

## **Chapter 2**

**Performance Audit on Efficacy of  
implementation of the  
74<sup>th</sup> Constitutional Amendment Act**



## CHAPTER 2 URBAN DEVELOPMENT AND HOUSING DEPARTMENT

### Performance Audit on ‘Efficacy of implementation of the 74<sup>th</sup> Constitutional Amendment Act’

#### Executive summary

The Constitution (Seventy Fourth Amendment) Act, 1992, provided constitutional status to Urban Local Bodies (ULBs), and authorised State Legislatures to enact laws to endow Municipalities with powers and authority, to enable them to function as institutions of self-government. The Act also authorised the State Legislatures to make provisions for devolution of powers and responsibilities, in relation to 18 specific functions, to be devolved to the ULBs.

A Performance Audit (PA) on ‘Efficacy of implementation of the 74<sup>th</sup> Constitutional Amendment Act (74<sup>th</sup> CAA)’ was conducted to assess whether: (i) the ULBs had been adequately empowered by the State Government to discharge their functions effectively (ii) appropriate institutional mechanisms were available with the ULBs for effective discharge of their functions and (iii) the ULBs had adequate resources for discharging the devolved functions.

There were 50 ULBs in Jharkhand (as on 31 March 2021), of which 10 ULBs were selected for the Performance Audit. In compliance with the 74<sup>th</sup> CAA, four State Finance Commissions (SFCs) had been constituted by the State Government after bifurcation (November 2000) from erstwhile Bihar. In the first three SFCs, the post of Chairperson was vacant for periods ranging from 95 to 594 days, whereas the Chairman of the fourth SFC (constituted in July 2019) had not been appointed (as of October 2022). Further, the State Government had not ensured posting of regular office staff, as per the sanctioned strength. As a result, two SFCs *i.e.*, the second SFC (covering the period January 2009 to January 2014) and the third SFC (covering the period January 2014 to January 2019), covering a span of 10 years, could not submit their recommendations. Based on the recommendations (April 2009) of the first SFC (constituted in January 2004), the State Government enacted the Jharkhand Municipal Act (JMA), 2011, in February 2012, which empowered Municipalities to perform the 18 specified functions. A parastatal body, *viz.* Jharkhand Urban Infrastructure Development Company Limited (JUIDCO), was also established in July 2013, for developing urban infrastructure.

Though the JMA, 2011, was enacted, it was not supported by the devolution of all the functions and creation of appropriate institutional mechanisms. Out of the 18 functions, while the ULBs were solely responsible for 10 functions, they had no role in two functions, and had a partial role in six functions, due to lack of manpower, technical expertise and other resources. Elections were

not conducted in 15 ULBs for 18 to 50 months after: (i) dissolution of their Boards or (ii) issue of notification for constitution of the ULBs by the State Government. Four to 14 ULBs were deprived of 14<sup>th</sup> FC grants amounting to ₹ 253.46 crore during 2015-16 to 2019-20, due to not conducting elections in time. No Standing and Ward Committees had been constituted in two and six ULBs, respectively, out of the 10 test-checked ULBs. Subject Committees had also not been constituted in the four test-checked Municipal Corporations. Though District Planning Committees were set up, they did not prepare Draft Development Plans with inputs from the ULBs, as envisaged. The ULBs were also facing an acute shortage of staff. Jharkhand Urban Infrastructure Development Company Ltd. (JUIDCO), the parastatal body, received nearly 98 *per cent* of the developmental funds, for creating urban infrastructure, directly from Urban Development and Housing Department (UD&HD), Government of Jharkhand and as such, the ULBs did not have much of a role in funding and monitoring works executed by JUIDCO.

The ULBs were collecting only three out of nine types of taxes, mentioned under the JMA, meant for augmentation of resources of the ULBs, due to the failure of the State Government to frame Rules in this regard. ULBs did not revise rates of taxes and user charges as of March 2021, though they were to be revised within a span of three to five years as per JMA, 2011. They were largely dependent on financial assistance from the Central and State Governments, even to meet their establishment expenses. Further, they were incurring expenditure, either without preparing annual budgets, or by preparing unrealistic budgets, as the actual receipts and expenditure were less, by 72 *per cent* and 67 *per cent*, respectively, as compared to the budgeted receipts and expenditure. Also, they could utilise only 24 to 47 *per cent* of the funds available with them. The collection efficiency of property tax and water user charges was only 23 and eight *per cent* respectively, during the Financial Years (FYs) 2016-17 to 2020-21, compared to the total demand raised in the 10 test-checked ULBs. Solid waste user charges and water user charges collected were not sufficient even to meet the operation and maintenance/collection costs, in the 10 test-checked ULBs. Though the office of the Director of Local Fund Audit was established in November 2014, for the examination and audit of accounts of the ULBs, it could not function properly, due to shortage of staff and the absence of specific Rules and Regulations.

Thus, the objective of the 74<sup>th</sup> CAA, *viz.* enabling Municipalities to function as institutions of self-government, by endowing powers and authority in relation to 18 identified functions to be devolved, was far from having been achieved.

In response, the Government accepted the issues highlighted by Audit and assured that necessary corrective measures would be initiated to overcome the

same, in order to achieve the objectives envisaged in the 74<sup>th</sup> Constitutional Amendment Act (CAA).

To achieve these objectives, we recommend that:

- *Election of the ULBs may be conducted at the earliest and the formation of key committees, viz. Ward Committees, Standing Committees and Subject Committees, may be ensured*
- *District Planning Committees may ensure the preparation of Draft Development Plans, with inputs from the ULBs*
- *The State Finance Commission may be strengthened, with a full-time Chairperson, members and administrative staff*
- *ULBs may be provided the necessary support, viz. skilled manpower and other resources, to ensure that they have autonomy in performing the functions assigned to them*
- *Necessary rules may be framed to ensure levy and collection of all types of municipal taxes.*
- *Compilation of separate accounts for the ULBs and preparation of realistic budgets by all the ULBs may be ensured*
- *Government should ensure revision in rates of taxes and user charges, to enhance the resources of ULBs, and also ensure smooth collection of user charges; and*
- *Regular audit of the ULBs may be conducted, by the Director of Local Fund Audit.*

## **2.1 Introduction**

### **2.1.1 The 74<sup>th</sup> Constitutional Amendment Act**

The Constitution (Seventy Fourth Amendment) Act, 1992 (74<sup>th</sup> CAA), which came into effect on 1 June 1993, provided constitutional status to Urban Local Bodies (ULBs), by introducing a new part, viz. Part IXA (the Municipalities), in the Constitution. Article 243W of the Constitution authorised the State Legislatures to enact laws to endow Municipalities, 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, in relation to matters listed in the Twelfth (12<sup>th</sup>) Schedule, which enumerates 18 identified functions to be devolved to the ULBs, as discussed in **Paragraph 2.3.1.**

### **2.1.2 Trend of urbanisation in Jharkhand**

As per Census 2011, 79.33 lakh people (24 *per cent* of the total population of 3.29 crore) live in urban areas in Jharkhand. The growth rate of the urban population, in the decade 2001-2011, was 32.36 *per cent*. Further, as per the population projection of the Census, the urban population of the State was projected as 99.38 lakh, as on March 2021, with a growth rate of 25.27 *per cent*, in the decade 2011-21. Accordingly, the ULBs have an important role to play

in handling the challenges faced by Urban Jharkhand, such as public health, water supply, poverty alleviation, waste management *etc.*

### 2.1.3 Profile of ULBs

There were 50 ULBs in Jharkhand, as on 31 March 2021, categorised on the basis of their population, as shown in **Table 2.1**.

**Table 2.1: Category-wise ULBs in Jharkhand**

Category	Nomenclature		Population	Number of ULBs
<b>Larger Urban Area</b>	Municipal Corporations (M. Corpn.)		1.5 lakh and above	09
<b>Smaller Urban Area</b>	Municipal Councils (MCs)	Class 'A'	One lakh and above and less than 1.5 lakh	01
		Class 'B'	0.40 lakh and above and less than one lakh	19
<b>Transitional Area</b>	Nagar Panchayats (NPs)		0.12 lakh and above and less than 0.40 lakh	20
	Notified Area Committees			01
<b>Total</b>				<b>50</b>

Source: JMA, 2011 and Annual Report 2020-21 of UD & HD

The ULBs are governed by the Jharkhand Municipal Act (JMA), 2011. Each ULB has been divided into wards, which are determined and notified by the State Government, for the purpose of election of Councillors. All the ULBs, except the Notified Area Committee (NAC), Jamshedpur, have a body, *viz.* Council, consisting of Councillors and other members. The daily operations of the NAC at Jamshedpur are looked after by a Special Officer, posted by the Urban Development and Housing Department (UD&HD), Government of Jharkhand. Further, the Gomia Municipal Council was notified in September 2018 and remained functional till December 2020, when it was de-notified.

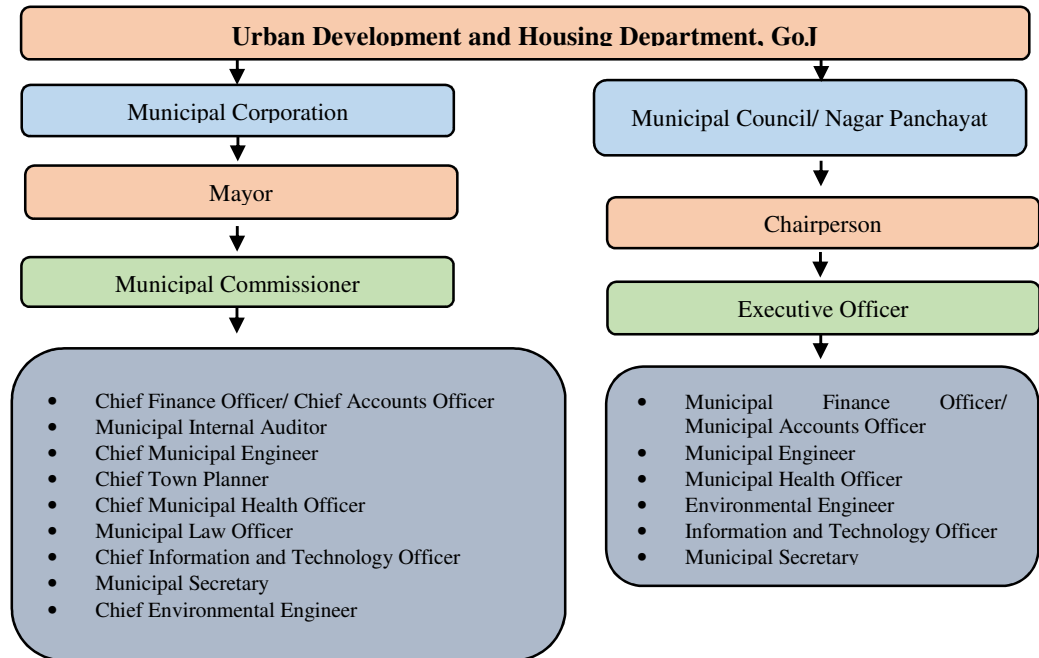
### 2.1.4 Organisational structure

The ULBs are under the administrative control of the Urban Development and Housing Department (UD&HD), Government of Jharkhand (GoJ). The Directorate of Municipal Administration (DMA) functions as an interface between the UD&HD and the ULBs. The State Urban Development Agency (SUDA), constituted in May 2008, for slum area improvement, is presently engaged in the implementation of some Central schemes, survey of households, assessment and collection of property tax, water user charges and other municipal taxes.

The Municipal Commissioners in the Municipal Corporations, and the Executive Officers in the Municipal Councils and Nagar Panchayats, are appointed by the State Government and have executive powers for carrying out the administration of the ULBs, subject to the provisions of JMA, 2011, and rules made thereunder.

The Mayor/Chairperson, elected by the people, presides over the meetings of the Council. The organisational structure, in regard to the functioning of the ULBs in the State, is indicated in **Chart 2.1**.

**Chart 2.1: Organisational Structure/Organogram**



Further, Jharkhand Urban Infrastructure Development Company Limited (JUIDCO), established in July 2013, is a parastatal, which assists the UD&HD in developing urban infrastructure.

### 2.1.5 Audit Objectives

The objectives of the Performance Audit (PA) were to assess:

- Whether the ULBs have been empowered, by the State Government, to discharge their functions effectively, through creation of appropriately designed institutions/institutional mechanisms
- The effectiveness of the ULBs in the discharge of functions stated to have been devolved; and
- Whether the ULBs have been empowered to access adequate resources, for discharge of the functions stated to have been devolved to them.

### 2.1.6 Audit Criteria

The audit criteria were derived from the following:

- Constitutional (Seventy Fourth) Amendment Act, 1992 (74<sup>th</sup> CAA)
- Jharkhand Municipal Act (JMA), 2011
- Jharkhand Municipal Accounts Manual (JMAM), 2012 and the provisions thereunder
- Jharkhand Municipal Election and Appeal Rules, 2012

- Central/State Finance Commissions Reports; and
- State Government orders, notifications, circulars and instructions, issued from time to time.

### **2.1.7 Audit Scope, coverage, and methodology**

A Performance Audit (PA) on the ‘Efficacy of implementation of the 74<sup>th</sup> Constitutional Amendment Act (CAA)’, covering the period from FY 2016-17 to FY 2020-2021, was conducted during October 2020 to December 2021, at the UD&HD and the selected ULBs. Out of 50 ULBs, 10 ULBs, *viz.* four<sup>1</sup> out of nine Municipal Corporations, three<sup>2</sup> out of 20 Municipal Councils and three<sup>3</sup> out of 20 Nagar Panchayats, were selected through the Simple Random Sampling Method, with population, as per the 2011 census, as the size measure. Evidence was gathered through issue of questionnaires, formats, and study of files. The audit methodology involved the analysis of documents and responses to audit queries.

While assessing the status of devolution of powers, in regard to the 18 functions enumerated in the 12<sup>th</sup> Schedule of the Constitution, two functions, *viz.* (i) water supply and (ii) solid waste management, were selected to assess the adequacy of the capacity and resources of the ULBs, for fulfilling their obligations in regard to these functions. Implementation of the recommendations of the Central Finance Commissions (CFCs)/State Finance Commissions (SFCs), and provisions of the JMA, 2011, were also analysed, to assess the municipal resources available with the ULBs, such as development funds/grants, municipal taxes and user charges.

An entry conference was held on 31 August 2021, with the Secretary, UD&HD, wherein the scope, methodology, objectives and criteria of audit, were discussed. An exit conference was also held on 22 August 2022, with the Secretary, to discuss the audit observations. Views of the Department, expressed during the exit conference, along with the replies furnished in August 2022, have been suitably incorporated in the Report.

## **2.2 Institutional mechanisms for the empowerment of Urban Local Bodies**

The State Government empowered Municipalities to perform 18 functions, described in the 12<sup>th</sup> Schedule of the Constitution, by enacting the JMA, 2011, in February 2012. The discharge of these functions can be effective only when appropriate institutions are established. The 74<sup>th</sup> CAA introduced certain provisions in regard to the composition and institutional mechanism of Municipalities. The State Government introduced these provisions *vide* JMA, 2011, as depicted in **Table 2.2**.

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<sup>1</sup> Deoghar, Dhanbad, Medininagar and Ranchi.

<sup>2</sup> Godda, Phusro and Simdega.

<sup>3</sup> Basukinath, Hussainabad and Khunti.



**Table 2.2: Comparison of State level legislations with the provisions of the 74<sup>th</sup> CAA**

Provisions introduced under the 74 <sup>th</sup> CAA	Requirement as per provision of Constitution of India	Similar provisions in JMA, 2011
Article 243Q	<u>Constitution of Municipalities:</u> Three types of municipalities, viz. Nagar Panchayats for transitional areas, Municipal Councils for smaller urban areas, and Municipal Corporations for larger urban areas.	Section 3
Article 243R	<u>Composition of Municipalities:</u> All the seats in a Municipality are to be filled in by direct elections, and by persons with special knowledge in municipal administration, nominated by Government. The Legislature of a State may, by law, provide for representation to the Municipality, Members of Parliament and Legislative Assembly, whose constituencies lie within the municipal area, and Members of the Council of State and State Legislative Council, who are registered as electors within the city.	Sections 15, 16 and 26
Article 243S	<u>Constitution and composition of Wards Committee:</u> This provides for the constitution of Wards Committees in all municipalities, with a population of three lakh, or more.	Section 34
Article 243T	<u>Reservation of seats:</u> The seats to be reserved for SC/ST, women and Backward classes, are to be filled in by direct election.	Section 16
Article 243U	<u>Duration of Municipalities:</u> The Municipality has a fixed tenure of five years, from the date of its first meeting, and re-election is to be held within six months of the end of tenure.	Section 20
Article 243Y read with Article 243I	<u>Finance Commission:</u> State Government shall constitute a Finance Commission for: Reviewing the financial position of the Municipalities and taking such steps that help in improving the financial condition, of the Municipal bodies. Distributing the net proceeds of the taxes, fees, tolls and duties that are charged by the State Government, between the State and the Municipalities. Allotting the funds to the municipal bodies in the State from the Consolidated Fund of the State.	Section 97
	The Governor shall cause every recommendation made by the Commission under this article, together with an explanatory memorandum as to the action taken thereon, to be laid before the Legislature of the State.	No such provision in JMA, 2011
Article 243ZD	<u>Committee for District Planning:</u> Constitution of District Planning Committee at the district level. Composition of District Planning Committees. Preparation of draft development plans and submission to the State Government.	Section 383
Article 243ZE	<u>Committee for Metropolitan Planning:</u> Provision for constitution of Metropolitan Planning Committee (MPC), in every Metropolitan area, with a population of 10 lakhs or more.	Section 384

Source: 74<sup>th</sup> CAA & JMA, 2011

The institutional mechanism of Municipalities in Jharkhand, compared to those envisaged in the provisions of the 74<sup>th</sup> CAA and JMA, 2011, are discussed in the succeeding paragraphs.

### **2.2.1 Constitution of Municipalities**

Under Article 243 Q of the Constitution, an Urban Local Body (ULB) is defined as an institution of self-government. Section 3 of JMA, 2011, provides that the State Government may, after having regard to population of any local area, density of population, the percentage of employment in other than agricultural activities in such area, the economic importance of such area *etc.*, by notification, declare any area<sup>4</sup>, a larger urban area (Municipal Corporation), or a smaller urban area (Municipal Council), or a transitional area (Nagar Panchayat). Under Section 14 of JMA, 2011, the State Government shall undertake a review of the existing municipalities, wherever it considers necessary, and upgrade them, having regard to the peri-urban areas and the outgrowths of the existing ULBs.

During the period between FYs 2016-17 to 2020-21, the State Government notified (between August 2017 and September 2017) two Municipal Councils (Giridih and Medininagar) and one Notified Area Committee (Mango), as Municipal Corporations; the existing Jugsalai Municipality as a Municipal Council (August 2017); and seven<sup>5</sup> new Nagar Panchayats (between August 2016 and September 2018).

### **2.2.2 Election and formation of councils**

Article 243U (3)(a) of the Constitution, read with Section 20 of JMA, 2011, stipulates a fixed tenure of five years for Municipalities, from the date of its first meeting. In case of notification of new ULBs and dissolution of existing ULBs, elections are to be held within six months, from the date of such notification or dissolution.

- The State Election Commission (SEC) conducted (March and April 2018) elections, for Mayors, Deputy Mayors, Chairpersons, Vice-chairpersons and Councillors and formed councils in 34 ULBs<sup>6</sup>, during FYs 2016-17 to 2020-21.
- In a newly created (29 August 2016) Nagar Panchayat (Barharwa), election was conducted (April 2018) after 18 months, instead of being conducted within six months, from the date of notification.
- Elections in eight<sup>7</sup> ULBs, tenures of which were expiring in June 2020, were proposed in May-June 2020. However, the elections were deferred (May 2020) by SEC, due to the COVID-19 pandemic. As such, elections in these ULBs had remained due, for more than 18 months, as of December 2021. In these ULBs, the Municipal Commissioners/Executive Officers were notified (June 2020) as

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<sup>4</sup> *Provided that the local area has acquired importance and urban characteristics, such as the availability of market facilities, established industries or potentialities to attract industries or commerce or education. Health care or other such infrastructures, for economic and industrial growth, may also be considered.*

<sup>5</sup> *Bachra, Badaki Saraiya, Barharwa, Dhanwar, Domchanch, Hariharganj and Mahagama.*

<sup>6</sup> *Five Municipal Corporations, 16 Municipal Councils and 13 Nagar Panchayats.*

<sup>7</sup> *Three Municipal Corporations (Chas, Deoghar and Dhanbad), three Municipal Councils (Bishrampur, Chakradharpur and Jhumritilaiya) and two Nagar Panchayats (Koderma and Manjhiaon).*

Administrators, to exercise the powers and functions of ULBs, under Section 16 (8) of JMA, 2011.

- In five<sup>8</sup> newly created (between April 2018 and September 2018) Nagar Panchayats, elections were due for more than 39 to 44 months, as of December 2021, from the dates of their notifications. Elections for these ULBs were proposed in May-June 2020, but were deferred (May 2020) by SEC due to the COVID-19 pandemic. However, reasons for not conducting elections before the pandemic, were not found on record.
- Two ULBs, Mango and Jugsalai, were notified (August 2017), as Municipal Corporation and Municipal Council, respectively, but elections had not been held for more than 50 months, as of December 2021, as the population of backward classes in these ULBs could not be ascertained, for identifying reserved seats.
- As per the recommendations of the 14<sup>th</sup> FC, grants were to be released to duly constituted ULBs, *i.e.* where elections had been held and elected bodies were in place. Further, grants were to be released in the ratio of population (90 *per cent*) and area (10 *per cent*) of the ULBs.

It was seen in audit that four to 14 ULBs were deprived of 14<sup>th</sup> FC grants amounting to ₹ 253.46 crore<sup>9</sup>, during FYs 2015-16 to 2019-20, as elections were not held in these ULBs.

Thus, elections were due for periods, ranging from 18 to 50 months, in 15 ULBs and the Administrators or the Special Officers were looking after the functions of these ULBs. Besides, the ULBs were deprived of 14<sup>th</sup> FC grants amounting to ₹ 253.46 crore, due to not conducting elections in time.

The Secretary, UD&HD, accepted the facts and stated (August 2022) that action had been initiated by the Department/State Election Commission, for early elections in the 15 ULBs.

### **2.2.3 Composition of Municipalities**

As per Article 243R of the Constitution, read with Section 15 of JMA, 2011, a Municipality consists of elected Councillors, co-opted members<sup>10</sup>, Members of Legislative Assembly (MLAs) and Members of Parliament (MPs), representing the constituencies, which comprise, wholly or partly, the Municipal area.

Audit observed that, in the 10 test-checked ULBs, Councillors did not co-opt members having special knowledge or experience in municipal administration, and members belonging to the minority community, as envisaged in JMA, 2011.

<sup>8</sup> *Bachra, Badaki Saraiya, Dhanwar, Hariharganj and Mahagama.*

<sup>9</sup> *2015-16: 4 ULBs - ₹ 28.61 crore, 2016-17: 8 ULBs - ₹ 46.03 crore, 2017-18: 9 ULBs - ₹ 50.16 crore, 2018-19: 14 ULBs - ₹ 63.61 crore, 2019-20: 8 ULBs - ₹ 65.05 crore (calculated on the basis of population and area)*

<sup>10</sup> *Members, including women having special knowledge or experience in municipal administration, and members, including women, belonging to the minority communities, with preference to communities having no representation in the Council, co-opted by the Councillors. Co-opted members do not have the right to vote.*

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs would be directed to co-opt members having special knowledge or experience in municipal administration, as well as members belonging to the minority community.

#### **2.2.4 Reservation of seats in election**

Article 243T of the Constitution stipulates reservation of seats for Scheduled Castes (SC), Scheduled Tribes (ST) and Women, for direct elections. Section 16 of JMA, 2011, read with Rule 5 of Jharkhand Municipal Election and Appeal (JMEA) Rules, 2012, provides that, in every Council, as nearly as possible, but not exceeding 50 *per cent* of the total seats of elected members, shall be reserved for SCs, STs, Backward Classes (BCs) and women. Reservation was to be given based on population of SCs, STs and BCs in that Municipality. In reserving seats, first, second and third priority were to be given to SC, ST and BC, respectively, proportionate to their population, including 50 *per cent* for women, in each category.

Audit observed that the reservation criteria, including that regarding representation of women, were adhered to, in the election of Councillors. For instance, out of 20 wards in Simdega, one seat/ward was reserved for SCs, against their population of 4.48 *per cent*; nine seats/wards for STs, including four seats/wards for women, against their population of 46.39 *per cent*; and the remaining 10 seats/wards for Others (un-reserved), including five seats/wards for women, in the election held in April 2018. No seat was reserved for the BC category, as the reservation limit of 50 *per cent* had been reached, on giving first and second priority to the SCs and STs, respectively.

#### **2.2.5 Key committees**

##### **2.2.5.1 Standing Committee**

As per Section 24 of the JMA, 2011, ULBs are required to constitute Standing Committees, which shall consist of: (a) the Mayor, the Deputy Mayor and the Chairpersons of Zonal Committees<sup>11</sup>, in case of a Municipal Corporation (b) the Chairperson, the Vice-Chairperson and five elected Councillors, to be elected by the Council, in case of a Municipal Council and (c) the Chairperson, the Vice-Chairperson and three elected Councillors, to be elected by the Council, in case of a Nagar Panchayat. The functions of the Committee include consideration of budgets, as well as audit reports, and action thereon. The Mayor/ Chairperson is required to act as the Presiding Officer of the Standing Committee and the Municipal Commissioner/Executive Officer is responsible for implementing the resolutions of the Committee.

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<sup>11</sup> *Zonal Committees are to be constituted by the Government, under Section 49 of JMA 2011, comprising the territorial areas of such number of wards, as may be notified within the Municipal Corporation. Each Zonal committee is to consist of not less than five contiguous wards. The power and functions of the Zonal Committees shall be such, as may be notified by the Government.*

Audit observed non-constitution or delay in constitution of Standing Committees, in the 10 test-checked ULBs, as shown in **Table 2.3**.

**Table 2.3: Status of constitution of Standing Committees**

Sl. No.	Name of ULB	Period of Board	Date of constitution of Standing Committee	Number of meetings during FYs 2016-17 to 2020-21
1.	Deoghar M. Corpn.	2015-16 to 2019-20	09/04/2016	07
2.	Dhanbad M. Corpn.	2015-16 to 2019-20	01/07/2015	31
3.	Khunti NP	2013-14 to 2017-18	Not constituted	
		2018-19 to 2022-23	12/02/2021	01
4.	Medininagar M. Corpn.	2013-14 to 2017-18	Not constituted	
		2018-19 to 2022-23	01/03/2019	05
5.	Phusro MC	2013-14 to 2017-18	Date not available	
		2018-19 to 2022-23	01/07/2019	11
6.	Ranchi M. Corpn.	2013-14 to 2017-18	02/12/2013	04
		2018-19 to 2022-23	10/09/2018	05
7.	Simdega MC	2013-14 to 2017-18	Not constituted	
		2018-19 to 2022-23	30/07/2018	02
8.	Hussainabad NP	2013-14 to 2017-18	Not constituted	
		2018-19 to 2022-23	26/06/2021	Nil
9.	Basukinath NP	2013-14 to 2017-18 and 2018-19 to 2022-23	Not constituted	
10.	Godda MC			

Source: Information provided by test-checked ULBs

It can be seen from the **Table 2.3** that Standing Committees had not been constituted in two ULBs (Basukinath and Godda) at all, whereas they had not been constituted in four ULBs (Khunti, Medininagar, Simdega and Hussainabad) for one term, *i.e.* FYs 2013-14 to 2017-18. Delays, ranging from 32 months to 37 months, were also seen in constitution of the Standing Committees in two other ULBs (Khunti and Hussainabad), for the term of FYs 2018-19 to 2022-23. In the absence of Standing Committees, their functions were carried out by the Municipal Boards, in the test-checked ULBs.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs had been directed (June 2022) to constitute the Standing Committees.

### 2.2.5.2 Wards Committee

Article 243S of the Constitution provides for constitution of Wards Committees, consisting of one or more wards, within the territorial area of a Municipality, having a population of three lakhs or more. However, as per Section 34 of JMA, 2011, Wards Committees<sup>12</sup> are to be constituted for each ward of the Municipality, and are to be co-terminus with the term of the Council. The Committees were to prepare Annual Development Plans, showing the estimated expenditure, under Section 381 of JMA, 2011.

Audit observed that two (Dhanbad and Ranchi) out of the 10 test-checked ULBs, had population of more than three lakh. Wards Committees had been constituted in four out of 55 wards of Dhanbad, for the term 2015-16 to 2019-20, whereas no such Committees were constituted in Ranchi, which had 53 wards,

<sup>12</sup> Consists of the Councilor of the ward, Area Sabha representative and not more than ten persons representing the civil society from the ward nominated by the Council.

for the terms 2013-14 to 2017-18 and 2018-19 to 2022-23. Moreover, 41 Wards Committees had been constituted in two test-checked ULBs (Deoghar: 36 and Simdega: 5) having 56 wards (Deoghar: 36 and Simdega: 20), whereas there were no Wards Committees in six<sup>13</sup> test-checked ULBs, having 131 wards. Thus, the objective of facilitating community participation in local governance was defeated. The functions of the ward committees were carried out by the councillors, in the test-checked ULBs.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs had been directed (June 2022) to constitute the Wards Committees.

### **2.2.5.3 Subject Committee**

As per Section 46 of JMA, 2011, a Municipal Corporation or a Class-A Municipal Council<sup>14</sup>, may, from time to time, constitute Subject Committees, consisting of elected councillors<sup>15</sup>, to deal with matters relating to: (a) water-supply (b) drainage and sewerage (c) solid waste management (d) urban environment management and land use control (e) poverty and slum services (f) education and health and (g) welfare of SCs, STs, BCs, Women and Children. The term of each Subject Committee will be for two years.

Audit observed that Subject Committees were not constituted, in any of the four test-checked Municipal Corporations (Dhanbad, Deoghar, Medininagar and Ranchi). In the absence of such committees, the decisions on these subjects were taken by the Municipal Boards, in the test-checked ULBs.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs had been directed (June 2022) to constitute the Subject Committees.

### **2.2.6 District and Metropolitan Planning Committee**

As per Articles 243ZD and 243ZE of the Constitution, the State Government is to constitute a District Planning Committee (DPC), at the district level, to consolidate the plans prepared by the local bodies in the district and to prepare a Draft Development Plan (DDP) for the district as a whole. It is also required to constitute a Metropolitan Planning Committee (MPC), in every Metropolitan Area, to prepare a DDP for the Metropolitan Region as a whole. Sections 383 and 384 of JMA, 2011, stipulate that the DPC and MPC shall prepare a comprehensive DDP in regard to matters of common interest<sup>16</sup> between the Panchayats and the Municipalities.

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<sup>13</sup> Basukinath: 12, Godda: 21, Khunti: 19, Hussainabad: 16, Medininagar: 35 and Phusro: 28.

<sup>14</sup> A local body having population of one lakh and above and less than one lakh and fifty thousand.

<sup>15</sup> Seven members in case of Municipal Corporation and five members in case Class 'A' Municipal Council.

<sup>16</sup> Spatial planning; sharing of water and other physical and natural resources; integrated development of infrastructure; environment conservation; and extent and type of available resources, whether financial or otherwise.

Audit observed that though DPCs were in existence, in all the test-checked districts, linked to the test-checked ULBs, they had not called for submission of Plans from the respective ULBs, for consolidation and preparation of DDPs. Further, two test-checked ULBs (Dhanbad and Ranchi) had population of more than one million and attracted the status of a metropolitan city. However, both of these were yet to be notified as metropolitan cities, for constitution of MPC. The Secretary, UD&HD accepted the facts and stated (August 2022) that instructions would be issued to the DPCs/ ULBs for DDPs. However, issue of notification of MPC for Ranchi and Dhanbad Municipal Corporations would be considered later.

### 2.2.7 State Finance Commission

Article 243Y of the Constitution stipulates that the Governor of the State shall constitute a Finance Commission, within one year from the commencement of the Act, and, thereafter, at the expiration of every fifth year, to review the financial position of the municipalities, and to make recommendations to the Governor regarding distribution of taxes, duties, fees etc., between the State and ULBs, determination of taxes, duties, fees etc., grants-in-aid to ULBs and the measures needed to improve the financial position of the ULBs. Further, the Ministry of Panchayati Raj, Government of India (GoI), issued (April 2009) guidelines to appoint full time Chairpersons for the State Finance Commissions (SFCs). In addition, the 14<sup>th</sup> Finance Commission recommended (December 2014) strengthening of SFCs, with proper administrative support and adequate resources, for ensuring their smooth functioning.

Audit noticed delays and gaps in constitution of the SFCs, as well as lack of administrative support to them, as discussed in the succeeding paragraphs.

#### 2.2.7.1 Delays in constitution of SFCs

After bifurcation (November 2000) of the State of Jharkhand from erstwhile Bihar, four SFCs were constituted in Jharkhand, each comprising of a chairperson, two other members and an *ex-officio* Secretary. Details of terms of the SFCs are shown in **Table 2.4**.

**Table 2.4: Constitution of SFCs in Jharkhand**

SFC	Due dates for constitution of SFCs with reference to the first SFC	Dates of constitution of the SFCs	Delays in constitution of the SFCs	Period covered
First	Not applicable*	28/01/2004	----	28/01/2004 to 27/01/2009
Second	28/01/2009	19/12/2009	10 months	28/01/2009 to 27/01/2014
Third	28/01/2014	08/04/2015	14 months	28/01/2014 to 27/01/2019
Fourth	28/01/2019	23/07/2019	5 months	28/01/2019 to 27/01/2024

Source: Data provided by SFC

\*The State of Jharkhand was created on 15 November 2000 after bifurcation from Bihar.

It can be seen from **Table 2.4** that the first SFC had been constituted after three years of creation of the State, and the subsequent SFCs were constituted after gaps of five to 14 months, from the date of expiry of the terms of the previous SFCs.

### 2.2.7.2 Appointment of Chairperson, members, and administrative staff

Audit observed that the posts of Chairpersons of SFCs had remained vacant for long periods, as shown in **Table 2.5**.

**Table 2.5: Number of Chairpersons of SFCs appointed and periods when the post was vacant**

SFC	Total number of Chairpersons appointed	Period for which post was vacant	Vacant period in days
1 <sup>st</sup> SFC	7	01/10/2004 to 15/07/2005	288
		17/08/2007 to 02/03/2008	199
		17/07/2008 to 31/10/2008	107
		<b>Total</b>	<b>594</b>
2 <sup>nd</sup> SFC	5	01/09/2009 to 24/10/2009	54
		01/07/2011 to 10/08/2011	41
		<b>Total</b>	<b>95</b>
3 <sup>rd</sup> SFC	4	02/04/2018 to 27/01/2019	<b>301</b>
4 <sup>th</sup> SFC	Vacant	28/01/2019 to 31/12/2021	<b>1,069</b>

*Source: Information provided by Planning and Finance Department*

It can be seen from **Table 2.5** that the post of Chairperson had remained vacant for 95 to 594 days, in the first three SFCs. The Chairperson of the 4<sup>th</sup> SFC had not been appointed, as of December 2021. No information was found on records regarding the appointment, if any, of the two other members, in any of the four SFCs.

Further, Audit scrutiny revealed that the State Government had sanctioned (September and November 2004) 12 temporary posts for two years, which were extended up to 27 January 2009. However, 15 posts were sanctioned (June 2015) for two years, and 15 posts (September 2019) for seven months. As such, the State did not ensure posts of regular office staff for running the office of the SFCs. Posting of regular office staff, as per sanctioned strength, was also not ensured, as only three staff<sup>17</sup> were posted till April 2009, and an Accounts Clerk was engaged on deputation basis, in June 2011. Information regarding the staff position (as of December 2021) was not furnished to Audit. The Chairpersons of different SFCs pointed out (November 2013, May 2015, and December 2017) shortage of staff as the reason behind the ineffective functioning of the SFCs and non-preparation of Reports.

Thus, the SFCs constituted in Jharkhand faced constraints in their functioning, due to the posts of Chairpersons remaining vacant for long periods of time, and non-appointment of administrative staff.

<sup>17</sup> One Personal Assistant (retired on 31 March 2009), one Assistant, and one Typist-cum-Data Entry Operator (outsourced but vacant since June 2017).



### 2.2.7.3 Working of SFCs

As per Article 243Y, read with Article 243I, of the Constitution, the Governor shall cause every recommendation, made by the State Finance Commission, together with an explanatory memorandum, as to the action taken thereon, to be laid before the legislature of the State.

Three SFCs completed their tenure from January 2004 to January 2019. However, only the 1<sup>st</sup> SFC submitted its recommendations (April 2009) to the Governor. Details of the recommendations and the action taken by the Government, are shown in **Table 2.6**.

**Table 2.6: Recommendations of the first SFC, with action taken**

Sl. No.	Recommendations	Action taken by the State Government
1.	Enactment of a new Jharkhand Municipal Act, containing a 'Municipal Financial Schedule', with a Schedule listing out various functions assigned to the municipalities.	JMA, 2011, was enacted (February 2012), listing 197 activities/ functions assigned to ULBs, under the Schedule of Section 455.
2.	Evolve a suitable structure and staffing pattern for ULBs within 90 days.	The Municipal Cadre was created in May 2010. Further, the State Town Planning Service Rules and Jharkhand Municipal Service Rules, were framed (March 2014), for manning different pools.
3.	Create a distinct pool of Administrative, Accounts and Engineering personnel for ULBs.	
4.	Till creation of Municipal Financial Schedule, provision of a per capita Core Municipal Services Provision Grant of ₹ 375 in FY 2009-10, with annual growth rate of 10 per cent in the subsequent four years, in lieu of taxes not assigned and shared with ULBs.	The State Government releases development grants to ULBs, based on populations and areas, in the ratio 90:10. In addition, the State releases 40 per cent loan and 30 per cent grants for salary.
5.	Create an Umbrella of Local Self Government Department with one Minister and one Principal Secretary.	UD&HD, headed by the Minister-in-Charge of Urban Development/ Local self-government, is in place.
6.	Create a "Jharkhand Urban Development Fund" for Urban Infrastructure Development Projects.	During the FYs 2016-17 and 2017-18, an annual budget provision of ₹ one crore was made towards the Jharkhand State Development Fund. In FY 2018-19, a provision of ₹ 50 crore was made towards the Jharkhand State Infrastructure Development Fund. No provision was made during FYs 2019-20 and 2020-21. However, the budget provisions remained unspent.

It was observed that UD & HD did not lay the explanatory memorandum, in regard to the action taken on recommendations, before the legislature of the State, as this provision had not been included in JMA, 2011. Further, ULBs were not implementing all the assigned activities, due to non-existence of the related rules, as discussed in **Paragraph 2.3.1**. They were largely dependent on financial assistance from the State Government, due to non-framing of rules regarding the levy and collection of municipal taxes, as discussed in **Paragraph 2.3.2**.

In response to the audit observations regarding delays in constitution of the SFCs, appointment of its Chairperson, members and administrative staff and working of the SFCs, the Secretary stated (August 2022) that these issues were related to the Finance Department. The fact, however, remains that the

Department did not co-ordinate with the Finance Department, to ensure timely constitution and smooth functioning of the SFCs.

## 2.2.8 Manpower for ULBs

### 2.2.8.1 Creation of posts

The State Government assessed the requirement of staff for the ULBs, on the basis of population and created (between May 2010 and September 2018) 2,608 posts, under 11 cadres<sup>18</sup>, for 43 ULBs, as shown in **Table 2.7**.

**Table 2.7: Post of municipal cadres created up to March 2021**

Sl. No.	Name of Cadre	For 10 Municipal Corporations including Jamshedpur NAC	For 20 Municipal Councils	For 13 Nagar Panchayats	Total
1.	Administration	60	40	13	113
2.	Engineering	268	160	78	506
3.	Public Health	274	320	154	748
4.	Revenue	141	109	39	289
5.	Accounts	85	77	26	188
6.	Horticulture	18	00	00	18
7.	Public Relations	15	00	00	15
8.	Legal	25	20	13	58
9.	Office Management	216	160	52	428
10.	Town Planning	94	78	37	209
11.	Veterinary	36	00	00	36
<b>Total</b>		<b>1,232</b>	<b>964</b>	<b>412</b>	<b>2,608</b>

*Source: Data provided by DMA*

It can be seen from **Table 2.7** that no posts had been created in the Horticulture, Public Relations and Veterinary cadres, for Municipal Councils and Nagar Panchayats. Further, no posts had been created for seven<sup>19</sup> ULBs (notified between August 2016 and September 2018), even after 39 to 64 months of their creation (as of December 2021).

The Secretary, UD&HD accepted the facts and stated (August 2022) that creation of posts for the mentioned ULBs was under process.

### 2.2.8.2 Shortage of staff

Audit observed that, due to shortage of regular manpower and increase in the workload of the ULBs, DMA initially created (between February 2010 and March 2019) 134 posts of City Manager, for three years, on contract basis. The available manpower, including City Managers, against the sanctioned strength, as on 31 March 2021, in the 10 test-checked ULBs, was as shown in **Table 2.8**.

<sup>18</sup> Including Officers and staff from Indian Administrative Service, Jharkhand Administrative Service, State cadre, State Account Audit Service and Municipal cadre.

<sup>19</sup> Bachra, Badki Saraiya, Barharwa, Dhanwar, Domchanch, Hariharganj and Mahagama.

**Table 2.8: Sanctioned strength and vacancies in the test-checked ULBs**

Sl. No.	Name of ULB	Human Resources (As on 31/03/2021)			Vacancy	
		Sanctioned strength <sup>20</sup>	Men-in-position			
			Permanent	Contractual/Deputation		Total
1.	Basukinath NP	34	5	2	7	27
2.	Deoghar M. Corpn.	119	97	17	114	5
3.	Dhanbad M. Corpn.	230	124	45	169	61
4.	Godda MC	50	12	11	23	27
5.	Hussainabad NP	34	6	6	12	22
6.	Khunti NP	23	0	7	7	16
7.	Medninagar M. Corpn.	54	12	14	26	28
8.	Phusro MC	51	6	12	18	33
9.	Ranchi M. Corpn.	243	53	21	74	169
10.	Simdega MC	50	1	16	17	33
<b>Total</b>		<b>888</b>	<b>316</b>	<b>151</b>	<b>467</b>	<b>421</b>

Source: Data provided by test-checked ULBs

It can be seen from **Table 2.8** that there were 421 (47 per cent) vacant posts, as on 31 March 2021.

Further, as per section 55 of JMA, 2011, read with Rule 2 of the Jharkhand Municipal Accounts Rules, 2012, the Chief Accounts Officer (CAO) of a Municipal Corporation should be an officer from the office of the Accountant General or a Senior Officer of the Finance or Accounts Department of the State Government. Similarly, the Government should appoint Accounts Officers (AO) in the Municipal Councils (MCs) and Nagar Panchayats (NPs). The CAO/AO is the head of the Accounts Department of the ULB and is responsible for accounting of Income and Expenditure and Assets and Liabilities of the ULB. The CAOs/AOs are required to examine the entries and the closing balance in the Cash Book on a daily basis and to check all bills.

The Government sanctioned (September 2018) posts of one CAO and one AO, for each Municipal Corporation and one AO for each MC/NP. However, these posts were vacant in the 10 test-checked ULBs, including three Municipal Corporations, as of March 2021. In the absence of permanent CAOs/AOs, the accounts of the test-checked ULBs were being maintained by the Deputy Municipal Commissioner in Municipal Corporations and by Accountants, engaged on contractual basis, in MCs/NPs.

Thus, the ULBs were facing acute shortage of staff and the devolution of functions remained ineffective due to this.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the Jharkhand Staff Selection Commission had issued (July 2022) advertisements for regular appointment of 1,300 posts in the 50 ULBs of the State.

<sup>20</sup> Sanctioned strength includes posts of City Managers also (eight each in Dhanbad M. Corpn. and Ranchi M. Corpn., five each in Deoghar M. Corpn. and Medininagar M. Corpn. and two each in the remaining test-checked ULBs)

### 2.2.9 Parastatal and its functions

Considering the lack of technical efficiency for centralised formulation, execution, and maintenance of schemes by the ULBs, a parastatal, named the Jharkhand Urban Infrastructure Development Company Limited (JUIDCO), was notified (July 2013), by the State Government, under the Companies Act, 1956, for planning, execution, and monitoring of basic infrastructure, in the urban areas of Jharkhand. Principal Secretary, UD&HD, GoJ, is the *ex-officio* Chairman-cum-Managing Director of JUIDCO.

Works relating to the development and strengthening of urban infrastructure, such as roads with drains; water supply and sewerage; solid waste management (SWM) projects; public amenities, including public parks; urban greenery; conservation of water bodies; and housing in the urban areas, including those for the urban poor, are entrusted to JUIDCO. The State Government releases funds to JUIDCO directly, or through the ULBs, for execution of these development works. JUIDCO was also entrusted (November 2015) works related to monitoring of schemes, costing more than ₹ 50 lakh, for which funds had been provided to the ULBs. After completion of the works, JUIDCO is required to transfer the assets so created, to the ULBs.

During the period between FY 2016-17 to FY 2020-21, JUIDCO undertook 29 development works<sup>21</sup> under the State Plan, one work (water supply) aided by the World Bank and 32 works under Central schemes<sup>22</sup>. Audit observed that JUIDCO had received funds, amounting to ₹ 43.56 crore (2 per cent) through the ULBs and ₹ 2,240.25 crore (98 per cent) directly from the UD&HD, during the period from FY 2016-17 to FY 2020-21. As such, the ULBs did not have much of a role in funding and monitoring works executed by JUIDCO.

### Conclusion

*Elections were due in 15 ULBs, for more than 18 to 50 months, despite the ULBs having been notified/ dissolved by the State Government, from time to time. Four to 14 ULBs were deprived of 14<sup>th</sup> FC grants, amounting to ₹ 253.46 crore, during 2015-16 to 2019-20, due to not conducting elections in time. There were no Standing and Ward Committees in two and six ULBs respectively, out of 10 test-checked ULBs. Subject Committees had also not been constituted in the four test-checked Municipal Corporations. The State Government had constituted three State Finance Commissions (SFCs), for the period from January 2004 to January 2019. However, two SFCs covering the period from January 2009 to January 2019, did not submit their recommendations to the State Government, due to shortage of administrative staff. Though District Planning Committees were set up, they did not prepare Draft Development Plans, with inputs from the ULBs. The ULBs were facing acute shortage of staff,*

<sup>21</sup> Sixteen urban water supply schemes and 13 buildings.

<sup>22</sup> Twelve schemes of the Atal Mission for Rejuvenation and Urban Transformation (AMRUT), 13 schemes of the Pradhan Mantri Awas Yojana (PMAY) and seven schemes of the Namami Gange Project.

for making the devolution of functions effective. JUIDCO, the parastatal body, received nearly 98 per cent of the development funds, for creation of urban infrastructure, directly from the UD&HD, and, as such, the ULBs did not have much of a role in funding and monitoring development works executed by JUIDCO.

### Recommendations

- Election of ULBs may be conducted at the earliest and the formation of key committees, viz. Ward Committees, Standing Committees and Subject Committees, may be ensured;
- The District Planning Committees may ensure preparation of Draft Development Plans, with inputs from the ULBs;
- The State Finance Commissions may be strengthened, by appointment of full-time Chairperson, Members and administrative staff;
- Deployment of adequate manpower in the ULBs may be ensured.

### 2.3 Status of devolution of functions

The 74<sup>th</sup> CAA left the extent of devolution of powers to the State Legislatures. The major elements of devolution are transfer of functions, funds and functionaries, to ULBs.

The extent of empowerment of the ULBs and the status of implementation of various functions; levy and collection of taxes; and the extent of water supply and waste management functions performed by them, are discussed in the succeeding paragraphs.

#### 2.3.1 Autonomy of ULBs in discharging functions

The 74<sup>th</sup> CAA introduced provisions, in regard to powers of self-governance, to Municipalities, through Articles 243W and 243X. The State Government introduced similar provisions through JMA, 2011, as detailed in **Table 2.9**.

**Table 2.9: State legislation vis-à-vis the provisions of the 74<sup>th</sup> CAA**

Provisions introduced under 74 <sup>th</sup> CAA	Requirement, as per provisions of the Constitution of India	Similar provisions in JMA, 2011
Article 243W	<u>Powers, authority, and responsibilities of the Municipalities:</u> All municipalities would be empowered with such powers as may be necessary to enable them to function as effective institutions of self-government. The State Government shall entrust the municipalities with such powers and authority to enable them to carry out the responsibilities in relation to the 12 <sup>th</sup> Schedule.	Sections 25, 34, 46, 70, 383 and 384
Article 243X	<u>Power to impose taxes by, and funds of the Municipalities:</u> Municipalities would be empowered to levy and collect taxes, fees, duties etc. Grants-in-aid would be given to the Municipalities from the State Budget. Constitution of funds for crediting and withdrawal of moneys by the Municipality	Sections 98, 152, 154-159

Further, as per Section 590 of JMA, 2011, the State Government may, by notification, make rules for carrying out the purposes of this Act. As per Section 592, the municipality may, from time to time, make regulations, not inconsistent

with the provisions of this Act, or the rules made thereunder, for the purpose of giving effect to the provisions of this Act.

Audit observed that the State Government had empowered ULBs for discharging all the 18 functions as mentioned in the 12<sup>th</sup> schedule of the 74<sup>th</sup> CAA, vide Section 70 of JMA, 2011. However, Audit noticed the existence of other Government Departments/Agencies that were discharging the functions/responsibilities expected to have been devolved to the ULBs, as detailed in **Table 2.10**.

**Table 2.10: Extent of autonomy over discharge of functions by the ULBs**

Sl. No.	Functions	Activities	Actual status of implementation
<b>Functions where ULBs have full jurisdiction</b>			
1.	Burials and burial grounds, cremations, cremation grounds and electric crematoriums.	Construction and O&M of crematoriums and burial grounds and electric crematoriums.	ULBs were discharging all these activities.
2.	Slum improvement and up-gradation	Identifying beneficiaries Providing Affordable Housing Up-gradation of houses	ULBs were discharging all these activities by identifying beneficiaries for affordable housing and construction/upgradation of houses.
3.	Regulation of slaughterhouses and tanneries	Ensuring quality of animals and meat Disposal of waste O & M of slaughterhouses	ULBs were discharging all these activities through issue of licenses to slaughter houses, construction and implementation of waste management therein.
4.	Cattle pounds; prevention of cruelty to animals	Catching and keeping strays Sterilisation and anti-rabies vaccination Ensuring animal safety	ULBs were discharging all these activities.
5.	Provision of urban amenities and facilities such as parks, gardens, playgrounds	Creation of parks and gardens Operation and Maintenance	ULBs were discharging both these activities, through construction and operation of parks and gardens.
6.	Urban poverty alleviation	Identifying beneficiaries Livelihood and employment Creating vending zones for Street vendors	ULBs were discharging all these activities, through identification of beneficiaries and implementation of poverty alleviation programs.
7.	Vital statistics, including birth and death registration	Coordinating with hospitals/crematoriums <i>etc.</i> , for obtaining information Maintaining and updating database in this regard.	ULBs were maintaining databases of births and deaths and issuing birth and death certificates.
8.	Public amenities, including street lighting, parking lots, bus stops and public conveniences	Installation and maintenance of streetlights Deciding and operating bus routes Creation and maintenance of parking lots Creation and maintenance of public toilets	ULBs were discharging all these activities.
9.	Urban planning, including town planning	Master Planning/Development Plans/Zonal Plans Enforcing master planning regulations Enforcing building bye-laws and licenses	The UD&HD was approving the Master Plans and the related Regulations and the ULBs were enforcing them.

Sl. No.	Functions	Activities	Actual status of implementation
10.	Regulation of land-use and construction of buildings	Regulating land use	ULBs were discharging all these activities.
		Approving building plans/high rises	
		Demolishing illegal buildings	
<b>Functions jointly performed by ULBs and State Government Departments</b>			
11.	Roads and bridges	Construction and maintenance of roads	<i>ULBs:</i> Construction and maintenance of roads, bridges, drains, flyovers, and footpaths, within the jurisdiction of ULBs. <i>Road Construction Department:</i> Responsible for road works, including maintenance of State Highways and Major District Roads, within ULBs.
		Construction and maintenance of bridges, drains, flyovers and footpaths	
12.	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded	Identifying beneficiaries	<i>Social Welfare Department:</i> Implementation of social welfare schemes related to SC/ST and tribal development. <i>ULBs:</i> Implementation of Central and State schemes related to housing and welfare for the urban poor, including the handicapped and mentally retarded.
		Providing tools/benefits, such as tricycles	
		Housing programs	
13.	Planning for economic and social development	Scholarships	<i>ULBs:</i> Implementation of schemes of housing, employment, health, education, and basic necessities. <i>Social Welfare Department:</i> Implementation of welfare schemes for SC/ST and other weaker sections, for their socio-economic and educational advancement.
		Program implementation for economic activities	
14.	Water supply for domestic, industrial, and commercial purposes	Distribution of water	<i>Drinking Water and Sanitation Department (DW&amp;SD):</i> Construction of water supply projects as well as their operation and maintenance, in addition to water supply within the ULBs. <i>ULBs:</i> Provision of water supply connections and collection of water charges.
		Providing connections	
		Operation & Maintenance (O&M)	
		Collection of charges	
15.	Public health, sanitation, conservancy and solid waste management	Maintaining hospitals, dispensaries	<i>Department of Health and Family Welfare:</i> Provision of health care services in urban areas, through hospitals and dispensaries. <i>ULBs:</i> Assisting the Health Department in running the immunisation/ vaccination programmes; cleaning and disinfection of localities affected by infectious diseases; solid waste management; and control of public parks.
		Immunisation/Vaccination	
		Registration of births and deaths	
		Cleaning and disinfection of localities affected by infectious diseases	
		Solid waste management	
16.	Promotion of cultural, educational and aesthetic aspects.	Control and supervision of public markets	(i) School Education & Literacy Department and (ii) Tourism, Art, Culture, Sports & Youth Affairs Department, are responsible for these activities. The Tourism, Art, Culture, Sports & Youth Affairs Department, along with ULBs, undertake these activities. ULBs were undertaking this activity.
		Schools and education	
		Fairs and festivals	
		Cultural buildings/institutions, Heritage	
<b>Functions with no role for ULBs</b>			
17.	Urban forestry, protection of the environment and promotion of ecological aspects.	Afforestation	These activities were vested with the Forest, Environment and Climate Change Department.
		Greenification	
		Awareness drives	
		Protection of the environment and promotion of ecological aspects	
		Maintenance of natural resources like water bodies etc.	

Sl. No.	Functions	Activities	Actual status of implementation
18.	Fire Services	Establishing and maintaining fire brigades. Providing fire NOC/approval certificate in respect of high-rise buildings	This function was vested with the Home, Jail and Disaster Management Department.

Source: Information provided by UD&HD

As shown in **Table 2.10**, out of the 18 functions mentioned in the 12<sup>th</sup> Schedule of the 74<sup>th</sup> CAA, 10 functions were being fully performed by ULBs, six functions were being partially performed by them, and ULBs had no role in performing the remaining two functions. Audit further observed that out of these 18 functions, only ‘water supply’ had been transferred to ULBs through departmental notification. ULBs were performing other functions, which had been entrusted (before bifurcation from erstwhile Bihar) to them, under the Bihar and Orissa Municipal Act, 1922. The position, in regard to the 10 test-checked ULBs was similar, though the operation and maintenance of water supply projects was being carried out by two of the test-checked ULBs (Deoghar and Simdega).

The Secretary, UD&HD accepted the facts and attributed (August 2022) lack of manpower, technical expertise and resources with the UD&HD/ULBs, as the reasons for delegation of these functions/activities to different specialised agencies/departments. The fact, however, remains that the Department had not been able to arrange adequate manpower, expertise and resources, even after ten years of the enactment of JMA, 2011.

### 2.3.2 Role of ULBs in AMRUT

GoI launched (June 2015) the Atal Mission for Rejuvenation and Urban Transformation (AMRUT) to provide basic services, such as water supply, sewerage, urban transport to households, and to provide amenities in cities, to improve the quality of life of citizens, especially the poor and the disadvantaged. Seven<sup>23</sup> cities were covered under AMRUT, in Jharkhand.

Under AMRUT, 46 schemes<sup>24</sup> were taken up between the FYs 2015-16 and 2019-20, at an estimated cost of ₹ 1,591.05 crore. Out of 46 schemes, 34 parks, with an estimated cost of ₹ 52.73 crore, had been constructed by the ULBs. The remaining 12 schemes, estimated at ₹ 1,538.32 crore, had been allotted to JUIDCO, by the State Government. Out of the 12 schemes, one scheme was complete, whereas 11 schemes with an estimated cost of ₹ 1534.81 crore, were in progress, with expenditure of ₹ 545.30 crore, as of March 2021.

The Secretary, UD&HD stated (August 2022) that JUIDCO had been regularly monitoring various schemes of water supply, sewerage and septage, in coordination with the ULBs and other stakeholders. The reply is not convincing,

<sup>23</sup> Adityapur, Chas, Deoghar, Dhanbad, Giridih, Hazaribag and Ranchi.

<sup>24</sup> Six schemes relating to urban water supply, one relating to sewerage, four relating to septage and 35 parks.



as the ULBs did not have much of a role in funding and monitoring works executed by JUIDCO, as discussed in *Paragraph 2.2.9*.

### **2.3.3 Role of ULBs in Smart City Mission**

The objective of the Smart City Mission is to promote cities that provide core infrastructure and give a decent quality of life to its citizens, a clean and sustainable environment and application of smart solutions. It is a centrally sponsored scheme where GoI and State are to share funds in the ratio of 50:50. A Special Purpose Vehicle (SPV), having nominees of the Central Government, the State Government and ULBs on its Board, is to be set up, to plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate the smart city development projects.

In Jharkhand, the capital city Ranchi, was selected under the Mission. An SPV, Ranchi Smart City Corporation Limited (RSCCL), was formed (August 2016), under the Companies Act, 2013, with an equity capital of ₹ 200 crore. As per resolution of the SPV, all the powers of the Ranchi Municipal Corporation (RMC) and the powers of the State Government, relating to smart city projects, as given in JMA, 2011, were to be exercised by RSCCL.

Audit observed that RSCCL took up 12 projects of land development, transport facility, water supply, street lighting, waste water management, civic and command centres *etc.*, costing ₹ 934.51 crore and incurred expenditure of ₹ 798.34 crore on these projects (as of January 2023). Of these 12 projects, four projects were complete and the remaining projects were on the verge of completion, with physical progress ranging between 92 and 98 *per cent*. Six projects of solid waste management, public transport, parks and river front development, costing ₹ 148.03 crore, were either in the DPR stage, or were to be started after completion of major construction works.

### **2.3.4 Water Supply**

As per section 70 of JMA, 2011, Water supply, for domestic, commercial, and industrial purposes, is a core function of the ULBs. The 14<sup>th</sup> FC had recommended (December 2014) that basic services related to water and sanitation, including drinking water, must be provided to all.

Audit observed that the Drinking Water & Sanitation Department (DW&SD) was mainly responsible for supply of water in urban areas. Piped water supply was, however, not available in 16 out of the 50 ULBs. As on March 2021, only 1.80 lakh (23 *per cent*) out of 7.80 lakh urban households, had piped water supply. Out of the 1.80 lakh households with water supply, 29,798 (17 *per cent*) connections were metered.

In the 10 test-checked ULBs, the coverage of piped water supply ranged between six and 48 *per cent*. In four<sup>25</sup> of these ULBs, the coverage was less than

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<sup>25</sup> Deoghar, Godda, Phusro and Simdega.

10 per cent. Further, against 21,497 metered connections in the 10 test-checked ULBs, 21,481 connections were in Ranchi.

Thus, the ULBs were yet to provide piped drinking water to a large number of households. Moreover, JUIDCO and DW&SD had taken up 23 and seven water supply projects, respectively, during FYs 2016-17 to 2020-21, which were in progress, as of December 2021.

The Secretary, UD&HD stated (August 2022) that the Department had taken action for *cent per cent* coverage of water supply to households through various schemes. The reply is not convincing, as it does not specify details of schemes being referred to, even though the audit observation was based on scrutiny of all the schemes taken up by JUIDCO and DW&SD. Other agencies were not found to have been involved in the execution of water supply schemes.

### 2.3.5 Solid Waste Management

As per Section 251 of JMA, 2011, the municipality shall, within the municipal area, be responsible for implementation of the rules made by the Central Government, to regulate the management and handling of municipal solid wastes and for development of any infrastructure for collection, storage, transportation, processing, and disposal of solid wastes.

Audit observed that 36 Solid Waste Management (SWM) projects initiated (March 2017 to August 2020), in 45 out of the 50 ULBs in the State had been: (i) in progress in 28 ULBs (ii) under tendering in seven ULBs (iii) in the Detailed Project Report (DPR) stage in seven ULBs. Further, consultants had been appointed to frame DPRs for three ULBs.

Thus, SWM projects, required for scientific disposal of municipal waste, were not functional in any of the ULBs. In the 10 test-checked ULBs, the ULBs were carrying out door-to-door collection of waste and dumping the waste in open spaces identified for the purpose. Segregation of waste was, however, not being done. It was also seen that the ULBs were not collecting bio-medical waste. Photographs of some of the incomplete SWM projects and open dumping sites are given below.

**Picture 2.1: Incomplete SWM projects and open dumping sites**



**Incomplete compressed bio-gas plant at Jhiri, Ranchi.**



**Incomplete solid waste treatment plant at Deoghar.**



Municipal waste dumping site at Jhiri, Ranchi.



Municipal waste dumping site at Medininagar.

The Secretary, UD&HD accepted the facts and stated (August 2022) that action had been taken by the Department for early completion of SWM Projects in all ULBs.

### Conclusion

*The State Government enacted the Jharkhand Municipal Act (JMA), 2011, to comply with the provisions of the 74<sup>th</sup> Constitutional Amendment Act and enable the ULBs to function as institutions of self-government. JMA was, however, not supported specifically by devolution of all functions and creation of appropriate institutional mechanisms. Out of 18 functions required to be devolved, ULBs were solely responsible for only 10 functions; had no role in two functions; and had partial role in six functions. ULBs were collecting only three out of the nine types of taxes mentioned under JMA, 2011, meant for augmentation of the resources of the ULBs, as the State Government had not framed the required Rules. Piped water supply was being provided only to 23 per cent of the total urban households. Solid Waste Management projects were not operational in any of the ULBs, as a result of which, waste was being disposed of in open places, without segregation.*

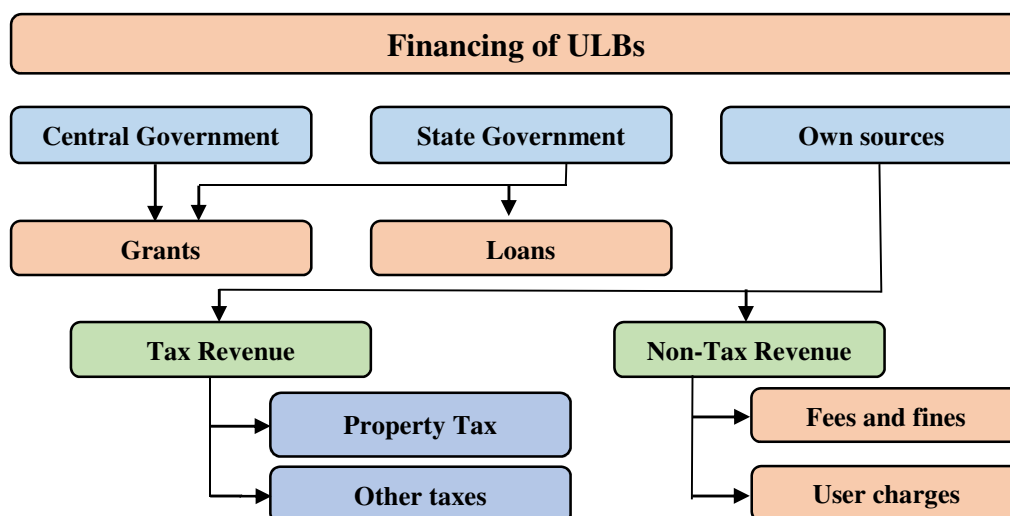
### Recommendations:

- *Necessary support, viz. adequate and skilled manpower and other resources, may be provided to the ULBs, to ensure their autonomy in performing the functions assigned to them; and*
- *Necessary Rules may be framed, to ensure levy and collection of all types of municipal taxes by the ULBs.*

### 2.4 Financial resources of Urban Local Bodies

The Financial resources of ULBs include revenue, grants and loans, as shown in **Chart 2.2** below.

Chart 2.2: Financing of ULBs



### 2.4.1 Financial resources of ULBs

The State Government provided recurring loans and grants to ULBs, for salary, and also provides non-recurring grants for developmental expenditure. Besides grants and loans to ULBs, UD&HD incurred expenditure for creation of urban infrastructure, through its own budget. However, UD&HD did not compile separate accounts, showing the expenditure against the grants and loans given to ULBs. The budget allocations and expenditure, including the grants and loans given to the ULBs, as also the savings there against, during the FYs 2016-17 to 2020-21, are given in **Table 2.11**.

**Table 2.11: Budget allocation, expenditure and savings of ULBs**

Particulars		Financial Year					Total
		2016-17	2017-18	2018-19	2019-20	2020-21	
Budget Allocation	Establishment	436.71	192.03	157.20	215.69	226.36	1,227.99
	Development	2,705.11	3,108.57	2,912.74	2,956.84	2,948.61	14,631.87
<b>Total</b>		<b>3,141.82</b>	<b>3,300.60</b>	<b>3,069.94</b>	<b>3,172.53</b>	<b>3,174.97</b>	<b>15,859.86</b>
Expenditure	Establishment	275.01	178.31	129.89	187.33	192.61	963.15
	Development	2,567.23	2,853.73	2,351.16	2,733.58	2,948.61	13,454.31
<b>Total</b>		<b>2,842.24</b>	<b>3,032.04</b>	<b>2,481.05</b>	<b>2,920.91</b>	<b>3,141.22</b>	<b>14,417.46</b>
Savings	Establishment	161.70	13.72	27.31	28.36	33.75	264.84
	Development	137.88	254.83	561.58	223.26	0.00	1,177.56
<b>Total</b>		<b>299.58</b>	<b>268.55</b>	<b>588.89</b>	<b>251.62</b>	<b>33.75</b>	<b>1,442.40</b>

Source: Data provided by UD&HD

The 10 test-checked ULBs, incurred an expenditure of ₹ 5,243.69 crore, during the FYs 2016-17 to 2020-21, against the total receipts of ₹ 5,450.86 crore, as shown in **Table 2.12**.

**Table 2.12: Comparison of own revenue with total receipts in the test-checked ULBs**

(₹ in crore)

Sl. No.	Name of ULBs	Own revenue	Total receipt	Expenditure on establishment	Total Expenditure	Percentage of own revenue to total receipts	Percentage of own revenue to establishment expenditure
1.	Basukinath NP	22.59	126.49	29.70	135.31	17.86	76.06
2.	Dhanbad M.Corpn.	130.51	1289.47	186.16	1035.02	10.12	70.11
3.	Deoghar M.Corpn.	64.77	505.20	108.45	481.12	12.82	59.72
4.	Godda MC	12.74	184.92	11.77	172.16	6.89	108.24
5.	Hussainabad NP	2.32	62.07	2.72	56.38	3.74	85.29
6.	Khunti NP	8.53	105.38	6.68	89.26	8.09	127.69
7.	Medininagar M.Corpn.	22.48	177.82	22.36	114.68	12.64	100.54
8.	Phusro MC	6.89	111.15	10.47	84.49	6.20	65.81
9.	Ranchi M.Corpn.	427.27	2759.11	264.61	2973.38	15.49	161.47
10.	Simdega MC	14.05	129.25	13.67	101.89	10.87	102.78
<b>Total</b>		<b>712.15</b>	<b>5,450.86</b>	<b>656.59</b>	<b>5,243.69</b>	<b>13.06</b>	<b>108.46</b>

Source: Data provided by test-checked ULBs

It can be seen from **Table 2.12** that:

- The percentage of own revenue ranged between four and 18 *per cent* (approx.) of the total receipts.
- Only five out of the 10 test-checked ULBs could meet their establishment expenditure from its own revenue.
- Only the Ranchi Municipal Corporation could contribute substantially to developmental expenditure from their own revenue.

Thus, the ULBs were dependent on financial assistance from the Central/State Government for their functioning, as the proportion of their own revenue was low, as compared to their total receipts.

The Secretary, UD&HD accepted the facts and stated (August 2022) that action would be taken for compilation of accounts, showing expenditure against grants and loans given to ULBs. He further stated that revenue of ULBs, from their own sources, would be increased, to contribute towards developmental expenditure.

#### 2.4.2 Central grants

Article 280 (3)(C) of the Constitution mandates the Central Finance Commission (CFC) to recommend measures to augment the Consolidated Fund of a State, to supplement the resources of the municipalities, based on the recommendations of the respective SFCs.

The Fourteenth Finance Commission (14<sup>th</sup> FC) recommended a General Basic Grant (BG) and a General Performance Grant (PG), to ULBs, as a percentage of the divisible pool<sup>26</sup> account. Allocation and release of 14<sup>th</sup> FC grants (FY 2015-16 to FY 2019-20) have been depicted in **Table 2.13**.

<sup>26</sup> The 'divisible pool' refers to the taxes of the Central Government that it should share with the State Governments, in accordance with the recommendations of the Finance Commissions.

**Table 2.13: Allocation and release of 14<sup>th</sup> FC grants during FYs 2015-16 to 2019-20**

Financial year	Allocation			Released			Short
	BG	PG	Total	BG	PG	Total	
2015-16	183.74	0.00	183.74	169.62	0.00	169.62	14.12
2016-17	254.42	75.09	329.51	222.41	69.85	292.26	37.25
2017-18	293.95	84.97	378.92	237.83	67.97	305.80	73.12
2018-19	340.05	96.50	436.55	280.04	0.00	280.04	156.51
2019-20	459.48	126.35	585.83	378.38	0.00	378.38	207.45
<b>Total</b>	<b>1,531.64</b>	<b>382.91</b>	<b>1,914.55</b>	<b>1,288.28</b>	<b>137.82</b>	<b>1,426.10</b>	<b>488.45</b>

Source: Data provided by UD&HD

It can be seen from **Table 2.13** that there was short release of grants, amounting to ₹ 488.45 crore, including PG of ₹ 245.09 crore. Reasons for short receipt of grants were not found on record. It was also seen that the State Government had requested (August 2020) GoI, to release the arrear of grants.

### 2.4.3 Budget estimation by ULBs

Sections 108 to 111, of JMA, 2011, envisage that the executive head of a ULB shall prepare a budget estimate for the ensuing year. The Mayor/Chairperson is required to present the budget estimates to the Standing Committee, before 15<sup>th</sup> of February in each year, for sanction. After sanction by the Standing Committee, the Council is to consider and sanction the budget estimate, by 15<sup>th</sup> March in each year, and forward the budget to the Directorate of Municipal Administration (in case of Municipal Councils and Nagar Panchayats) and to the State Government (in case of Municipal Corporations). The budget estimates, received by the State Government or DMA, are to be returned to the ULBs, before 31<sup>st</sup> March of the year, with or without modifications of the provisions relating to grants, by the State Government.

Audit noticed that the budgets of the UD&HD had been prepared scheme-wise, without separately showing the grants to be released to the ULBs. It was also seen that the 10 test-checked ULBs either did not prepare budgets, or prepared unrealistic budgets, as discussed in the succeeding paragraphs.

#### 2.4.3.1 Budget estimates not prepared

As per Rule 45 of the Jharkhand Municipal Accounts Manual (JMAM), 2012, no expenditure is to be charged against the municipal fund, until and unless the expenditure is covered by a budget grant.

Audit observed that, five out of the 10 test-checked ULBs, had incurred expenditure without preparing budget estimates, in some financial years, as detailed in **Table 2.14**.

**Table 2.14: Non-preparation of budget estimates and expenditure incurred**

Sl. No.	Name of ULB	Financial years for which budgets were not prepared	Expenditure without budget provision
1.	Simdega MC	2016-17	16.54
2.	Khunti NP	2016-17 and 2020-21	25.41
3.	Phusro MC	2016-17	9.55
4.	Hussainabad NP	2016-17, 2019-20 and 2020-21	34.38
5.	Basukinath NP	2016-17	9.90
<b>Total</b>			<b>95.78</b>

Source: Data provided by test-checked ULBs

As can be seen from **Table 2.14**, five ULBs had incurred expenditure of ₹ 95.78 crore, without budget. This also showed that the State had released grants without ensuring the preparation of budgets by ULBs. Thus, proper budgetary control was not ensured, either by the State Government or by the ULBs.

The Secretary, UD&HD stated (August 2022) that instructions would be issued to the ULBs, for preparation of budgets every year.

The fact, however, remains that the five test-checked ULBs had incurred expenditure of ₹ 95.78 crore in contravention of JMAM, 2012.

### 2.4.3.2 Unrealistic budgeting

Budget is a financial plan, describing the proposed expenditure and the means of financing the same. It consists of the estimated receipts and expenditure for the financial year. Further, it should be realistic and close to the actual trends of the previous years.

Audit observed wide variations in the budget estimates and actuals, in the 10 test-checked ULBs, as shown in **Table 2.15**.

**Table 2.15: Variations in budget estimates and actuals, in test-checked ULBs**

(₹ in crore)

Sl. No.	Name of ULBs	Financial years	Receipts				Expenditure			
			Budget	Actuals	Variations	Per cent variation	Budget	Actuals	Variations	Per cent variation
1.	Basukinath NP	2017-18 to 2020-21	167.23	113.97	53.26	31.85	146.90	125.40	21.50	14.64
2.	Deoghar M.Corp.	2016-17 to 2020-21	2,345.68	505.20	1,840.48	78.46	2,327.91	481.12	1,846.79	79.33
3.	Dhanbad M.Corp.	2016-17 to 2020-21	5,313.84	1,289.47	4,024.37	75.73	5,053.53	1,035.02	4,018.51	79.52
4.	Godda MC	2016-17 to 2020-21	241.17	185.53	55.64	23.07	217.83	142.62	75.21	34.53
5.	Hussainabad NP	2017-18 to 2018-19	44.89	19.67	25.22	56.18	44.61	31.25	13.36	29.95
6.	Khunti NP	2017-18 to 2019-20	82.99	69.85	13.14	15.83	82.17	63.85	18.32	22.30
7.	Medninagar M.Corp.	2016-17 to 2020-21	515.02	177.81	337.21	65.48	383.03	125.59	257.44	67.21
8.	Phusro MC	2017-18 to 2020-21	102.23	95.43	6.80	6.65	124.08	74.93	49.15	39.61
9.	Ranchi M. Corp.	2016-17 to 2020-21	10,368.81	2,759.11	7,609.70	73.39	7,242.51	2,973.39	4,269.12	58.95
10.	Simdega MC	2017-18 to 2020-21	282.08	215.11	66.97	23.74	259.71	176.61	83.10	32.00
<b>Total</b>			<b>19,463.90</b>	<b>5,431.15</b>	<b>14,032.79</b>	<b>72.10</b>	<b>15,882.28</b>	<b>5,229.78</b>	<b>10,652.50</b>	<b>67.07</b>

Source: Data provided by test-checked ULBs

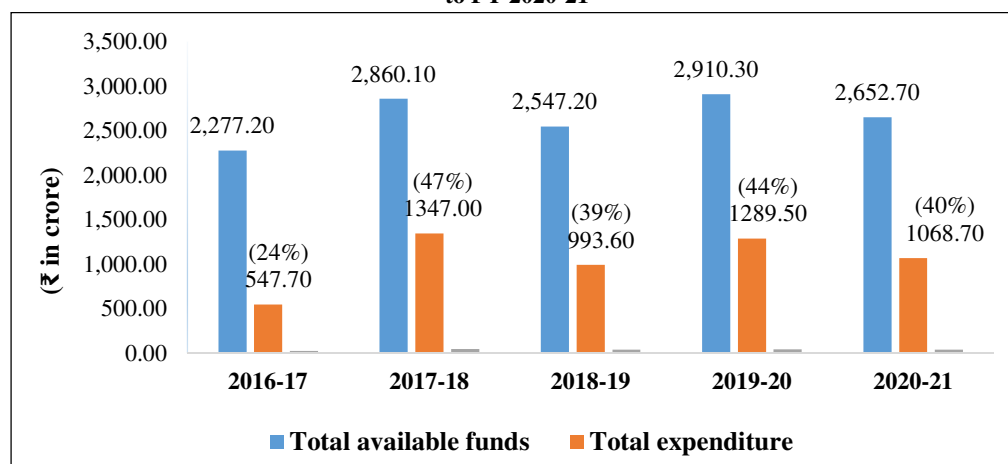
It can be seen from **Table 2.15** that actuals were lower by 72 per cent, in case of receipts, and by 67 per cent, in case of expenditure, as the estimations made, were not realistic. Working papers, relating to budgets, were not furnished to Audit. As such, Audit could not analyse the reasons for preparation of the unrealistic budget estimates.

The Secretary, UD&HD accepted the facts and stated (August 2022) that instructions would be issued to ULBs, for preparation of realistic budgets.

### 2.4.3.3 Under-utilisation of funds

A comparison of the total expenditure, incurred by the 10 test-checked ULBs, during FYs 2016-17 to 2020-21, against the total available funds, including the unspent balance of ₹ 1,381.31 crore, as on March 2016, showed that the ULBs had, on an average, been able to utilise only about 40 per cent of the available funds, in each financial year, as shown in **Chart 2.3**.

**Chart 2.3: Total available funds and total expenditure of 10 test-checked ULBs during FY 2016-17 to FY 2020-21**



(Source: Data provided by the test-checked ULBs)

It can be seen from **Chart 2.3** that, in the ten test-checked ULBs, the percentage of expenditure, in each of the FYs from 2016-17 to 2020-21, ranged between 24 per cent and 47 per cent of the funds available. It was also seen that the unspent balance stood at ₹ 1,583.95 crore, as on March 2021.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs would be directed to minimise their unspent balances and properly utilise the available funds.

### 2.4.4 Own revenue of ULBs

Article 243X of the Constitution, read with Section 152 of JMA, 2011, empowered the ULBs to levy and collect 13 types of taxes<sup>27</sup> to augment their own resources.

Audit observed that, while water tax had been included in the composite property tax, through an amendment made in JMA, 2011, with effect from FY 2015-16 onwards, toll tax and surcharge on entertainment tax had been subsumed in the Goods and Services Tax (GST) and the tax on trade and profession was being collected by the Department of Commercial taxes.

<sup>27</sup> 1. Property/Holding tax (including Cess) on lands and buildings 2. Tax on vacant land 3. Surcharge on transfer of lands and buildings 4. Tax on deficit in parking spaces in any non-residential building 5. Water tax 6. Fire tax 7. Tax on advertisements, other than advertisements published in newspapers 8. Surcharge on entertainment tax 9. Surcharge on electricity consumption within the municipal area 10. Tax on congregations 11. Tax on pilgrims and tourists 12. Toll tax 13. Tax on Trade and Profession.



Moreover, the test-checked ULBs were imposing and collecting only three<sup>28</sup> out of the remaining nine types of taxes, due to the stated (November 2021) reason of non-framing of rules by the State Government, in regard to the levy and collection of six<sup>29</sup> types of taxes.

The Secretary, UD&HD accepted the facts and stated (August 2022) that action would be taken, for framing of Rules, for collection of the remaining taxes.

#### **2.4.5 Property tax**

As per Section 153 of JMA, 2011, a Jharkhand Property Tax Board was to be created to: (i) enumerate, or cause to enumerate, all properties in the municipalities in the State and develop a database (ii) review the property tax system and suggest suitable basis for valuation of properties (iii) design and formulate transparent procedure for valuation of properties (iv) ensure transparency in the valuation process etc. The 13<sup>th</sup> CFC had also recommended (December 2009) setting up of a State Level Property Tax Board, to assist municipalities in putting in place an independent and transparent procedure for assessing property tax.

Audit observed that UD&HD had notified (May 2014) the 'Constitution of Jharkhand Property Tax Board and Appeal Rules, 2013'. However, the Board had not been constituted. UD&HD stated (January 2021) that the provision relating to the Jharkhand Property Tax Board had been deleted by an Amendment in the Act. Further, the Jharkhand Municipality Property Tax (Assessment, Collection and Recovery) Rules, 2013, had been notified (February 2014), for fixing the annual rents of properties situated within the municipalities, and for levying property tax on different kinds of properties (residential, non-residential, commercial, and industrial). As per Rule 6, municipalities are required to fix the per square feet rent of holdings, with the approval of the State Government, considering their location, types of structures *etc.*, as determined by the State Government, from time to time.

It was, however, seen that, despite the existence of these rules, municipalities did not perform these activities, and the State Urban Development Agency (SUDA) continued to remain responsible for the survey, assessment and collection of property tax, and to perform these functions through private agencies.

##### **2.4.5.1 Collection of Property tax**

As per Section 152 (8) of JMA, 2011, municipalities were to revise the rate of tax on Annual Rental Value (ARV), once in five years or earlier, with the prior

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<sup>28</sup> 1. Property/Holding tax (including Cess) on lands and buildings 2. Tax on vacant land and 3. Tax on advertisements, other than advertisements published in newspapers.

<sup>29</sup> 1. Surcharge on transfer of lands and buildings 2. Tax on deficit in parking spaces in any non-residential building 3. Fire tax 4. Surcharge on electricity consumption within the municipal area 5. Tax on congregations and 6. Tax on pilgrims and tourists.

approval of the State Government. Further, as per the recommendation of the 13<sup>th</sup> Finance Commission, the collection efficiency of property tax should reach at least 85 *per cent* of the demands raised on assessable properties.

Audit observed that municipalities had neither revised the annual rents of properties situated within their jurisdiction, nor had they revised the rate of tax on ARV, for more than six to ten years, as of March 2021, despite provisions in the Jharkhand Municipality Property Tax (Assessment, Collection and Recovery) Rules, 2013 and JMA, 2011.

The position of year-wise demand and collection of property tax, in ULBs, between FYs 2016-17 to 2020-21, is shown in **Table 2.16**.

**Table 2.16: Demand and collection of property tax during FYs 2016-17 to 2020-21**

(₹ in crore)

Financial Year	No. of ULBs	Demand	Collection	Percent collection
2016-17	41	404.61	76.42	18.90
2017-18	41	435.51	98.22	22.60
2018-19	41	454.77	100.06	22.00
2019-20	42	478.43	108.18	22.60
2020-21	50	169.44	64.81	38.20
<b>Total</b>		<b>1,942.76</b>	<b>447.69</b>	<b>23.04</b>

Source: Data provided by SUDA

It can be seen from **Table 2.16** that the total collection was 23 *per cent* of the demand, with improvement in the collection efficiency being seen over the years. However, it was much lower than the recommended collection efficiency of 85 *per cent*.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs would be directed to enhance the collection of property tax, to match the recommended collection efficiency of 85 *per cent*.

#### 2.4.6 Assigned revenue

As per Section 162 of JMA, 2011: (i) the State Government may impose a duty on transfer of immovable property in a municipal area and (ii) duty imposed by the Indian Stamp Act, 1899, on instruments of sale, gift, mortgage, of immovable property situated within the limits of a municipality, may be increased by two *per cent* on the value of property, and on the secured amount<sup>30</sup>, in case of usufructuary mortgages<sup>31</sup>. All collections resulting from the said increase were to be credited to the municipal fund, after deduction of incidental expenses.

Audit observed that the two *per cent* stamp duty on transfer of land and property in municipal areas, which was being realised earlier, had been abolished (May 2004) through a notification, issued by the Revenue, Registration and

<sup>30</sup> Secured amount is the mortgage money payable within a specified period to the mortgagor by the mortgagee on account of Usufructuary mortgage.

<sup>31</sup> Usufructuary mortgage is a type of mortgage where the mortgagor delivers the possession and right to enjoy an income of and from the property to the mortgagee.

Land Reforms Department (RLLRD). However, despite provision in JMA, 2011, the State Government did not initiate action to impose additional duty on sale, gift and mortgage within the municipal areas.

The Secretary, UD&HD stated (August 2022) that necessary action would be taken to amend the existing provision. The fact, however, remains that the Department did not initiate action to impose additional duty, despite provisions in JMA, 2011.

#### 2.4.7 Water user charges

As per Section 154(i) of JMA, 2011, ULBs are empowered to levy and realise water user charges. UD&HD, through a Resolution (May 2016), implemented the Jharkhand Water User Charge Policy, 2016, for urban areas. As per the Policy, water user charges, recovered from the consumers, must produce revenue equal to the financial cost of the service, to discourage the ULBs to divert or consume resources, meant for other services or sectors, on water supply. Further, the State Government framed (May 2016) the Jharkhand Water User Charge Policy, 2016, for imposition, fixing of rates and collection of SWM user charges.

Audit observed that the rates of water user charges had not been revised by the State Government till 31 March 2021. The position of demand and collection of water user charges, during FYs 2016-17 to 2020-21, in 34 ULBs, where piped water supply existed, is given in **Table 2.17**.

**Table 2.17: Demand and collection of water user charges, during FYs 2016-17 to 2020-21**

(₹ in crore)			
Financial year	Demand	Collection	Percent collection of total demand
2016-17	108.45	9.79	9.0
2017-18	126.14	10.32	8.2
2018-19	143.54	12.88	9.0
2019-20	154.50	11.99	7.8
2020-21	174.55	10.28	5.9
<b>Total</b>	<b>707.18</b>	<b>55.26</b>	<b>7.8</b>

Source: Data provided by SUDA

It can be seen from **Table 2.17** that collection was very low, compared to the demand. In the 10 test-checked ULBs, the collection was ₹ 46.21 crore (nine per cent), against the demand of ₹ 531.05 crore, during the FYs 2016-17 to 2020-21. Further, the collection was 59 per cent of the operation and maintenance (O&M) costs of ₹ 78.64 crore (**Appendix 2.1**), which indicated that financial costs of the service could not be met from the revenue collected.

The Secretary, UD&HD accepted the facts and stated (August 2022) that the ULBs would be directed to enhance the collection of water user charges, to meet the cost of water supply services.

#### 2.4.8 Solid Waste Management user charges

Section 154 (ii) of JMA, 2011, provides for levy of Solid Waste Management (SWM) user charges, for provision of civic services, i.e. collection,

transportation and disposal of solid wastes. As per Section 252 of JMA, 2011, the SWM user charges are to cover the costs on account of O&M of SWM. Further, the State Government framed (March 2016) the SWM Service Charge Rules, 2016, for imposition, fixing of rates and collection of SWM user charges, which were to be enhanced by 10 *per cent* every three years.

Audit observed that the rates of SWM user charges had not been revised by the State Government (as of March 2021). However, the position of collection of solid waste user charges, by the ULBs of the State, during FYs 2016-17 to 2020-21 is given in **Table 2.18**.

**Table 2.18: Collection of Solid Waste user charges, by ULBs, during FYs 2016-17 to 2020-21**

Financial year	No. of ULBs in existence	No. of ULBs collecting solid waste user charges	No. of ULBs not collecting solid waste user charges	Amount collected (₹ in crore)
2016-17	45	02	43	0.14
2017-18	45	12	33	5.47
2018-19	51 <sup>32</sup>	24	27	6.02
2019-20	51	25	26	5.35
2020-21	51	26	25	7.50
<b>Total</b>				<b>24.48</b>

Source: Data provided by SUDA

It can be seen from **Table 2.18** that the coverage of ULBs, for collection of SWM user charges, improved over the years. However, collection was yet to be started in 24 out of the 50 (excluding Gomia) ULBs in the State, despite collection of solid waste being carried out, in these ULBs. As such, these ULBs were deprived of a source of revenue.

Audit further observed that the collection of SWM user charges was much lower than the O&M costs in the 10 test-checked ULBs, during The FYs 2016-17 to 2020-21, as shown in **Table 2.19**.

**Table 2.19: O&M costs and collection of SWM user charges, in test-checked ULBs, between FYs 2016-17 and 2020-21**

Particulars	(₹ in crore)					Total
	2016-17	2017-18	2018-19	2019-20	2020-21	
Total Collection	2.02	4.60	5.07	6.51	5.25	<b>23.45</b>
O&M costs	15.72	46.31	54.89	58.26	55.11	<b>230.29</b>
Collection against O&M costs (in <i>per cent</i> )	12.85	9.93	9.24	11.17	9.53	<b>10.18</b>

Source: Data provided by test checked ULBs

It can be seen from **Table 2.19** that the average collection was only around 10 *per cent* of the O&M costs during the FYs 2016-17 to 2020-21. Reasons for the low collection of user charges were not found on records.

The Secretary, UD&HD accepted the facts and stated (August 2022) that all the ULBs would be directed to collect Solid Waste Management user charges and to enhance their collections to meet the costs of Solid Waste Management services.

<sup>32</sup> Including the Gomia Municipal Council, which was de-notified in December 2020.

#### **2.4.9 Local Fund Audit**

In the light of recommendations of the 13<sup>th</sup> Finance Commission, the Governor of Jharkhand entrusted (October 2011) the CAG to provide Technical Guidance and Support (TGS) to the primary external auditors (in this case, the Director of Local Fund Audit (DLFA), under the Department of Finance, GoJ) and to test-check the accounts of Local Bodies (LBs). Further, as per Section 4 of the Jharkhand Local Fund Audit (Amendment) Act, 2012, CAG is to provide TGS, over the proper maintenance of accounts and audit thereof, of LBs. Section 4 of the Act also provides for examination and audit of accounts of LBs, by the DLFA, through its auditors, or through the Chartered Accountants, engaged by the State Government.

Audit noticed that the State Government created (March 2013) 22 posts<sup>33</sup> for the office of the DLFA and appointed the DLFA as the primary external auditor for LBs, in November 2014. The posts so created did not include posts of auditors. However, 10 auditors of the Finance Department were deputed (August 2016), to the office of the DLFA, for conducting audit of LBs. The DLFA conducted audit of 40 ULBs in FY 2016-17 and six ULBs in FY 2020-21. No audit was taken up during FYs 2017-18 to 2019-20, due to the stated reason of shortage of auditors. Further, only two officials (Director and one Assistant) were working in the office of the DLFA, as on March 2022, against the 22 posts that had been sanctioned. It was further seen that Rules and Regulations, for carrying out this audits, as also the TGS Manual for audit of LBs, were yet to be framed by the State Government (July 2022). Thus, the office of the DLFA was not fully functional, for taking up the audit works of LBs.

#### **Conclusion**

*UD & HD had not compiled separate accounts for the ULBs. The ULBs were largely dependent on financial assistance from the Central and State Governments, even for meeting their establishment expenses. They were either incurring expenditure without preparing annual budgets, or were preparing unrealistic budgets, as the actuals receipts were less by 72 per cent and the actual expenditure by 67 per cent, in comparison to the budgeted receipts and expenditure. Further, they could utilise only 24 to 47 per cent of the funds available with them. The collection efficiency of property tax and water user charges was only 23 per cent and eight per cent, respectively, during the FYs 2016-17 to 2020-21, as compared to the total demand raised in the 10 test-checked ULBs. Collection of solid waste user charges and water user charges were not sufficient to meet the operation and maintenance/collection costs in the 10 test-checked ULBs. Despite this, ULBs had not revised the rates of taxes and user charges (as of March 2021), even though they were to be revised within a span of three to five years, as per JMA, 2011. Though the office*

<sup>33</sup> Director (1), Joint Director (2), Section Officer (2), Private Secretary (1), Assistant (4), Personal Assistant (2), Computer Operator (3), Clerk (2), Driver (3) and Peon (2).

*of the DLFA was created in November 2014, for examination and audit of the accounts of ULBs, it could not function properly, due to shortage of staff and absence of specific Rules and Regulations.*

### **Recommendations**

- *Government should ensure compilation of separate accounts for the ULBs and preparation of realistic budgets by all ULBs.*
- *Government should ensure revision in rates of taxes and user charges, to enhance the resources of ULBs, and also ensure smooth collection of user charges.*
- *DLFA should ensure regular audit of ULBs.*