

6.1 Conclusion

The State had taken measures in decentralising local governance over the past few decades, which *inter alia* included measures like local body elections every five years, provision for reservation for Scheduled castes and tribes and women as envisaged in the Constitutional amendment, transfer of significant funds to local bodies, constitution of District Planning Committees, Ward Sabhas in every ward, constitution of State Finance Commissions, etc.

However, the Performance Audit revealed that though the KM Act came into effect in 1994 as required by the 74th Constitutional Amendment, certain provisions in the Act such as Section 58 required to be reviewed in the light of the goal of ensuring vibrant self-governing institutions. Further, though 17 out of 18 matters listed in the Twelfth Schedule of the Constitution had been covered in the First Schedule of the KM Act, ULBs had full responsibility of only seven out of 17 functions transferred. As regards the remaining 10, Audit observed that the State Government still had a significant role in the execution of schemes, etc., either directly or through parastatal agencies.

Transfer of functions, functionaries and institutions concerned to ULBs was not complete despite the passage of over 25 years since the Constitutional Amendment. The schemes relating to the transferred functions which were included in the Annual Plans of ULBs, to be executed by ULBs were implemented in a parallel manner by the Departments concerned and other parastatal agencies.

As the number of seats for Councillors and number of wards for the elections to ULBs (except for newly formed 29 Municipalities and two Municipal Corporations) held in 2015 and 2020 were fixed on the basis of population figures of 2001 census (instead of the last previous census in 2011), there was an overall shortage of 60 Councillors as on date in the State (Corporations: 01, Municipalities: 59). Out of 325 recommendations of the State Finance Commissions which had been accepted by Government, 200 were not implemented till date. The recommendations to be implemented included significant recommendations facilitating devolution of activities to Local bodies.

Kerala Water Authority (KWA) functioned as the parastatal entrusted with centralised water supply activities to Municipalities across the State, with no time frame identified for transfer of functions, assets, etc., to the Municipalities. The ULBs take up extension of distribution pipeline by arranging deposit works with KWA, but the assets thus created with Municipal fund were not transferred to the ULBs. The KWA had not furnished Utilisation Certificates for deposit works amounting to ₹33.94 crore to the test-checked ULBs. Water charges were collected at rates fixed by KWA from all consumers including those from the Municipalities and revenues were not shared with the Municipalities.

Of the 21 test-checked ULBs, nine ULBs did not have the capacity to handle Bio-waste and nine and 11 ULBs did not have the capacity to handle non bio-

recyclable and non-bio-non-recyclable wastes respectively. Only 15 ULBs executed agreement with the agency entrusted with the collection of plastic wastes. The agency had not entered into agreements with 499 out of 1200 LSGIs in the State to facilitate timely removal of non bio-degradable wastes. No agreement was seen executed by any of the selected ULBs with the agency for collection of E-wastes.

Audit observed that the Municipalities did not use the budget as a tool for financial control and formulated unrealistic receipt and expenditure budgets. The test-checked ULBs allocated resources for various activities without considering the actual receipt of funds in previous years. Deficient system of drawal of funds from the treasuries resulted in Municipalities not being able to use ₹447.74 crore out of SFC grants. Besides, they were constrained by the absence of effective powers to fix the rate of taxes in respect of Advertisement tax, Entertainment tax, etc. Though plinth area based property tax rates came into force on 14 January 2011 for new assesseees, rate revision did not happen even after a period of ten years (March 2021). The Municipalities could not levy Entertainment Tax during the period from 01 July 2017 to 10 June 2019 owing to an incorrect Government order.

Though the Municipalities were graded as I, II and III in 2014 on the basis of revenue and population, no new posts were created in existing Municipalities. Shortage of staff was significant with 982 posts lying vacant.

Thus, the implementation of 74th CAA in the State was impeded by deficiencies in execution of transferred functions and non-devolution of even basic core functions required as per the Act.

6.2 Recommendations

In order to bestow Urban Local Bodies with genuine autonomy and proper accountability, clarity regarding the functions/ sub functions devolved to ULBs as well as the extent of powers retained in the hands of the State Government needs to be ensured. Clear demarcation of the respective roles of the State Government, Municipalities and parastatals needs to be in place.

In line with the principles of devolution, Government may transfer functions with functionaries to ULBs for effective implementation of schemes. It may also be ensured that functions entrusted to ULBs are not implemented in a parallel manner by Government Departments, so as to facilitate accountability and effective monitoring.

Government may take urgent action to implement the accepted recommendations of State Finance Commissions, considering their role in facilitating devolution and improving quality of expenditure of local bodies, resulting in better outputs and outcomes as envisaged by the 74th Constitution Amendment Act.

In line with provisions laid down in the State legislation conforming to the 74th Constitution Amendment Act, Government may, by notification, endow the ULBs with responsibilities of water supply distribution as well as its maintenance and upkeep, in their areas of jurisdiction for ease of service delivery.

To comply with the provisions in Kerala Municipality Act, Urban Local Bodies may be allowed to collect water charges in accordance with the number of operational connections in their zonal areas, thereby avoiding loss to own revenue in the form of charges paid to KWA.

With regard to functions which have been indicated in the First Schedule of KM Act, where revenue generating services are currently being rendered by parastatals and revenue is not being shared with the Municipalities, priority needs to be given to hand over such functions/ activities to the Municipalities, as the provision of this service through the parastatal deprives the Municipality of a potential source of revenue.

Government needs to ensure that parastatal agencies such as KWA are to handhold and guide ULBs in their progress towards self-reliance in implementation of activities. There needs to be a shift in the relationship between the Municipalities and the parastatals with the flow of accountability from the parastatal to the Municipality for decentralisation to become meaningful.

Government may assign topmost priority to enactment of a unified Public Health Act containing provisions enabling the Local Governments to address the issues in Public Health and Sanitation and facilitate effective delivery of Health services in the wake of emerging challenges in Health sector.

In order to make decentralisation effective, special efforts in capacity building of ULBs need to be undertaken to ensure that ULBs prepare their budgets in a scientific manner, after taking into account a realistic projection of receipts from potential sources as well as funds expected to be utilised.

Government may prepare Budget Manual for Local Bodies in line with the recommendations of State Finance Commissions, to conceptualise Budget as an instrument of effective financial control.

Government may ensure that the quantum of funds lapsing on account of queuing of bills may be provided in the subsequent year over and above the Municipality's allotment for that year, so as to avoid the Municipality being deprived of funds due to it.

A sustainable solution for fulfilling the requirement of funds for pension payments of employees in ULBs in a timely manner in line with the goal of empowering Municipalities through fiscal autonomy may be arrived at.

As the various types of taxes levied by ULBs are currently based on fixation of the rates/ limits by Government, there is an urgent need for Government to ensure periodic upward revision of the rates of taxes and effective implementation of revised rates, to uphold the fiscal autonomy of ULBs resulting in enhanced own revenues and improved delivery of civic services.

In order to ensure effective fiscal autonomy in the area of levy and collection of property tax, Government may ensure that

- once the basis of arriving at property tax (such as annual rental value of buildings, plinth area, fair value, etc.) has been specified in the Kerala Municipality Act, the provision is not rendered ineffective through non-issue or delay in issue of notification, non-framing of rules, etc. The Act may be amended making it mandatory for the Government to report to

the Legislature, reasons for non-issue of notification in cases exceeding a period which may be prescribed by law.

- Need for setting in place an institutional mechanism such as a Property Tax Board may be considered in order that Municipalities could be guided on issues concerning property tax valuation, maintenance of updated database, etc.
- Feasibility of empowering the Municipalities either directly or indirectly through a body comprising of, *inter alia*, selected members from Municipal Councils, to determine the minimum and maximum rates of property tax may be examined, as the power to determine the maximum rate of property tax rests in the hands of the State even after the passage of over 25 years since the enactment of the 74th Constitution Amendment Act.

Government may consider issuing a clarification on the authority of Municipalities to levy fees for raising advertisements in view of the differing approaches taken by various local bodies consequent upon advertisement tax having been subsumed in GST.

Assessment of manpower requirements for Urban Local Bodies on the basis of norms to be prescribed, needs to be undertaken at the earliest to ensure that manpower available is commensurate with the functions entrusted to Municipalities.

Thiruvananthapuram,
The



(ANIM CHERIAN)
Principal Accountant General
(Audit - I), Kerala

Countersigned

New Delhi,
The



(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India