

Chapter-IV: Empowerment of Urban Local Bodies and their functioning

Summary

Urban Local Bodies (ULBs) are required to be empowered in terms of funds, functions and functionaries to establish themselves as effective institutions of local self-government through creation of appropriately designed institutions/institutional mechanism and their function. However, audit observed certain deficiencies in creation and functioning of institutions/institutional mechanisms meant for empowerment of ULBs as summarised below and discussed in succeeding paragraphs.

Out of 15 functions fully and one function partially stated to have been devolved, ULBs were solely responsible for only one function; had no role in one function; had limited role in eleven functions; were mere implementing agencies in two functions; and in respect of one function, they had dual role with Government Departments. This defeated the purpose of 74th Constitutional Amendment Act. Out of total 707 ULBs, elections were held for only 652 ULBs during the year 2017. Thus, the mandate of 74th Constitutional Amendment Act to empower ULBs with democratically elected body is not getting fulfilled at initial level itself. The expenses of elections were not being recovered from the ULBs. In test-checked ULBs, meetings of the Councils were not held as per laid down norms. Besides, meetings of Executive Committee were also short against the norms in test-checked Municipal Corporations. There was a consistent delay in the nomination of members to the Council by the State Government. Advisory Committees, Ward Committee, Development Committee and other Committees were not constituted in any of the test-checked ULBs. This defeated the objective of facilitating community participation in local governance as well as prioritization and monitoring of development works. Yearly Development Plan was also not prepared in any of the test-checked ULBs for onward submission to the District/Metropolitan Planning Committee. District Planning Committee did not prepare comprehensive District Development Plan for the districts of selected ULBs. Neither the Budget estimates for each financial year during the period 2015-20 was prepared nor submitted to Council for approval in many of the test-checked ULBs. Estimates and Contracts of requisite value were also not submitted to the Council for approval.

4.1 Actual Status of devolution of functions

The 74th Constitutional Amendment Act sought to empower ULBs to perform functions and implement schemes in relation to 18 subjects specified in the 12th schedule. Each State was expected to enact a legislation to implement the amendment. The State Government enacted (May 1994) "Uttar Pradesh Local Self Government Laws (Amendment) Act 1994", to incorporate necessary provisions of 74th Constitutional Amendment Act into UPM Act & UPMC Act

and transferred 15 functions¹ fully and one function² partially to ULBs. The functions not devolved to ULBs were Regulation of Land Use & Construction of Buildings and Planning for Economic & Social Development. Further, out of Urban Planning including Town Planning, only Town Planning was devolved to ULBs. All fully devolved functions were obligatory for each tier of ULBs, except partially devolved function Town planning was obligatory for NN and discretionary for NPP and NP.

Audit observed several overlaps in discharge of the functions between ULBs and parastatals/Government departments. Despite devolution of major functions as enshrined in the 12th schedule, many functions or activities related therewith were being performed by authorities other than ULBs as indicated in **Table 4.1** below:

Table 4.1: Statement showing the actual status of implementation of functions

Sl. No.	Functions: Obligatory(O)/ Discretionary(D)	Activities	Actual status of implementation
Functions where ULBs has full jurisdiction			
1	Burials and burial grounds; cremations, cremation grounds (O)	Construction and Operation & Maintenance (O&M) of crematoriums and burial grounds and electric crematoriums	ULBs were solely responsible for discharging this function.
Functions with no role for ULBs			
2	Fire Services (O)	Establishing and maintaining fire brigades Providing fire NOC/approval certificate in respect of high rise buildings	Uttar Pradesh Fire Services Department was performing this function.
Functions with minimal role and/or having overlapping jurisdictions with state departments and/or parastatals			
3	Regulation of slaughter houses and tanneries (O)	Ensuring quality of animals and meat Disposal of waste	Department of Food and Drug Administration A State Level Committee, constituted under the chairmanship of the Principal Secretary (UD Department) was empowered for approving the establishment of slaughter houses by private sector. Owners were responsible for treatment of generated effluents on their own

¹ (i) Roads and bridges, (ii) Water supply for domestic; industrial and commercial purposes (iii) Public health, sanitation conservancy and solid waste management (iv) Fire Services (v) Urban forestry; protection of the environment and promotion of ecological aspects (vi) Safeguarding the interests of weaker sections of society; including the handicapped and mentally retarded (vii) Slum improvement and up-gradation (viii) Urban poverty alleviation (ix) Provision of urban amenities and facilities such as parks; gardens; playgrounds (x) Promotion of cultural; educational and aesthetic aspects (xi) Burials and burial grounds; cremations; cremation grounds (xii) Cattle pounds; prevention of cruelty to animals (xiii) Vital statistics including birth and death registration (xiv) Public amenities including street lighting; parking lots; bus stops and public conveniences and (xv) Regulation of slaughter houses and tanneries.

² Town planning.

			through establishment of Effluent Treatment Plant, as per the norms/standards prescribed ³ in this regard, under the supervision of State Pollution Control Board. Further, ULBs were also responsible for disposal of solid waste generated therein, however, private owners had to place waste bins/vessels for this purpose.
		O & M of slaughter houses	Private owners
4	Urban poverty alleviation (O)	Identifying beneficiaries	The National Urban Livelihood Mission was being operated through State Urban Development Agency (SUDA) and District Urban Development Agency (DUDA) for providing employment to urban poor with a view to alleviate poverty.
		Livelihood and employment	
		Street vendors	ULBs.
5	Urban planning including town planning (O) (D)	Master Planning / Development Plans /Zonal Plans	Town and Country Planning Department was assigned for this activity. Though, 24 Development Authorities, five Special Area Development Authorities and 72 Regulated Area Authorities were performing this function in their respective jurisdiction. In remaining towns this function was being performed by concerned ULBs.
		Enforcing master planning regulations	
		Enforcing building bye-laws and licenses	
		Group Housing, Development of Industrial Areas	Activities related to Group Housing were being performed by Housing and Urban Planning Department. The Uttar Pradesh State Industrial Development Corporation (UPSIDC) was assigned for development of Industrial area.
6	Cattle pounds; prevention of cruelty to animals (O)	Catching and keeping strays	ULBs were solely responsible for discharging these activities.
		Sterilisation and anti-rabies	
		Ensuring animal safety	Animal Welfare Board of India, ULBs and Home Department.
7	Public health, sanitation conservancy and solid waste management (O)	Maintaining hospitals, dispensaries	ULBs only had limited role in case of public health allied responsibilities, as Department of Medical Health & Family Welfare, Department of Medical Education, Department of Labour <i>etc.</i> played a significant role in maintaining

³ Water (Pollution prevention and control) Act 1974 and Air (Pollution prevention and control) Act 1974.

			hospitals and dispensaries. Only 11 NN ⁴ and three NPP ⁵ had established 62 and five hospitals/dispensaries respectively.
		Immunisation/Vaccination	Department of Medical Health & Family Welfare undertook immunization/ vaccination programmes.
		Registration of births and deaths	ULBs along with Department of Medical Health & Family Welfare (Nodal Department) were performing this activity.
		Cleaning and disinfection of localities affected by infectious disease	ULBs were responsible for cleaning and disinfection of localities affected by infectious disease, solid waste management and control & supervision of public markets.
		Solid waste management	
		Control and supervision of public markets	
8	Urban forestry, protection of the environment and promotion of ecological aspects (O)	Afforestation	Environment, Forest and Climate Change Department played a significant role in the discharge of this function. ULBs also undertook afforestation and awareness drives along with the State Government Department.
		Greenification	
		Awareness drives	
		Protection of the environment and promotion of ecological aspects	
		Maintenance of natural resources like water bodies etc.	ULBs along with <i>Uttar Pradesh Jal Nigam</i> ; Environment, Forest & Climate Change Department; and Irrigation Department were performing this activity.
9	Provision of urban amenities and facilities such as parks, gardens, playgrounds (O)	Creation of parks and gardens	ULBs along with Horticulture department and Development Authorities/ <i>Awas Evam Vikas Parisad</i> etc. were responsible for this activity.
		Operation and Maintenance	
10	Public amenities including street lighting, parking lots, bus stops and public conveniences (O)	Installation and maintenance of street lights	ULBs along with parastatal Energy Efficiency Services Limited were performing this activity.
		Creation and maintenance of parking lots	ULBs along with Development Authorities were performing this activity.
		Creation and maintenance of public toilets	ULBs were solely responsible for this activity.
		Deciding and operating bus routes	Urban Transport Directorate was performing this activity through Special Purpose Vehicles.
11	Water supply for	Distribution of water	Parastatal <i>Uttar Pradesh Jal Nigam</i>

⁴ Agra (01), Gorakhpur (01), Kanpur (42), Lucknow (03) Mathura-Vrindavan (01), Meerut (03), Moradabad (01), Prayagraj (06), Saharanpur (01) Shahjahanpur (01) and Varanasi (02).

⁵ NPPs: Hapur (01), Samthar of Jhansi (02) and Pt. DDUP of Chandauli (02).

	domestic, industrial and commercial purposes (O)	Providing connections Operation & Maintenance (O&M) Collection of charges	was in-charge of creation of assets. ULBs role was restricted to distribution of water, operation and maintenance, providing connections, collection of charges <i>etc.</i>
12	Roads and bridges (O)	Construction and maintenance of roads Construction and maintenance of bridges, drains, flyovers and footpaths.	ULBs, Development Authorities, NHAI & Public Works Department were executing this function.
13	Promotion of cultural, educational and aesthetic aspects (O)	Schools and education Fairs and festivals Cultural buildings /institutions Heritage Public space beautification	Schools and education were mainly handled by Education Department of the State, though 11 NN ⁶ , 36 NPP ⁷ and two NP ⁸ were also running schools. ULBs along with the State Cultural Department and Development Authorities undertook activities allied with public space beautification, organising fairs and festivals, maintenance of Cultural buildings/institutions and Heritage sites <i>etc.</i>
Function with dual role			
14	Vital statistics including birth and death registration (O)	Coordinating with hospitals/ crematoriums <i>etc.</i> for obtaining information Maintaining and updating database	Both ULBs and the Department of Public Health and Family Welfare (Nodal Department) were registering birth and death cases on their own websites during the period 2015-20 and were responsible for maintenance & updating their database.
Functions wherein ULBs were mere implementing agencies			
15	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded (O)	Identifying beneficiaries Providing tools/benefits such as tricycles Housing programs Scholarships	State departments such as Social welfare, Empowerment of Persons with Disabilities <i>etc.</i> were responsible for this function. ULBs were only an implementing arm for central and State Government schemes.
16	Slum improvement and up-gradation (O)	Identifying beneficiaries Affordable Housing	SUDA and DUDA established under Urban Employment and

⁶ Agra (03), Bareilly (03), Ghaziabad (06), Kanpur (13), Lucknow (06), Mathura-Vrindavan (02), Meerut (01), Moradabad (01), Prayagraj (03) Sahjahanpur (01) and Varanasi (03).

⁷ NPPs; Rampur (01), Syana of Bulandshahar (01), Nazibabad of Bijnore (01), Muzaffarnagar (01), Budaun (01), Sahasvan of Budaun (01), Kakrala of Budaun (01), Bisalpur of Pilibhit (01), Kosikalan of Mathura (02), Etah (01), Ganjdundwara of Kasganj (01), Soro of Kasganj (01), Kasganj (02), Shikohabad of Firojabad (01), Billhour of Kanpur (01), Farrukhabad (01), Auraiya (02), Mauranipur of Jhansi (01), Samthar of Jhansi (01), Baruasagar of Jhansi (01), Chirgaon of Jhansi (02), Lalitpur (02), Konch of Jalaun (01), Kalpi of Jalaun (01), Banda (01), Bindki of Fatehpur (01), Ahraura of Mirzapur (03), Raebareli (01), Shahabad of Hardoi (02), Sitapur (01), Biswa of Sitapur (02), Lakhimpur (01), Gonda (01), Deoria (02), Pt. DDU of Chandauli (01) and Jaunpur (02).

⁸ NPs; Bewar (01) and Bhogaon (01) of Mainpuri.

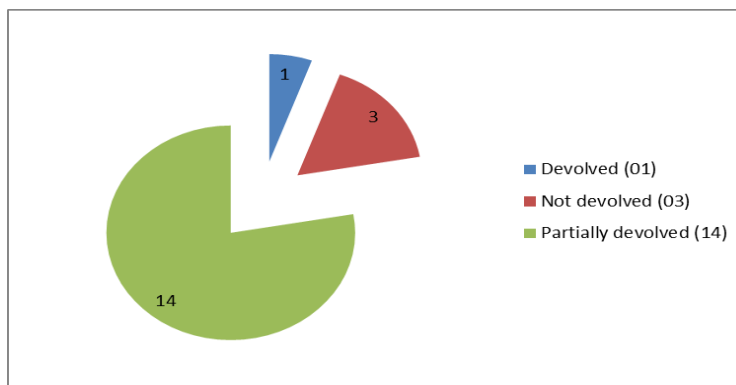
		Up-gradation	Poverty Alleviation Programme Department was performing this function through implementation of Central/ State Government Schemes. Though, identification/ verification of beneficiaries was being done by the ULBs.
Functions not devolved to ULBs			
17	Regulation of land-use and construction of buildings	Regulating land use	Revenue Department
		Approving building plans/high rises	This activity has not been devolved to NNs and Development Authorities were performing this activity in their area. The UPM Act empowers the NPPs/NPs to approve building plans. However, <i>Awas Evam Vikas Parishad</i> and Regulated Area Authorities in the area of 119 NPPs/NPs were performing this activity. In remaining urban areas of the State, NPPs/NPs were performing this activity.
		Demolishing illegal buildings	
18	Planning for economic and social development	Program implementation for economic activities	Welfare Departments of the State such as Social, Minority, Backward Class etc. were involved in performing this function.
		Policies for social development	

(Source: Director, Local Bodies)

It can be seen from the above that there were several overlaps in discharge of the functions between ULBs and parastatals/Government departments. Out of 15 functions fully and one function partially stated to have been devolved, ULBs were solely responsible for only one function; had no role in one function; had limited role in eleven functions; were mere implementing agencies in two functions; and in respect of one function, they had dual role with Government departments.

On the basis of above actual implementation of functions, the status of devolution of functions is depicted in **Chart 4.1**.

Chart 4.1: Showing status of devolution of functions



Thus, only one function was actually devolved to ULBs and selected two functions fell under partially devolved category of functions.

Further, on the basis of activities being performed by the test-checked ULBs, status of effective devolution of functions in selected NNs and NPPs is detailed in *Appendix-III*. Thus, activities of test-checked ULBs also confirmed that majority of functions either not devolved or partially devolved to ULBs.

Moreover, as detailed in **Table 4.1** above, the Development Authorities (DA) as constituted by the State Government under the provisions of the UP Town Planning and Development Act 1973 for ensuring development of bigger cities of the State and also empowered for carrying out construction works related with roads, drainage, sewage, water supply and other civic facilities such as development of parks *etc.*, had many overlapping functions with the ULBs.

However, in absence of any separate accounting for expenditure on overlapping activities, audit worked out estimated expenditure by five NNs of the State with their respective DAs for comparison of their financial resources and overlapping activities, as given in *Appendix-IV* and summarised in **Table 4.2** below:

Table 4.2: The details of Income vis-à-vis Expenditure of NNs and DAs during the period 2017-22

(₹ in crore)

Year	Name of district	Nagar Nigams		Development Authorities	
		Income	Expenditure on overlapping activities	Income	Expenditure on overlapping activities
2017-18	Jhansi	164.49	88.34	13.65	01.25
2018-19		169.43	72.08	14.35	10.63
2019-20		184.97	36.83	18.92	14.49
2020-21		155.12	131.19	17.63	22.25
2021-22		95.23	69.89	20.66	25.10
Total		769.24	398.33	85.21	73.72
2017-18	Lucknow	951.10	557.24	2586.55	175.01
2018-19		956.19	100.49	2472.31	197.24
2019-20		1,062.11	182.81	2235.88	108.44
2020-21		1,150.12	149.67	1935.24	171.64
2021-22		1,329.53	206.05	2021.64	158.61
Total		5,449.05	1,196.26	11,251.62	810.94
2017-18	Mathura-Vrindavan	143.44	20.91	74.98	32.54
2018-19		178.88	22.25	95.44	31.22
2019-20		192.91	34.60	62.17	46.76
2020-21		209.46	116.95	46.73	34.41
2021-22		215.96	104.27	69.40	51.49
Total		940.65	298.98	348.72	196.42
2017-18	Moradabad	181.65	54.29	257.45	43.61
2018-19		187.79	78.07	257.09	42.68
2019-20		214.63	99.53	312.04	44.65
2020-21		262.88	115.08	274.68	40.24
2021-22		215.91	64.22	287.37	20.28
Total		1,062.86	411.19	1,388.63	191.46
2017-18	Prayagraj	203.72	57.29	140.85	40.37

2018-19		200.35	100.21	95.29	77.08
2019-20		227.29	78.81	112.89	38.85
2020-21		481.27	87.45	98.43	18.38
2021-22		482.97	125.36	61.59	10.77
Total		1,595.60	449.12	509.05	185.45

(Source: Annual Accounts and Budget documents of the concerned entities)

It is evident from **Table 4.2** that though financial position of NN and DA varied from one district to another, both entities had incurred significant amount of expenditure on overlapping activities.

In reply, the Urban Development (UD) Department stated (November 2022) that the State Legislature is empowered to decide extent of devolution of functions to ULBs. While agreeing with the fact that State Legislature is to decide the functions to be devolved, it is important that the functions devolved to ULBs are actually performed by them.

Recommendations:

- 1. State Government may take necessary steps to devolve all the activities/functions and responsibilities to the ULBs as envisaged in the 12th schedule of the Constitution.**
- 2. State Government may take decisive action in order to translate the vision of achieving decentralisation into reality. Steps need to be taken to ensure that ULBs enjoy an adequate degree of autonomy in respect of the functions assigned to them.**

4.1.1 Approval of building plans by ULBs without framing bye-laws

Provisions of Chapter 7 and Section 298 of UPM Act empower the NPPs and NPs to approve building plans by framing bye-laws in this regard.

Audit observed that out of test-checked 21 NPPs and 25 NPs, ten NPPs⁹ and eleven NPs¹⁰ were performing activity of approval of building plans. However, out of these NPPs and NPs performing approval of building plans, five NPPs¹¹ and 10 NPs¹² approved plans without framing required bye-laws.

Further, none of these ULBs had monitored the compliance of the terms and conditions of the approved plans. Details such as number of approved building plans and receipts therefrom during the period 2015-20 were also not provided to Audit.

The UD Department stated (November 2022) that the directions are being issued for observance or preparation of bye-laws by the ULBs in this regard.

⁹ Bachhraon (Amroha), Bilaspur (Rampur), Bilari (Moradabad), Chirgaon (Jhansi); Gursarai (Jhansi); Mauranipur (Jhansi), Palia Kalan (Lakhimpur Kheri), Rasra (Ballia), Swar (Rampur) and Thakurdwara (Moradabad).

¹⁰ Eka (Firozabad), Fariha (Firozabad), Kachhwa (Mirzapur), Kathera (Jhansi), Khamaria (Bhadohi), Kunda (Pratapgarh), Naugawan Sadat (Amroha), Pali (Lalitpur), Ranipur (Jhansi), Shahabad (Rampur) and Talbehat (Lalitpur).

¹¹ Bilari (Moradabad), Chirgaon (Jhansi); Gursarai (Jhansi), Palia Kalan (Lakhimpur Kheri) and Swar (Rampur).

¹² Eka (Firozabad), Fariha (Firozabad), Kachhwa (Mirzapur), Kathera (Jhansi), Khamaria (Bhadohi), Kunda (Pratapgarh), Naugawan Sadat (Amroha), Pali (Lalitpur), Ranipur (Jhansi) and Shahabad (Rampur).

4.2 Institutional mechanism for empowerment of ULBs

As discussed above, the State Government transferred 15 and half functions to the ULBs. The discharge of these functions can be effective only when appropriate institutions are established and adequately empowered.

The statutory provisions and institutional mechanism which existed in the State vis-a-vis effectiveness of such institutional mechanism are discussed in succeeding paragraphs.

4.2.1 Elections of ULBs

As per provisions¹³, all elections to Panchayats and ULBs are to be conducted under the superintendence, direction and control of the State Election Commission (SEC). Further, as per Sections 31 & 35 of UPMC Act and Sections 11(A) & 12(B) of UPM Act, for the purpose of the election of Corporators/Members of Council, Municipal Corporation/Municipality areas are to be divided into territorial constituencies, known as wards.

Audit observed that due to not completing the required arrangements on time, elections to ULBs was delayed as discussed in succeeding paragraphs:

4.2.1.1 Delay in delimitation and reservation process

As per provisions of UPMC Act¹⁴ and UPM Act¹⁵, the power of delimitation of wards, reservation and rotation policy of seats for the Council & the posts of Mayor/President for elections of ULBs are vested with the State Government. Further, Section 8 of UPMC Act and Section 10A of UPM Act also requires that the election to constitute Council shall be completed before the expiry of term of existing Council.

Audit observed that the term of Council, elected during the year 2012, was due for expire in July 2017; but the State Government had not taken up the delimitation and reservation process as of March 2017 and April 2017 respectively. Further, proposals for reservation of seats of Councils and posts of Mayor/President were submitted to the State Government in the month of October 2017 with a delay of more than four months, as it was to be submitted by May 2017. Similarly, process of delimitation of wards was also not completed by July 2017, *i.e.* the month of expiry of term of previous Council, though instructions for the same had been issued during the month of April 2017.

Thus, due to delay in delimitation and reservation process, election of the year 2017 for 653 ULBs could not be held before expiry of term of preceding Council and was delayed by five months.

The UD Department stated (November 2022) that the elections were held according to its and SEC directions. However, the reply is silent regarding reasons for delay in delimitation and reservation process.

¹³ Sections 35, 45 & 50 of UPMC Act and Sections 12B & 13B of UPM Act.

¹⁴ Sections 32, 7 and 50.

¹⁵ Sections 11B, 9A and 13G.

4.2.1.2 Status of elections and formation of councils

Article 243U(3)(a) of Constitution of India and provisions of the UPMC Act and UPM Act stipulates a fixed tenure of five years for the Council from the date of their first meeting. The election to constitute Council is to be conducted by SEC as per procedures laid down in Uttar Pradesh Municipality (Election of members, Corporators, Chairmen and Mayor) Rules, 2010 and it is to be completed before the expiry of term of existing Council. In case of dissolution of Council, election shall be held within six months from such date.

Audit observed that elections for constitution of Councils were held during the years 1995, 2000, 2006, 2012 and 2017, out of which, elections of the year 2006 and 2012 were held with a delay of eleven and six months respectively. Further, election of the year 2017 was also delayed due to not completing delimitation and reservation process on time as discussed earlier in **paragraph no. 4.2.1.1**. The status of current election and formation of Councils in the ULBs of the State is depicted in **Table 4.3** below:

Table 4.3: Status of election and formation of Councils in ULBs

Total no. of ULBs (as on March 2020)	707
Election due for ULBs in the year 2017	653
Election held for ULBs in the year 2017	652
Elections not held for ULBs in the year 2017	01
Newly formed ULBs (after election of year 2017)	54
Election held in newly formed ULB	Nil

(Source: Director, Local Bodies)

It can be seen from the above that the elections in the year 2017 were held in most of the ULBs barring NP Bharwari due to non-issuance of notification in this regard by the State Government. Further, there was no Council in 54 ULBs of the State as election was also not conducted in these newly formed ULBs. In the absence of an elected Council, the involvement of elected representatives in decision making and implementation, which is an essential element of democracy, was missing. Further, a ULB without a Council cannot be held accountable by citizens. Subsequent elections to ULBs were held in May 2023. Out of total 762 ULBs at that time, elections were held in 760 ULBs.

Further, the Hon'ble High Court of Allahabad (Lucknow Bench) had raised (December 2011) concerns about the role of Administrators in the functioning of ULBs and ruled that legislative functions of Municipalities cannot be delegated to the Administrator. Despite it, the State Government appointed Administrators to these 55 ULBs and that was too without provisions of an advisory committee as Section 8AA (2) (i) of UPMC Act requires to appoint an advisory committee¹⁶ to assist the Administrator. Similarly, in two¹⁷ test-checked ULBs, where election was held during the year 2017, President was removed from their post or their financial power were seized by State Government and Administrators were appointed without provision for advisory committee. This affected the discharge of functions in matters of

¹⁶ Section 31 A (b) (iii) of UPM Act also authorises the State Government to make necessary arrangements in this regard.

¹⁷ NPP: Bilari (Moradabad) & NP: Ranipur (Jhansi).

policy involving adoption of budget estimates and imposition of taxes in public interest, prioritisation of development works *etc.*

The UD Department stated (November 2022) that the election of ULBs could be delayed in unavoidable circumstances. Reply is not acceptable as none of the general election of ULBs since 2006 was held in time. Further, reply of the Government is silent regarding appointment of Administrators without advisory committee.

4.2.1.3 Expenses of elections

As per Section 86 of UPMC Act, all expenditure incurred in connection with the preparation and revision of electoral rolls and on conduct of elections are to be charged and realised from the Municipal Corporation, except otherwise directed by the State Government. However, no similar provisions in respect of Municipalities were made in UPM Act, but provisions of UP Municipality (Preparation and Revision of Electoral roll) Rules 1994, framed by the State Government in September 1995, required recovery of expenses on preparation of electoral rolls from the Municipalities in the manner prescribed by the State Government. Similarly, provision of UP Municipal Corporation (Preparation and Revision of Electoral roll) Rules 1994¹⁸, also required recovery of expenses on electoral roll from NNs.

Audit observed that the State Government did not prescribe manner of recovery of election expenses from the ULBs and expenditure of ₹ 65.31 crore incurred in respect of election of ULBs in the year 2017-18 was borne by the State Government.

The UD Department stated (November 2022) that bearing election expenses by the Government seems appropriate due to poor financial status of ULBs. Reply is not acceptable as provisions in this regard required State Government to recover expenses of election from ULBs. Moreover, the State Government is expected to devolve more financial resources to ULBs to strengthen their financial status.

Recommendation 3:

The State Government may ensure early completion of the tasks related with delimitation of wards and reservation of seats and posts for timely conduct of elections of the Urban Local Bodies.

4.2.2 Composition of Municipalities and Municipal Corporations

Article 243R stipulates the composition of Municipalities. As per Section 6 of UPMC Act and Section 9 of UPM Act, the Municipal Corporations and Municipalities consists of elected Mayor/President, elected¹⁹ Corporators/Members, nominated²⁰ Corporators/Members (by the State Government amongst persons having special knowledge of municipal administration) and ex-officio members (comprising Member of Legislative Assembly, Member of Legislative Council, Member of Lok Sabha & Member of Rajya Sabha

¹⁸ Framed by the State Government during the month of November 1994.

¹⁹ For NNs: 60 to 110 members, NPPs: 25 to 55 members and for NPs: 10 to 24 members.

²⁰ The State Government to nominate members in Council (for NNs: five to ten members, NPPs: three to five members and NPs: two to three members) from the persons having special knowledge or experience in municipal administration.

representing the constituencies which comprise wholly/or partly the Municipal/Municipality area or registered as electors therein). The nominated members also have voting power. The term of Corporators/Members is coterminous with the term of Council.

4.2.2.1 Delayed nomination of members

Audit observed that Councils were constituted between December 2017 and January 2018 after the election of year 2017. However, the State Government nominated members to the Councils during the month of March 2020, with a delay of more than 25 months. This had happened after election of year 2012 also, where members were nominated by the State Government between April 2013 and January 2014, with a delay ranging from eight to seventeen months, though, the Councils were constituted during the month of July 2012.

Thus, delayed nomination of members, having experience of municipal administration, impacted the ability of Councils in management of their affairs.

The UD Department replied (November 2022) that there is no time limit for nomination of members. Reply is not acceptable as delayed nomination of members was not judicious with the spirit of provisions of both UPMC and UPM Acts in this regard.

4.2.3 Functioning of Council

The Council is the highest decision making body of ULBs. The powers of municipal administration and duties of Municipality are vested in Council. All powers and duties of Council are exercised and performed by various Municipal Authorities, though, they are accountable to Council for discharge of their duties. In NNs, the superintendence of the municipal administration, on behalf of Council, is exercised by Executive Committee, comprising of Mayor and 12 Corporators. However, there was no provision of Executive Committee for Municipalities in UPM Act. As per provisions of Schedule-I and other Sections of UPMC Act and UPM Act, Council is entrusted to require the Mayor/President or Municipal Commissioner/Executive Officer or any other officer or any Committee to furnish any reports/statement/records/documents *etc.*, sanction contracts and budget and to vary or alter a budget, constitute committees, appoint and remove President or members of committees, impose taxes, determine the rates of taxes, make regulations and by-laws *etc.* Besides, no expenditure is to be incurred by any municipal authority without sanction of budget by Council.

The Executive Committee is also empowered to require the Municipal Commissioner to furnish reports/statement/records/documents *etc.*, sanction proposals of acquisition; lease or disposal of property, approve contracts and estimates, examine annual administrative report and statement of accounts, approve budget estimates, frame proposals and prepare draft rules for imposition of any tax, amend assessment list *etc.*

Audit observed that functioning of the Council was deficient as detailed in succeeding paragraphs.

4.2.3.1 Meetings of Council

As per Section 88 of UPMC Act, meetings of council are to be held at least six times in every year for the transaction of business. Similarly, Section 86 of UPM Act, prescribe at least one meeting of Council in every month. As per Sections 102 & 103 of UPMC Act and Section 86 of UPM Act, the Council has powers to frame by-laws/regulations to decide manner and procedure of proceedings/holding of meetings of Council and Committees.

Audit observed shortfalls in holding meetings of the council in test-checked ULBs as detailed in *Appendix-V* and as summarised in **Table 4.4** below:

Table 4.4: Details of meetings of Councils, held during 2015-20 in test-checked ULBs

Type of ULB/No. of selected Units	No. of meetings to be held in selected Units	Actual no. of meeting	Shortfalls (percentage)
Nagar Nigams (04)	96	52	44 (46)
Nagar Palika Parishads (21)	1,134	452	682 (60)
Nagar Panchayats (25)	1,242	614	628 (51)
Total	2,472	1,118	1,354 (55)

(Source: Information provided by test-checked ULBs)

It can be seen from the above that overall shortfalls in holding meetings of Council in test-checked ULBs was 55 per cent. The shortfalls ranged between 30 per cent²¹ to 63 per cent²² in NNs, 15 per cent²³ to 87 per cent²⁴ in NPPs and 6 per cent²⁵ to 85 per cent²⁶ in NPs, which indicated that the Council did not play optimal role in municipal administration as they did not get enough time to discuss the issues of public interest and policy matters.

Further, as per Section 91 of UPMC Act, agenda of meeting was to be sent to the address of each member, at least 96 hours prior to scheduled time of meeting in case of NNs. However, there was no similar provisions under UPM Act for NPP & NP, though, provisions of by-laws of Municipalities requires sending of agenda to the members not less than three days prior to scheduled date of meeting of Council. Audit observed that only in three NNs²⁷; four NPPs²⁸ and two NPs²⁹ (out of four NNs, 21 NPPs and 25 NPs test-checked), agenda of meeting was served to Corporators/members.

Further, none of the test-checked ULBs had used their website for disseminating information related to agenda and proceedings of meeting of Council. Had the ULBs used this medium for publication of matters related to functioning of Council, better transparency and timely action on decisions of Council could have been ensured.

The UD Department replied (November 2022) that the instructions would be issued to the concerned ULBs in this regard.

²¹ NN: Lucknow.

²² NN: Moradabad.

²³ NPP: Gursarai (Jhansi).

²⁴ NPP: Swar (Rampur).

²⁵ NP: Talbehat (Lalitpur).

²⁶ NP: Shahabad (Rampur).

²⁷ NNs: Jhansi, Mathura-Vrindavan and Moradabad.

²⁸ NPPs: Chirgaon (Jhansi), Lalitpur, Mauranipur (Jhansi), and Tundla (Firozabad).

²⁹ NPs: Eka (Firozabad) and Oel Dhakwa (Lakhimpur Kheri).

4.2.3.2 Meetings of Executive Committee

As per Section 89 of UPMC Act, meetings of Executive Committee are to be held at least once in every month for transaction of business. However, Audit observed that in test-checked NNs, meetings of Executive committee was deficient, ranging between 56 and 83 *per cent*, as shown in **Table 4.5**.

Table 4.5: Details of meetings of EC, held during 2015-20 in test-checked ULBs

Name of NN	No. of meetings to be held	Actual no. of meetings held	Shortfalls (percentage)
Jhansi	54	09	45 (83)
Lucknow	54	22	32 (59)
Mathura-Vrindavan	27	12	15 (56)
Moradabad	54	18	36 (67)
Total	189	61	128 (68)

(Source: Information provided by test-checked ULBs)

Thus, due to lack of regular meetings of EC, its role in supervision of municipal administration was not optimal.

The UD Department replied (November 2022) that instructions would be issued to the concerned ULBs in this regard.

4.2.3.3 Conveyance allowance for attending meetings

As per Section 30 A of UPMC Act and Section 37 of UPM Act, Corporators/ Members are entitled to receive such conveyance allowance or facilities for attending the meetings of Council or other committees, as may be provided by rules. Accordingly, the State Government framed (January 2015) Rules³⁰ for payment of conveyance allowance to the Corporators of NNs (at the rate of ₹ 1500 *per month*) and Members of NPPs/NPs (at the rate of ₹ 1000 *per month*) for attending the meetings of Council, provided that expenses on conveyance allowance were to be borne by ULBs from their own resources.

It was observed that out of test-checked ULBs, in one NN (Lucknow), two NPPs (Bilaspur of Rampur & Mauranipur of Jhansi) and two NPs (Kathera of Jhansi and Shahabad of Rampur), neither the conveyance allowance was paid nor any facilities were provided to Corporators/Members for attending the meetings of Council during the period 2015-20. However, in remaining test-checked 19 NPPs and 23 NPs (except NNs), where conveyance allowance was paid to Members, necessary provisions were not made in budget for this purpose. It indicated that conveyance allowance was paid by these NPPs and NPs from the sources other than their own resources as instances were also found during audit of NPP Rasra and NP Bairiya (Ballia) that the payment³¹ was made from SFC funds.

Thus, payment of conveyance allowance by test-checked NPPs and NPs, without provision in budget, was irregular.

³⁰ Uttar Pradesh Nagar Nigam Corporators Conveyance Allowance Rules 2014 and Uttar Pradesh Nagar Palika/Nagar Panchayat Corporators Conveyance Allowance Rules 2014.

³¹ A sum of ₹ 2.13 lakh was paid from the SFC fund for attending the meetings of Councils in NP Bairiya (total eight meetings held during 2018-19) and NPP Rasara (total five meetings held during 2020-21).

The UD Department replied (November 2022) that the payment of salary and allowances may be made from the SFC grants and further stated that instructions are being issued to ULBs for payment of conveyance allowance on the basis of budget provisions. Reply of the UP Department is not acceptable as payment of conveyance allowance was to be done from the own resources of ULBs.

4.2.3.4 Constitution of Committees

Apart from Ward committee, Sections 5, 95 and 97 of UPMC Act provides for constitution of Executive committee, Development committee, Committees for public utility service³², Special committee and Joint committee by the Council to manage their affairs. Similarly, Sections 104 and 110 of UPM Act provides for constitution of Special committee, Joint committee *etc.*

Audit observed that in test-checked ULBs, no committees were constituted during the period 2015-20 except the Executive committee, which was constituted only in NNs.

Thus, due to non-existence of these committees, these forums could not be utilised in deciding policy matters with the active participation of elected representatives, stakeholders, technical expertise *etc.*

The UD Department replied (November 2022) that the instructions would be issued to ULBs in this regard.

4.2.3.5 Composition and constitution of Ward Committees

The Constitution provides for composition of Wards Committees in all Municipalities with a population of three lakh or more, with a view to taking municipal governance closer to the people. As per Section 6(A) of UPMC Act and Section 3(B) of UPM Act, Ward Committees are to be constituted for each ward in Municipal Corporations and Municipalities. Besides, Corporators/ Members of Council and registered electors of concerned ward are to be nominated as members of ward committee. The term of these bodies is co-terminus with the council. The Ward committees are to act as a bridge between the municipal government and citizens and required to exercise such powers and perform such functions as may be prescribed through Rules by the State Government.

In compliance with provisions of UPMC Act and UPM Act, the State Government framed (October 2014) Uttar Pradesh Nagar Nigam (Wards Committee) Rules 2014 and Uttar Pradesh Municipality (Ward Committee) Rules 2014 for defining role and responsibilities of Wards Committee in NNs and NPPs & NPs respectively. Accordingly, these committees are to ensure implementation of the development plans³³ of the Municipal Corporation/Municipality, make sure proper cleansing of the roads and other localities of their area, realise taxes and fees as per demands of the Municipal Corporation *etc.*

³² To be constituted by NNs with the prior approval of the State Government for establishing or acquiring electricity supply or public transport undertaking *etc.*

³³ Related with the construction, re-construction, repairs, maintenance and renovation of roads, streets, lanes, sewers, water connections *etc.*

Audit observed that though there were provisions for constitution of Ward Committees in the Municipalities, however, there were only three NPPs³⁴ in the State having population of more than three lakh. It was also observed that the Ward Committees were not constituted in any of the test-checked NNs during 2015-20, though, their population was more than three lakh. Similarly, Ward Committees were not constituted in any of test-checked NPPs and NPs during the period 2015-20.

Thus, not constituting Ward Committees defeated the objective of facilitating community participation in local governance. The absence of community participation would adversely impact prioritisation of development work, monitoring of execution of work, utilisation and maintenance of assets created *etc.*

The UD Department replied (November 2022) that the instructions would be issued to ULBs in this regard.

Recommendation 4 :

Various Committee like Advisory Committee, Ward Committee and Development Committee, etc. may be constituted in the Urban Local Bodies as per the Uttar Pradesh Municipal Corporations/ Municipalities Acts and they should be nurtured and encouraged to function effectively.

4.2.3.6 Approval of Development Plans

As per provisions of Section 127B of UPM Act and Section 383A of UPMC Act, every year a development plan is to be prepared by Executive officer and Development Committee of Municipalities and Municipal Corporations respectively and are to be laid before the Council for approval. After the approval of Council, the development plan is required to be submitted to the District/Metropolitan Planning Committee (DPC/MPC) for the preparation of a draft development plan for the District/Metropolitan area as a whole.

Audit observed that yearly development plan was not prepared in any of the test-checked ULBs during the period 2015-20. Due to not preparing of required plan, it could not be forwarded to Council and District/Metropolitan Planning Committee for approval and preparation of draft development plan for the District/ Metropolitan area as a whole.

Thus, due to lack of participation of Council in planning activity, elected representatives could not communicate the legitimate aspirations of the citizens into public policies and programmes.

The UD Department replied (November 2022) that the instructions would be issued to ULBs in this regard.

4.2.3.7 Approval of Budget estimates

As per Section 146 of UPMC Act and Sections 95 & 99 of UPM Act, budget estimates for upcoming financial year, as prepared by the Municipal Commissioner/Executive officer, are to be sanctioned by the Council before

³⁴ NPPs Loni of Ghaziabad, Muzaffarnagar and Rampur.

the beginning of the financial year. Further, as per Section 92 of UPM Act, if in the opinion of President, approval of budget estimate by the Council is against the interest of Municipality, the same may be referred to the Director, (LB) for decision in consultation with the State Government.

Audit observed that in test-checked seven NPPs³⁵ and nine NPs³⁶, neither the budget estimates for each financial year were prepared nor submitted to Council for approval during the period 2015-20. In NN Moradabad budget for the year 2015-16 was prepared but not submitted to Council. Similarly, in six test-checked NPs³⁷, no budget estimates for any year of period 2015-20 was submitted to the Council for approval, as detailed in *Appendix-VI*.

Further, during 2017-20, President of six³⁸ Municipalities had forwarded the budget estimates to the Directorate for approval due to lack of majority of votes of council members or not holding meeting of council. However, no action was initiated by the Directorate/State Government in this regard, resulting in either not adopting or delayed adoption of budget estimates of concerned ULBs.

Thus, incurring expenditure without approval of budget by the Council, was against the provisions of UPMC Act and UPM Act and indicative of lack of control of Council in the financial matters of ULBs.

The UD Department replied (November 2022) that the instructions would be issued to ULBs in this regard.

4.2.3.8 Approval of Contracts and Estimates

As per Section 132(4) of UPMC Act, any contract involving expenditure of more than twenty lakh rupees is to be made by Municipal Commissioner after approval of Council. Similarly, as per Sections 96 & 97 of UPM Act, contracts of more than fifty thousand and fifteen thousand rupees in the case of NPPs and NPs respectively, are to be made by the President or Executive officer after sanction of the Council.

Further, as per Section 136 of UPMC Act, the Council has power to approve estimates of more than twenty lakh rupees, however, provisions of UPM Act did not assign any role to Council in approval of estimates. Besides, Section 95 of UPM Act, requires the State Government to make Rules regarding the preparation and sanction of estimates.

Audit observed that contrary to the provisions of UPMC Act and UPM Act, approval of Council was not obtained in any of the test-checked ULBs during 2015-20 for execution of contracts of requisite amount. Similarly, in none of the test-checked NNs, estimates of more than twenty lakh rupees, were

³⁵ Ballia: for the year 2018-20, Bhadohi: for the year 2017-18, Gursarai (Jhansi): for the year 2015-18, Palia Kalan (Lakhimpur Kheri): for the year 2017-18, Rasra (Ballia): for the year 2019-20, Swar (Rampur): for the year 2015-18, and Thakurdwara (Moradabad): for the year 2017-18.

³⁶ Bairiya (Ballia): for the year 2018-20, Eka (Firozabad): for the year 2018-20, Itaunja (Lucknow): for the year 2016-17 & 2018-20, Kheri (Lakhimpur Kheri): for the year 2019-20, Kunda (Pratapgarh): for the year 2018-19, Maniyar (Ballia): for the year 2015-17 & 2018-20, Maswasi (Rampur): for the year 2016-19, Pali (Lalitpur): for the year 2019-20, and Shahabad (Rampur): for the year 2017-18 & 2019-20.

³⁷ Bakshi ka Talab (Lucknow), Chhata (Mathura), Gokul (Mathura), Katra Medaniganj (Pratapgarh), Ranipur (Jhansi), and Umri Kalan (Moradabad).

³⁸ For the year 2017-18: NPP Sitapur; NP Ghughuli (Mahrajganj) & Palia Kalan (Lakhimpur Kheri), 2018-19: NPP Jaish (Raibareli); NP Bhargain (Kasganj) 2019-20: NP Dibiyapur (Auraiya).

submitted to the Council for approval. It indicated that authority of Council in approval of contracts and estimates was overlooked by the Executive head.

Further, the State Government also did not frame rules for governing the matters related with preparation and sanction of estimates in NPPs and NPs. As a result, role of Council was not defined in approval of estimates in Municipalities.

The UD Department did not offer (November 2022) any comments in this regard.

Recommendation 5 :

Timely meetings of Council and Executive Committee may be ensured for proper functioning of Urban Local Bodies and Council may exercise their powers for implementation of works in a transparent manner.

4.2.4 Mayor/President

The Mayor/President is the first citizen of the city/town and directly elected by electors for a term of five years. The term of Mayor/President is co-terminus with the term of Council, though, they can resign their office any time by tendering resignation to the State Government. The Mayor may be removed from their office through a motion of non-confidence by Council, however, such motion cannot be initiated within two years from the date of assumption of office by the Mayor. Further, President may also be removed by the State Government from his office any time on the grounds prescribed under Section 48 of UPM Act after serving show cause notice.

Further, under the general control and direction of the Mayor/President, the executive power of Municipal Corporation/Municipality is vested in the MC/EO. The Mayor/President is empowered to preside over every meeting of Council, enjoys the power of inspection, may give any direction to the MC/EO with regard to implementation of any resolution of Council and may call for any record of the Municipal Corporation/Municipality from the Executive head.

Audit observed that in many significant affairs of ULBs, Mayor/President has either no role or limited role. A comparison of role and powers of the Mayor/President *vis-a-vis* the Council and the State Government is detailed in **Appendix-VII**.

Audit also observed that being a head of Executive committee, Mayor enjoys more power than the President in functioning of ULBs. Mayor has role in approval of estimates, imposition of taxes, determination of rate of municipal taxes *etc.*, while President has no powers in these areas. This is also reaffirmed by the fact that the State Government replaced (February 2019) Divisional Commissioner with Mayor, as head of a committee, empowered for according administrative and financial sanctions for the works of CFC grants and Infrastructure funds in respect of Municipal Corporations. However, in case of Municipalities, President has no such power and empowered committee for this purpose is headed by District Magistrate.

It was also observed that though, the executive powers of Municipal Corporation/Municipality were vested with the MC/EO, the Mayor/President has no voice in appointment of MC/EO, which in turn limited the autonomy in the functioning of ULBs.

The UD Department accepted (November 2022) the audit observation and stated that in certain areas of financial and administrative matters, President has more powers than the Mayors.

4.2.4.1 Allowances or facilities to Mayor/President

The allowances or facilities given by the Municipal Corporation/Municipality to Mayor/President are to be fixed by the Council with the prior approval of the State Government. Accordingly, the State Government directed (March 2014) Municipalities to make budget provisions for Courtesy Expenses (at the rate of ₹ 15000 *per* month) from their own resources to provide facilities to the President. Similarly, Mayor was entitled to avail vehicle and other facilities from the Municipal Corporation.

Audit observed in test-checked four NNs, facility of vehicle and personal staff was provided to Mayor, though, in test-checked 13 NPPs³⁹ and 15 NPs⁴⁰, Courtesy Expenses were not paid to Presidents during 2015-20, which hints at poor state of finances of ULBs. Further, in remaining NPPs and NPs, where Courtesy Expenses were paid to Presidents, no budget provisions were made in this regard, resulting in irregular expenditure, as no expenditure was to be incurred out of municipal funds without approval of budget estimates by the Council.

The UD Department replied (November 2022) that the instructions would be issued to ULBs in this regard.

4.2.5 Role of District Planning Committee

Article 243ZD provides for the constitution of a District Planning Committee (DPC) for consolidation of plans prepared by the Panchayats and Municipalities. Section 127A of UPM Act and the Uttar Pradesh District Planning Committee Act, 1999 mandates for constitution of DPC for every district of the State with the elected member of ULBs⁴¹ and Panchayats along with nominated members by the State Government. As per provisions, DPC was to prepare a comprehensive District Development Plan (DDP) with regard to matters of common interest between the Panchayats and the Municipalities including spatial planning; sharing of water and other physical and natural resources; integrated development of infrastructure and environment conservation *etc.* The DDP was to be forwarded to the State Government after approval of DPC for integration into the State plan. The meetings of DPC were to be conducted on quarterly basis.

³⁹ Amroha, Ballia, Bachhraon (Amroha), Bhadohi, Bilaspur (Rampur), Chirgaon (Jhansi), Gurusarai (Jhansi), Koshikalan (Mathura), Lakhimpur (Lakhimpur Kheri), Mauranipur (Jhansi), Palia kalan (Lakhimpur Kheri), Rampur and Sirsaganj (Firozabad).

⁴⁰ Bakshi ka Talab (Lucknow), Chhata (Mathura), Gokul (Mathura), Gyanpur (Bhadohi), Joya (Amroha), Kathera (Jhansi), Kachhwa (Mirzapur), Katra Medniganj (Pratapgarh), Khamaria (Bhadohi), Kheri (Lakhimpur Kheri), Maswasi (Rampur), Oel Dhakwa (Lakhimpur Kheri), Ranipur (Jhansi), Sadatganj (Amroha), and Shahbad (Rampur).

⁴¹ 80 *per cent* of members of DPC were to be elected by, and from amongst, the elected members of ULBs and Panchayats.

Audit observed that the DPC was constituted in the all districts of the State, however, its meetings were not held regularly⁴². Further, consolidated DDP for the district as a whole, was also not prepared in any of the districts in which the test-checked ULBs were located as none of the test-checked ULBs had prepared development plans (as discussed earlier in *paragraph no. 4.2.3.6*). As a result, role of DPC in planning for function delivery remained ineffective.

The UD Department replied (November 2022) that the required action in this regard is awaited from the concerned ULBs.

4.2.6 Role of Metropolitan Planning Committee

Article 243ZE mandates that there shall be constituted in every Metropolitan area, a Metropolitan Planning Committee (MPC) to prepare a draft development plan for the Metropolitan Region as a whole. Section 57(A) of UPMC Act provided for constitution of MPC, comprising of 21 to 30 members⁴³. The Uttar Pradesh Metropolitan Planning Committee Rules, 2011 was enacted (August 2011) by the State Government for regulating procedures and functions of MPC. Likewise DPC, MPC was to prepare a comprehensive Metropolitan Development Plan (MDP) with regard to matters of common interest between the Panchayats and the Municipalities. The MDP was also to be forwarded to the State Government after approval of MPC for integration into the State plan.

Audit observed that the State Government initiated (August 2016) the process of constitution of MPC for six cities⁴⁴, however, MPC could not be constituted in any of the city of State. Consequently, a comprehensive development plan for Metropolitan area could not be prepared and provisions of MPC remained ineffective.

The UD Department replied (November 2022) that the required action in this regard is awaited from the concerned ULBs.

4.2.7 Powers of the State Government over ULBs

Audit observed that the State Government had overriding powers over ULBs, which was against the spirit of the constitutional amendment. A few provisions are indicated in **Table 4.6** below:

Table 4.6: Statement showing the overriding powers of State Government over ULBs

Sl. No.	Subject	Provision
1	Power to frame Rules	The State Government may by notification in the gazette, frame Rules for the implementation of provisions of UPMC Act/UPM Act on variety of subjects such as constitution and governance of ULBs, officers and staff, property and contracts, Corporation/Municipality and other Funds, borrowings, taxation, drains and drainage, water works, public streets, building regulations, regulation of markets and slaughter houses, vital statistics, compensation <i>etc.</i> (Sections 87, 113, 124, 138, 153, 154, 171, 172, 227, 262, 271, 314, 342, 453, 455 & 459 of UPMC Act and Sections 73, 95, 127, 153, 235 & 296 of UPM Act).

⁴² In most of the selected districts, meeting of DPC was held annually against the provisions of quarterly basis.

⁴³ Two-thirds members of MPC were to be elected from the members of the Municipalities and Panchayats of Metropolitan Area and remaining members of MPC was to be nominated by the State Government.

⁴⁴ Agra, Kanpur, Lucknow, Meerut, Prayagraj and Varanasi.

2	Power to cancel and suspend a resolution or decision taken by ULBs	The State Government may cancel or suspend a resolution or decision taken by ULBs, if the State Government is of the opinion that it is in contravention of or in excess of the powers conferred by UPMC Act and UPM Act or of any other law or has been passed or made in abuse of any such power or is likely to endanger human life, health, public safety or prejudicial to public interest. Even in case of Municipalities, the Divisional Commissioner and District Magistrate are empowered to prohibit the execution of any resolution or order of NPPs and NPs (Section 537 of UPMC Act and Section 34 of UPM Act).
3	Power to cancel or modify bye-laws	Section 541 of UPMC Act and Section 298 of UPM Act empowers the ULBs to frame bye-laws. However, if the State Government is of the opinion that the bye-laws framed by ULBs, should be modified or repealed either wholly or in part, the same may be done by the State Government through notification in the official gazette, after giving a reasonable time for representation to the concerned ULB (Section 547 of UPMC Act and Section 301A of UPM Act).
4	Powers to make bye-laws and regulations	If the State Government is of the opinion that ULBs has failed to frame any bye-laws/regulations or if the bye-laws framed by the Municipal Corporation are not adequate, the State Government may frame bye-laws by publication in the official gazette or may modify or reject bye laws (Section 549 of UPMC Act and Sections 298, 297 & 301A of UPM Act).
5	Creation of services	The State Government may provide for the creation of one or more services of such officers and servants as it deems fit, common to ULBs and prescribe the method of requirement and conditions of service of persons appointed to any such service (Section 112A of UPMC Act and Section 69B of UPM Act).
6	Power to reject or modify proposals for imposition of taxes	Section 172 of UPMC Act and Section 128 of UPM Act allow ULBs to impose taxes on various subjects but with certain restrictions. For this purpose, on the resolution of the ULB, a proposal is to be submitted to the State Government. However, the State Government may either refuse to sanction the proposals or return them to ULBs for further consideration or sanction them without modification or with such modification not involving an increase of the amount to be imposed, as it deems fit. Besides, in case of Municipalities, these overriding powers may also be exercised by the Divisional Commissioner (Section 201 of UPMC Act and Section 133 of UPM Act).
7	Power to abolish taxes or direct to impose taxes	As per Section 205 of UPMC Act and Section 137 of UPM Act, if the State Government is of opinion that the levy of any tax is contrary to the public interests or that any tax is unfair, it may direct the ULB concerned for the removal of defects or by notification, suspend the levy of the tax, or of any portion thereof, until the defect is removed, or may abolish or reduce the tax. Further, as per Section 206 of UPMC Act and Section 130A of UPM Act, the State Government may by notification in the official gazette, require an ULB to impose any tax mentioned in UPMC Act /UPM Act or direct to increase, modify or vary the rate of any tax already imposed. Upon failure of ULB concerned to do so, the State Government may pass suitable orders for imposing, increasing, modifying or varying the tax.
8	Power to direct for taking action	If the State Government is of opinion that any duty imposed on ULB authority by or under UPMC Act /UPM Act, has not been performed or has been performed in an imperfect, inefficient or unsuitable manner and adequate financial provision has not been made for the performance of any such duty, it may direct concerned ULB for taking necessary action. Further, in cases of not complying with directions within a reasonable time, the State Government may appoint some persons on the expense of Municipal Corporation or direct District Magistrate for performing required duty (Section 533 & 534 of UPMC Act and Section 35 of UPM Act).

9	Power to refuse or modify improvement schemes	The provisions of UPMC Act empower Municipal Corporations to prepare various improvement schemes with certain restrictions for development of their area. However, the State Government may sanction either with or without modification, or may refuse to sanction, or may return for reconsideration, any improvement scheme submitted to it (Section 361 of UPMC Act). Further, in case of establishment of Development Authority in the area of Municipal Corporation, powers of NNs in respect of preparation and implementation of improvement schemes are ceased.
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(Source: UPMC Act and UPM Act)

Apart from above, ULBs were also required to submit copy of resolutions passed by Council to the State Government, Divisional Commissioner and District Magistrate. Further, in case of Municipalities, the Divisional Commissioner was empowered to inspect any work, require any document and statement, record in writing for consideration of Municipality any observations in regard to the proceeding of Council *etc.*

Thus, the State Government and its authorities have many overriding powers over ULBs.

The UD Department replied (November 2022) that overriding powers has been provided to the State to control any menace arising out with decisions of ULBs.

4.3 Conclusion

The State Government had not devolved all the activities/functions and responsibilities to the ULBs even after 27 years of 74th Constitutional Amendment Act. The functions/activities *viz.*, Regulation of land use & Construction of buildings and Planning for Economic & Social Development, which would have increased people's participation and accountability of the executive, were yet to be devolved. Elections to constitute councils could not be conducted in time due to delay in delimitation and reservation exercise by the State Government. Meetings of Council and Executive Committee were deficient. Ward Committees and other committees were not constituted. The yearly development plans were not prepared for incorporation in the draft development plan of the district. The functioning of Council was also deficient in approval of budget estimates, contracts and estimates. The State Government has overriding powers over ULBs on many issues which goes against the spirit of the 74th Constitutional Amendment Act.