replied (January 2020) that Property Tax Board was not constituted and appointment of the Chairman/members of the Board was still under process.

Thus, due to non-constitution of Property Tax Board even after lapses of more than seven years since framing of the Property Tax Board Rules, assessment, collection and recovery of Property Tax in ULBs could not be optimized.

3.7.4 Service Level Benchmarks

The 13th FC recommended that State Government must gradually put in place standards for delivery of all essential services provided by Local Bodies. State Governments must notify or cause all the Municipalities to notify by the end of a fiscal year (31 March) the service standards for four service sectors-water supply, sewerage, storm water drainage and solid waste management proposed to be achieved by them by the end of the succeeding fiscal year.

Accordingly, UD&HD had notified (March 2011) Service Level Benchmarks (SLBs) for services provided by the ULBs. Department had provided data related to achievements against the target set by the twelve Municipal Corporations (MCs) in case of Solid Waste Management indicator and partially data of water supply indicator.

Audit observed that none of the 12 MCs achieved the target set against the indicators under Solid Waste Management. Extent of segregation of Municipal Solid Waste (MSW) was nil in five MCs⁴⁰, coverage of scientific disposal of MSW was also nil in eight MCs (except in Gaya, Muzaffarpur, Munger and Darbhanga where achievement ranged between 15 and 50 *per cent*). Besides, data related to the achievement of coverage of household for water supply connections were not provided by four MCs⁴¹ and in seven MCs⁴², achievement ranged from eight to 34 *per cent* against the target of 100 *per cent* while in MC Munger it was under tender (**Appendix-3.2**). Thus, the target set for the service level benchmark by the Department was partially achieved.

⁴⁰ Ara, Biharsharif, Chhapra, Katihar and Patna

⁴¹ Bhagalpur, Gaya, Muzaffarpur and Patna

⁴² Ara, Begusarai, Biharsharif, Chhapra, Darbhanga, Katihar and Purnea

3.7.5 Submission of Utilisation Certificates

Rule 342 (1) of Bihar Financial Rules (BFR) provides that Utilisation Certificates (UCs) of the grants were to be submitted by the grantee entities within 18 months from the date of receipt of the grants. Instructions contained in the allotment letters of the funds released to the ULBs also required furnishing of the UCs to the State Government timely to avoid delay in further release of grants.

As per the UCs compiled by the PAG (A&E), Bihar Patna it was observed that the UD&HD had sanctioned grants of ₹ 10,508.78 crore during the period 2015-16 to 2018-19 (up to November 2018) but, UCs of ₹ 5,443.55 (52 per cent) were pending for adjustment as of June 2020. Year wise details of UCs pending are given in **Table-3.10** below:

Table-3.10: Year wise details of UCs pending

(₹ in crore)

Year	Grant sanctioned	Adjusted UC amount	Pending UC amount	percentage of Pending UC amount
2015-16	2239.53	1347.56	891.97	40
2016-17	3097.21	2055.38	1041.83	34
2017-18	3010.27	1078.26	1932.01	64
2018-19 (up to November 2018)	2161.77	584.03	1577.74	73
Total	10508.78	5065.23	5443.55	52

{Source: Information provided by O/o PAG (A&E)}

However, Assistant Director-cum-Joint Secretary of the Department intimated (December 2019) that UCs amounting to ₹ 9526.72 crore for the period April 2015 to January 2020 were submitted to O/o PAG (A&E) and out of that ₹ 7189 crore was adjusted and ₹ 2337.72 crore was pending for adjustment. He further stated that continuous efforts were being made for obtaining UCs.

Thus, huge pending UCs for a long period of time indicated weak internal control and poor monitoring mechanism as well as fraught with risk of mis-utilisation of funds.

3.7.6 Internal Audit by Chartered Accountant

The Department had engaged (April 2016) 17 CAs for internal audit of the accounts of 140 Municipalities for the years 2014-17. Present status of audit by CA is under **Table - 3.11** as below:

Table-3.11: Units audited and reports submitted

Sl. No.	Period	Audit to be conducted	Audit completed	Reports submitted by the CA firms
1.	2014-15	140	140	138
2.	2015-16	140	140	138
3.	2016-17	140	140	138
4.	2017-18	140	140	Final report not submitted
5.	2018-19	140	125	
Total		700	685	

(Source: Information provided by UD&HD, Bihar)

It is evident from the above table, out of 700 internal audits was to be conducted, 685 internal audits were actually conducted during 2014-19 but only 414 reports were submitted by CA firms till January 2020. On non-submission of reports for the period 2017-19 by CA firms, Assistant Director-cum-Joint Secretary of UD&HD replied (January 2020) that it was due to lack of regular follow-up at ULB level, however, Department was regularly monitoring the issue.

Further, scrutiny of internal audit report revealed that the CAs did not cover the entire scope of works as stipulated in the Terms of Reference (ToR) viz. no comments on procurement of materials including e-tendering and e-auction, Trial balance, monthly Receipt and payment accounts *etc.*

Thus, non-submission of internal audit report in due time and not addressing the entire issue relating to accounts/finance indicated deficient internal audit mechanism.

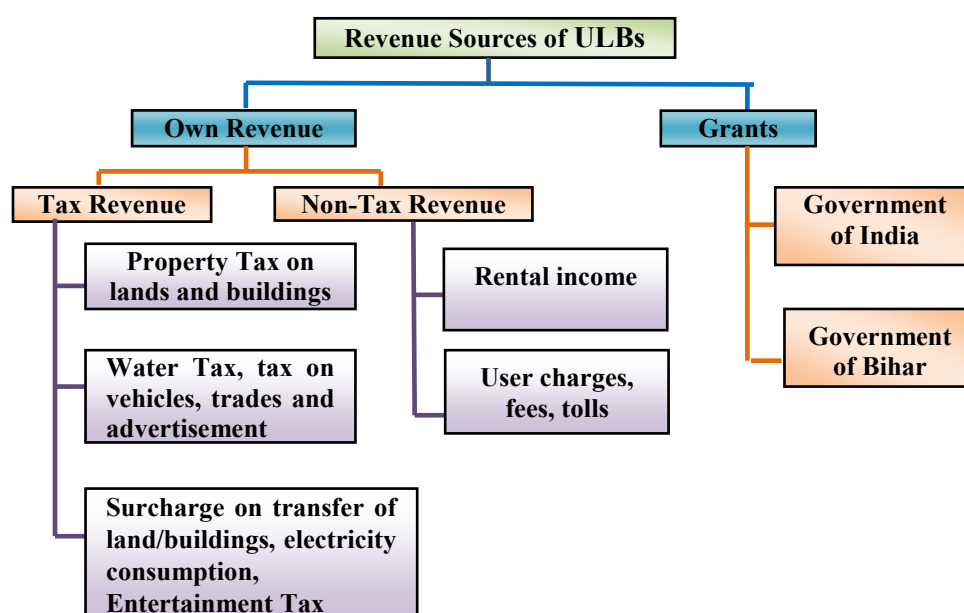
3.8 Financial Reporting Issues

3.8.1 Sources of Funds

3.8.1.1 Sources of Funds

The Bihar Municipal Act, 2007 lists out the set of taxes which the Municipalities may levy for raising revenues. The Municipalities may levy users-charges additionally for delivering various services as mentioned in the Act. The fees and fines are also leviable on the sanction of building plans, municipal license for uses of lands *etc.* The BM Act also provides for a grant in aid for them on recommendation of Central Finance Commission (CFC) and State Finance Commission (SFC). Sources of funds of ULBs are shown in **Chart-3.3** below:

Chart-3.3: Sources of Funds



(Source: Section 127 of BM Act, 2007 and Economic Survey, GoB)

3.8.1.2 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 2014-19 are given in **Table- 3.12** below:

Table-3.12: Budget allocation vis-à-vis expenditure

(₹ in crore)

Sl. No.	Particulars	Head	2014-15	2015-16	2016-17	2017-18	2018-19	Total
	1	2	3	4	5	6	7	8 (3 to 7)
1.	Budgetary Allocation	Revenue	3300.59	3111.15	4622.75	5047.93	5361.29	21443.71
		Capital	1.00	37.73	0	0	3.00	41.73
		Total	3301.59	3148.88	4622.75	5047.93	5364.29	21485.44
2.	Expenditure	Revenue	1778.46	1977.47	3377.93	3236.04	3297.02	13666.92
		Capital	0	0	0	0	3.00	3.00
		Total	1778.46	1977.47	3377.93	3236.04	3300.02	13669.92
3.	Saving (1-2)		1523.13	1171.41	1244.82	1811.89	2064.27	7815.52
4.	Percentage of saving		46	37	27	34	38	36

(Source: Appropriation Accounts of Government of Bihar)

It is evident from **Table 3.12** above that the UD&HD could not utilise budgetary allocation fully and percentage of saving ranged between 27 per cent and 46 per cent during 2014-19. Total allocation under Capital head was less than one per cent of the total allocation during 2014-16 and 2018-19 while capital expenditure during 2014-18 was nil.

3.8.1.3 Receipts and Expenditure of ULBs

The consolidated position of receipts and expenditure of grants by all ULBs under various schemes was not provided by UD&HD. However, UD&HD provided receipts and expenditure for the period 2014-15 to 2018-19 only in respect of 35 ULBs where Double Entry Accounting System (DEAS) was introduced in 2015-16 as indicated in **Appendix-3.3**.

Audit observed that revenue grants were the major component (70 per cent) of the revenue income in ULBs throughout the period from 2014-15 to 2018-19. These 35 ULBs failed to incur capital expenditure (except for period 2018-19) despite continuous capital grants allotted to ULBs during period 2014-19. Further, establishment expenditure comprised a very large part (46 per cent) of total revenue expenditure and self-generated income of ULBs was not sufficient to meet even their establishment expenses.

3.8.2 Recommendations of Central Finance Commission

(i) Fourteenth Finance Commission (14th FC)

As per recommendations of the 14th FC, grants were released under two components i.e. Basic Grant (BG) and Performance Grant (PG). The BG were to be utilised for providing basic services viz. water supply, sanitation, sewerage, storm water drainage, solid waste management *etc.* while PG were designed to serve the purpose of ensuring reliable audited accounts and data of receipt and expenditure and improvement of own revenue.

The GoI had to release BG for a year to the State in two installments in June and October. The division of grants between BG and PG should be in the ratio of 80:20 for Municipalities. The 14th FC had laid the following three conditions which would enable the ULBs to become eligible of PG for the Municipalities:

- ULBs will have 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.
- It will also have to show an increase in own revenues over the preceding year, as reflected in these audited accounts; and
- It must publish the service level benchmarks relating to basic urban services each year for the period of the award and make it publically available.

The grants recommended and released to GoB during the period 2015-19 are given in the **Table 3.13** below:

Table-3.13: Entitlement and Receipt of 14th FC grant in Bihar

(₹ in crore)

Year	Basic Grant					Performance Grant		
	Entitled	Released			Short receipt	Entitled	Released	Short receipt
		1 st Inst.	2 nd Inst.	Total				
2015-16	256.83	128.41	126.59	255.00	1.83	0	0	0
2016-17	355.63	176.55	175.30	351.85	3.78	104.96	104.22	0.74
2017-18	410.90	202.55	202.55	405.11	5.79	118.78	0	118.78
2018-19	475.34	237.67	236.01	473.68	1.66	134.89	0	134.89
Total	1498.70	745.18	740.45	1485.64	13.06	358.63	104.22	254.41

(Source: 14th FC report Grant Sanctioning letters, allotment letters)

The State Government received a total sum of ₹1589.86 crore in forms of BG (₹1485.64 crore) and PG (₹104.22 crore) against the entitlement of ₹1857.33 crore (BG - ₹1498.70 crore and PG- ₹358.63 crore). Thus, the GoB received less BG amounting to ₹13.06 crore than its entitled BG for the period 2015-19 for Municipalities. The Reason of short-receipt of BG by GoB was not furnished by the Department. Further, GoB could not receive PG of ₹ 0.74 crore for the period 2016-17 and ₹253.67 crore for the period 2017-19 as State Government could not fulfill the mandatory conditions as laid by 14th FC for the release of PG.

As per 14th FC recommendations, the State should release the grants to LBs within 15 days of it being credited to their account by GoI failing which the State would be liable to pay penal interest to LBs at RBI bank rate from its own funds.

The UD&HD did not transfer the first instalment of grants for the year 2015-16 directly into the bank accounts of municipalities and instead released it through Bihar Urban Development Authority (BUDA) and the BUDA made available the amounts to municipalities through RTGS. Thus, the State failed to adhere to the timeline for transferring of funds to LBs despite recommendations of the 14th FC in this regard. Due to delays (21-39 days) in receipt of first instalment

of grant in 2015-16 amounting to ₹128.42 crore by Municipalities, liability of penal interest of ₹ 0.59 crore was incurred by GoB.

3.8.3 Recommendations of State Finance Commission (SFC)

(i) 5th State Finance Commission

State Finance Commissions were constituted by GoB to review the financial position of LBs and recommended the principles to govern the distribution of net proceeds of taxes, duties *etc.*, between the State and the LBs.

The GoB constituted (December 2013) the 5th SFC for the period 2015-20 in pursuance of the Article 243-Y read with Article 243-I and Section 71 of BM Act, 2007 to review the financial position of Local Bodies and to recommend the principles to govern the distribution of net proceeds of taxes, duties *etc.*, between the State and the Local Bodies. Though the report of the Commission was due on 31 March 2015, it was however submitted in February 2016. Consequently, the State Government had decided to implement the recommendations of the 5th SFC from the year 2015-16 with some minor amendments. Status of release of grants to ULBs is given in **Table 3.14** below:

Table-3.14: Status of release of grants under Fifth SFC recommendations

(₹ in crore)

Year	Due month for release of amount		En-titlement amount	Amount released and month of release			Delay		Short release
	1 st inst.	2 nd Inst.		1 st inst.	2 nd Inst.	Adarsh Nagar Nikay	1 st inst.	2 nd Inst.	
2015-16	Grants to be released in one lump.		781.32	434.64 (March 2016)		00	-		346.68
2016-17	April 2016	October 2016	925.85	462.93 (October 2016)	449.93 (March 2017)	13.00	Six months	Five months	0
2017-18	April 2017	October 2017	1041.45	509.60	497.25	11.12	Five months	Eight months	23.48
2018-19	April 2019	October 2019	1114.54	508.53	541.89	2.83	four months	Ten months	61.19
Total									431.35

(Source: Information provided by UD&HD)

It is evident from the above table that there was a short release of grant of ₹ 431.35 crore for the period 2015-16 and 2017-19. Further, grants were released with a delay of four to ten months for the period 2016-17, 2017-18 and 2018-19.

(ii) Non withdrawal of grant under 14th FC and 5th SFC

Audit observed that ₹ 13.78 crore allotted during 2015-20 to 11 ULBs⁴³ under 14th FC and ₹ 19.76 crore allotted to five ULBs⁴⁴ during 2017-19 under 5th SFC were not withdrawn as detailed in **Appendix- 3.4 (A)** and **3.4(B)**.

⁴³ **Municipal Council-** Aurangabad, Gopalganj, Jehanabad, Masaurahi, Surshand; **Nagar Panchayat-** Dumara, Gogri Jamalpur, Marhaura, Mairwa, Mehsi, Mohaniya

⁴⁴ **Municipal Corporation-** Munger; **Municipal Council:** Hajipur and Masaurahi; **Nagar Panchayat-** Hisua and Parsa Bazar

On this being pointed out by audit, UD&HD replied (January 2020) that some of the ULBs had not submitted the UCs of the previous allotment so they were not allowed to withdraw the fund and eventually not been reallocated to these ULBs.

3.8.4 Maintenance of Records

Rules 12, 53, 69 and 84 of Bihar Municipal Accounting Rules, 2014 prescribe maintenance of basic records, registers for transparency, accountability and proper watch over of accounts of ULBs.

Audit observed that 18 test checked ULBs did not maintain⁴⁵ key records viz., Accountant Cash book, Asset Register, Grant appropriation Register, Demand Register and Grant Register.

The Executive Officers of Nagar Parishad Narkatiganj and Nagar Panchayat Bodhgaya & Dumra replied that due to shortage of staff, the records could not be maintained, while Executive Officers of the remaining ULBs replied that the records would be maintained in future.

3.8.5 Maintenance of Accounts by ULBs

The Ministry of Urban Development, GoI in consultation with the CAG had prepared (2004) the National Municipal Accounts Manual for maintenance of accounts on accrual basis by the ULBs. Section 86, 87 & 88 of the BM Act, 2007 also stipulate that the State Government shall prepare a Bihar Municipal Accounting Manual for implementation of accrual based Double Entry Accounting System (DEAS) and the Chief Municipal Officer shall within four months of the close of a year, cause to prepare a financial statements consisting of a Fund Flow Statement, an Income and Expenditure Account, Receipt and Expenditure Account and a Balance Sheet for preceding year.

The UD&HD notified (January 2014) the 'Bihar Municipal Accounting Rules, 2014' for preparation and maintenance of financial statements on accrual based Double Entry System in the municipalities' w.e.f. 1 April 2014.

On acceptance of National Municipal Accounts Manual (NMAM) as prescribed by Ministry of Urban Development (GoI), department replied (January 2020) that the Government had prepared Bihar Municipal Accounts Manual.

On being asked by audit in respect of implementation of DEAS, the Department replied (January 2020) that Single Entry System on cash basis was in process of migration into DEAS on Tally based system of Accounting.

3.8.6 Non-Preparation of Bank Reconciliation Statement

Section 13(5) of BMAR, 2014 provided that the actual balance in the bank or treasury should be compared and reconciled with the bankbook balance periodically at least once at the end of every month.

⁴⁵ **Cash Book-** Municipal Council Jamui; **Asset Register-**Nagar Panchayat Amarpur, Bahadurganj, Belsand and Manihari, Municipal Council- Bhabhua, Khagaul and Sitamarhi; **Demand Register-** Nagar Panchayat Bahadurganj, Municipal Council Bhabhua and Mokama; **Grant Register-** Nagar Panchayat Belsand, Dumra, Mehnar, Nasriganj, Parsa Bazar, Municipal Council- Aurangabad, Hilsa, Narkatiyaganj and Sheikhpura; **Grant Appropriation Register-** Nagar Panchayat Bodhgaya and Nasriganj

Audit observed eight test checked ULBs⁴⁶ did not prepare Bank Reconciliation Statements (BRS) (**Appendix - 3.5**).

On this being pointed out in audit, Municipal Commissioner of Muzaffarpur and Executive Officer of Narkatiyaganj replied (December 2018) that BRS could not be prepared due to short-staff whereas Municipal Commissioner, Ara and Executive Officers of remaining ULBs replied (February 2017- February 2019) that it would be prepared and presented to next audit. Non-preparation of BRS on regular basis as required under BMAR 2014 indicated financial mismanagement and poor monitoring of funds.

Further, on preparation of BRS at Department level, Assistant Director-cum-Joint Secretary of UD&HD replied that BRS had been prepared as per need.

3.8.7 Issues related to AC/DC Bills

Rule 177 of Bihar Treasury Code (BTC), 2011 provides that a certificate shall be furnished by the Drawing and Disbursing Officer (DDO) to the effect that money withdrawn on the contingent bills shall be spent within the same financial year and that the unspent amount shall be remitted to the Treasury before 31 March of the year. Further, as per Rule 194 of the BTC, 2011 countersigned Detailed Contingent (DC) bills shall be submitted to the AG (A&E) within six months following the month in which the Abstract Contingent (AC) bill was drawn and no AC bill shall be encashed after the end of this period of six months unless DC bill has submitted.

Audit observed that ₹ 52 crore was withdrawn through AC bill during the period 2013-19, out of which ₹ 13.37 crore was adjusted by AG (A&E) and ₹ 38.62 crore (74 per cent) remained outstanding for adjustment as of December 2019 (**Appendix-3.6**). Audit further observed that unadjusted AC bills ranged from 38 to 100 per cent mainly related to the period from 2003-04 to 2009-10. Thus, a large part of amount was unadjusted even after the lapse of 10 to 15 years.

On this being pointed out in audit, the Assistant Director-cum Joint Secretary of the Department replied that action was being taken to adjust the amount of ₹ 38.63 crore by the Department and letters and reminders (latest on December 2019) were issued to units concerned. Departmental review meeting was being organized and monitored at Department level. Further State Level PMU (Finance) was also constituted to keep watch on the issue.

Thus, AC bills pending for adjustment/recovery since long indicated weak internal control and poor monitoring mechanism.

3.8.8 Impact of Audit

In 12 test checked ULBs⁴⁷ ₹ 42.76 lakh was suggested for recovery by audit during February 2016 to September 2017 and out of which only ₹ 11.34 lakh (**Appendix-3.7**) were recovered from person(s) concerned which indicated poor recovery at the instance of audit.

⁴⁶ **Municipal Corporation- Ara, Begusarai and Muzaffarpur Municipal Council- Aurangabad, Khagaria, Narkatiyaganj and Samastipur Nagar Panchayat- Kasba**

⁴⁷ **Municipal Council- Bettiah, Forbisganj, Hilsa, Nawada, Saharsa and Sheikhpura; Nagar Panchayat- Amarpur, Kanti, Katya, Murliganj, Nawgachhia and Teghra**

