

CHAPTER I

ORGANISATION, DEVOLUTION AND ACCOUNTABILITY FRAMEWORK OF LOCAL SELF-GOVERNMENT INSTITUTIONS

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1.1 Introduction

The Seventy-third and Seventy-fourth amendments of the Constitution of India gave constitutional status to Local Self-Government Institutions (LSGIs) and established a system of uniform structure, regular elections and flow of funds. Consequent to these amendments, the State Legislature passed the Kerala Panchayat Raj Act, 1994 (KPR Act) and the Kerala Municipality Act, 1994 (KM Act) to enable LSGIs to work as third tier of the Government. The Government also amended other related laws to empower LSGIs. As a follow-up, the Government entrusted LSGIs with such powers, functions and responsibilities as to enable them to function as institutions of self-government. In order to fulfill the mandate bestowed on them under the Constitution and various laws, LSGIs are required to prepare plans and implement schemes for economic development and social justice, including those listed in the Eleventh and Twelfth Schedules of the Constitution.

1.2 Authority for Audit

The authority for audit by the Comptroller and Auditor General of India (C&AG) is derived from Articles 149 and 151 of the Constitution of India and the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 (C&AG's (DPC) Act). The principles and methodologies of various types of audit are prescribed in the Auditing Standards and the Regulations on Audit and Accounts, issued by the C&AG.

1.2.1 Status of transfer of functions and functionaries

As per the provisions of KPR Act and KM Act, it shall be the duty of LSGIs to take care of the requirements of the areas of their jurisdiction in respect of the matters enumerated in the respective Schedules of the Acts, and LSGIs shall have the exclusive power to administer the matters enumerated in the Schedules and to prepare and implement schemes relating thereto for economic development and social justice.

The Acts envisaged transfer of functions of various departments of the Government to LSGIs, together with the staff to carry out the functions transferred. The transfer of functions to different tiers of LSGIs was to be done in such a way that none of the functions transferred to a particular tier overlap with that of the other.

The Eleventh Schedule of the Constitution contains 29 functions (**Appendix 1.1**) pertaining to the Panchayat Raj Institutions (PRIs). As mandated by KPR Act, the Government transferred (September 1995) 26 of these functions to PRIs. The functions relating to minor forest produce, distribution of electricity and implementation of land reforms were yet to be

transferred to PRIs. Likewise, the Twelfth Schedule of the Constitution includes 18 functions (**Appendix 1.2**) pertaining to Urban Local Bodies (ULBs). Government stated (February 2023) that all functions except regulation of land use and construction of buildings, water supply for domestic, industrial and commercial purposes, fire services and urban forestry, protection of the environment and promotion of ecological aspects have been transferred to ULBs. However, many of the schemes relating to the transferred functions, to be executed by LSGIs, were also seen implemented in a parallel manner by the departments concerned.

Besides the transferred subjects and activities, LSGIs also undertake agency functions on behalf of both Central and State Governments to implement developmental programmes.

As part of administrative or functional decentralisation, Government transferred public service delivery institutions such as schools, dispensaries, public health centres, hospitals, anganwadis, district farms, veterinary institutions, etc. to LSGIs. All poverty alleviation programmes and welfare pension schemes are also implemented through LSGIs.

For efficient discharge of transferred functions, the LSGIs require qualified and trained personnel. Against the required number of personnel to be deployed in 1,302 posts, Government of Kerala (GoK) created (February 2013) 990 posts in Grama Panchayats by keeping these posts in departments as supernumerary. Of the remaining 312 posts only 234 personnel were deployed (October 2022). Social Justice, Scheduled Caste Development and Scheduled Tribes Development departments have not deployed¹ any personnel to LSGIs (October 2022). Audit noticed that against the additional posts allotted by GoK in July 2000, there was a shortage of 56 personnel in Block Panchayats, 40 in Municipalities, 15 in District Panchayats and 10 personnel in Corporations.

1.3 Profile of LSGIs

As of December 2021, there were 1,200 LSGIs in the State. The details of their wards/divisions and population are presented in **Table 1.1**.

Table 1.1: Comparative position of LSGIs

Level of LSGIs	Number	Number of wards/ divisions	Average population* per LSGI
District Panchayats (DPs)	14	331	1903357
Block Panchayats (BPs)	152	2080	175309
Grama Panchayats (GPs)	941	15962	26674
Municipal Corporations	6	414	491240
Municipalities	87	3113	51664
Total	1200	21900	-

* Population figures- Census 2011

Source: Thaddesakam 2022 published by Local Self Government Department

¹ The number of personnel to be deployed: Social Justice-26, Scheduled Caste Development-18 and Scheduled Tribes Development-6

1.4 Organisational set up

Local Self-Government Institutions constituted in rural and urban areas are referred to as Panchayat Raj Institutions (PRIs) and Urban Local Bodies (ULBs) respectively. In the three-tier² Panchayat Raj system in the State, each tier functions independently of the other. While the Constitution and the Acts confer autonomy and independent status to the LSGIs within the functional domain, the Local Self Government Department (LSGD) of Government is empowered to issue general guidelines to LSGIs in accordance with the National and State policies.

The President/Chairperson/Mayor is the Chief Executive Head of Grama Panchayat/Municipality/Corporation respectively. Each LSGI has a Secretary who is the Chief Executive Officer. The members of each tier of PRIs elect the President, Vice-President and Chairpersons of the Standing Committees. Similarly, Councillors of the Municipality/Municipal Corporation elect the Chairperson/Mayor, Vice-Chairperson/Deputy Mayor and Chairpersons of the Standing Committees.

Government in October 2022 integrated five services under LSGD viz., Panchayat, Rural Development, Urban Affairs, Town and Country Planning Department and Local Self Government Engineering wing and Municipal Common Service and formed LSGD Common Service with Principal Director (LSGD) as its head. The Commissionerate of Rural Development, Directorate of Panchayats and Directorate of Urban Affairs were merged and formed two wings viz., Directorate of LSGD (Rural) and Directorate of LSGD (Urban). The LSGD Engineering Wing was renamed as Local Infrastructure Development and Engineering Wing and the Town and Country Planning Wing as LSGD Planning Wing.

1.4.1 Standing Committees

Standing Committees³ (SCs) analyse issues and proposals before they are considered for decision by the Panchayat Committees/Municipal Councils. There are four SCs for each Grama Panchayat and Block Panchayat, five for each District Panchayat, six for each Municipality and eight for each Corporation. The SCs have the power to make resolutions in respect of their subjects. Every resolution passed by the SCs needs to be placed in the next meeting of the Panchayat Committee/Municipal Council of the LSGIs. The Committee/Council can modify resolutions, if considered necessary.

1.4.2 Steering Committee

Steering Committee coordinates and monitors the working of SCs. The Steering Committee consists of the President/Chairperson, Vice-President/Deputy Chairperson of the LSGIs concerned and Chairpersons of the SCs.

² Grama Panchayat, Block Panchayat and District Panchayat.

³ Standing committee consists of members elected by the elected members of the LSGIs from among themselves.

1.4.3 Plan formulation process by LSGIs

Consequent on 73rd and 74th amendments to the Constitution and enactment of KPR and KM Acts in 1994, LSGIs have assumed an important role in the formulation and implementation of developmental programmes at the grassroots level which involve active participation of all sections of people in the form of Grama/Ward Sabhas, Working Groups (WGs) and Development Seminars for the overall development of LSGIs. Every year LSGIs have to prepare a development plan for the succeeding year, adhering to the guidelines issued by the Government, and submit the plan to the District Planning Committee (DPC) for approval. In the decentralised planning set-up, WGs, Ward Sabhas/Ward Committees, SCs, DPCs and Implementing Officers are the institutions/groups involved in the plan formulation process and its implementation.

1.5 Vigilance Mechanism

1.5.1 Ombudsman for LSGIs

As envisaged in Section 271G of KPR Act, 1994, Government set up an Ombudsman for LSGIs in the State in the year 2001. The Ombudsman is a high powered quasi-judicial authority which can conduct investigation and inquiries in respect of charges of any action involving corruption, maladministration or irregularities in discharge of administrative function by LSGIs, officials and elected representatives of the LSGIs. Ombudsman could even register cases *suo moto*, if instances of the above kind are noticed. During the period 2021-22, out of 2,730 cases (including 1,996 old cases), 733 cases were disposed off by Ombudsman.

1.5.2 Tribunal for LSGIs

As envisaged in Section 271S of KPR Act, 1994 and Section 509 of KM Act, 1994, a judicial tribunal for LSGIs was set up in the State in February 2004, consisting of one Judicial Officer in the rank of a District Judge. The duty of the Tribunal is to consider and settle appeals and revisions by the citizens against decisions of LSGIs taken in exercise of their functions like assessment, demand and collection of taxes or fees or cess, issue of licences, grant of permits, etc.

During 2015 to 2022, 3,246 cases (appeal, revision and reference) were filed before the Tribunal, out of which 2,573 cases were pending for disposal. Of the pending cases, 2,352 cases (March 2022) were related to the years 2015 to 2021.