

CHAPTER I

INTRODUCTION

1.1 Background

Article 243W of the Constitution of India envisages that the State Government may, by law, endow the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to (i) the preparation of plans for economic development and social justice and (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule.

Out of 126 Urban Local Bodies (ULB) in West Bengal, 120 municipalities are governed according to the provisions of the West Bengal Municipal Act, 1993 and six municipal corporations¹ are governed according to the provisions of the respective Acts legislated separately. Except these six municipal corporations, all other municipalities were classified into five groups on the basis of the population as ascertained in the preceding census for the purpose of application of the provision of the Act. Each municipality is divided into a number of wards, which is determined and notified by the State Government having regard to the population, dwelling pattern, geographical condition and economic consideration of the respective area. The minimum number of wards is nine and the maximum number is kept between 15 and 141 depending on the size of the ULB. An elected Councillor represents each ward.

In 2001 the urban population in West Bengal was 2.25 crore spread over 2060 sq.km. with a density of 10915 per sq.km as against the total population of

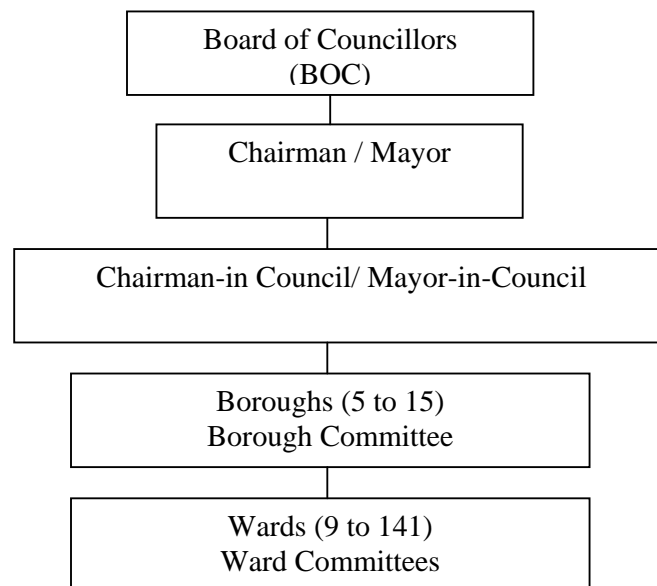
¹ Kolkata, Howrah, Siliguri, Asansol, Durgapur and Chandernagar municipal corporations.

8.02 crore. During 1991 to 2001, the urban population increased by 20.20 per cent which indicates a declining trend over the previous decade (29.49 per cent).

1.2 **Organizational Structure**

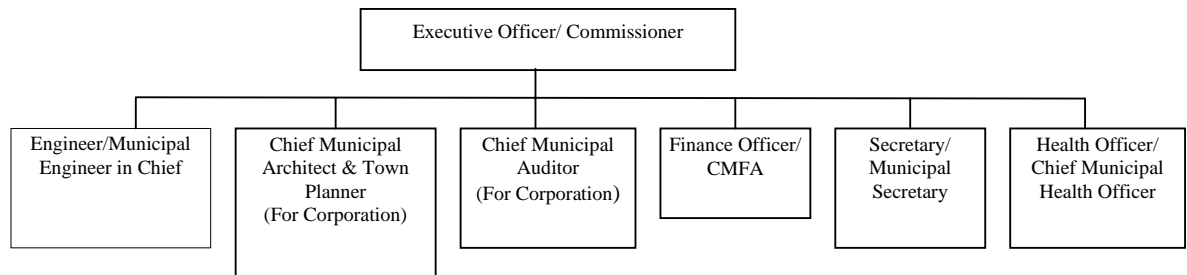
The Chairman/ Mayor, elected by the majority of the Board of Councillors (BOC), is the executive head of the ULB and presides over the meetings of the Chairman-in-Council/ Mayor-in-Council responsible for governance of the body. The executive power of a ULB is exercised by the Council. The Chairman presides over the Board of Councillors. The Chairman-in-Council/ Mayor-in-Council enjoys such power as is delegated by the Board.

Every ULB having a population of three lakh or more groups the wards into five (up to 15 in respect of municipal corporation) boroughs. Boroughs are constituted with not less than six contiguous wards and a Borough Committee is also constituted for each Borough. The Councillors of the respective wards are the members of such Borough Committee and elect the Chairman (not being a member of Chairman-in-Council/ Mayor-in-Council) from among themselves. The Borough Committee discharges such functions, as the ULB requires it to discharge. At ward level, the ULB constitutes Ward Committee under the Chairmanship of the Ward Councillor. The organizational structure of the governing body of an ULB is as under:



Under the administrative control of the Board of Councillors, the ULB creates its establishment structure headed by an Executive Officer/

Commissioner. Other officers are also appointed to discharge specific functions of respective area/ nature. Subject to the supervision and control of the Chairman/Mayor, the Executive Officer/ Commissioner functions as the principal executive of the ULB. The Executive Officer/ Commissioner and the Finance Officer exercise such powers and perform such functions as notified by the State Government from time to time. The organograph of an Urban Local Body is as below:



1.3 Powers and Functions

To function as an institution of self-government and to carry out the responsibilities conferred upon them, the ULBs exercise their powers and functions in accordance with the provisions of Article 243W of the Constitution. Some obligatory functions of the ULBs are as follows:

- Water supply for public and private purpose;
- Construction and maintenance of sewage and drainage system;
- Collection and disposal of solid waste;
- Construction and maintenance of streets, bridges, fly-overs etc.;
- Construction and maintenance of public latrines, urinals and similar conveniences;
- Lighting of public streets and other public places;
- Construction and maintenance of markets;
- Preventing and checking spread of dangerous diseases including immunization;
- Town planning and development including preservation of monuments, places of historical, artistic and other importance; and
- Overall administration including survey, removal of encroachment, dangerous buildings, registration of births and deaths and pollution control of all kinds.

Further, the ULBs may at their discretion provide the services either wholly or partially out of its property and fund for the following services:

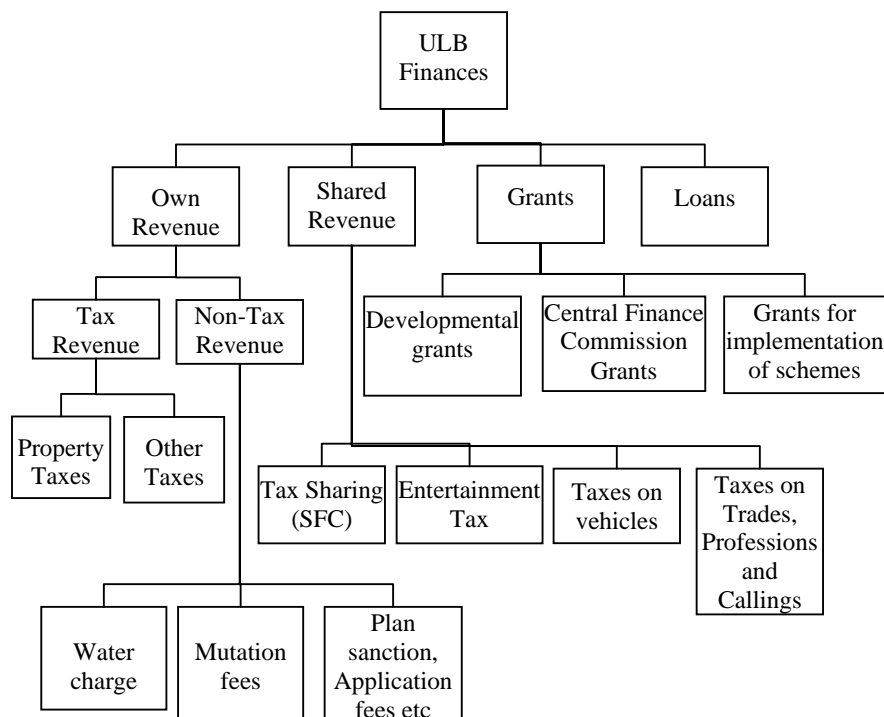
- Education;
- Sanitation;
- Relief in the time of famine, flood or earthquake;
- Old-age-homes, orphanage;
- Public works relating to relief, care of sick, medical service; and
- Low-cost dwelling houses for socially backward classes or citizens.

The State Government may impose or transfer any such functions and duties of the Government to the ULB including those performed by the departments. Such activities may include employment schemes and programmes, social forestry, health and family welfare, cottage and small-scale industries, formal and non-formal education etc.

1.4 **Financial Profile**

The ULB fund comprises receipts from its own source, grants and assistance from governments and loans obtained from any public financial institutions or nationalized banks or such other institutions as the State Government may approve. A flow chart of finances of a ULB is as under:

Sources of finances of ULBs



The property tax on land and building is the principal source of tax revenue of an ULB.

The main sources of non-tax revenue of an ULB are plan sanction fees, mutation fees and water charges.

All collections as permissible under the statute in force, such as tax and non-tax revenue, are ULB meant for maintenance of administration and services to the tax payers.

The State Government releases administrative grants to the urban local bodies to compensate their revenue expenditure.

The loans raised from different sources with prior approval of the State Government are utilised for execution of various projects/schemes.

Grants and assistance released by the State Government and the Central Government are utilised for developmental activities as specified in the respective schemes or projects.

1.5 Devolution of Functions, Functionaries and Funds to Urban Local Bodies

1.5.1 Article 243W of the Constitution stipulates that the Legislature of a State, may, by law, endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon municipalities including those in relation to the matters listed in the Twelfth Schedule. The Constitution further provides that the Finance Commission constituted under Article 243-I shall also review the financial position of the municipalities and make recommendation as to (i) the principles which should govern the distribution of State taxes (ii) the determination of taxes, duties, tolls and fees which may be assigned to the municipalities (iii) the grants-in-aid from the Consolidated Fund of the State and (iv) the measures needed to improve the financial position of the municipalities. The major elements of devolution are transfer of functions, functionaries and funds to ULBs, accompanied by administrative control over staff and freedom to take administrative and financial decisions at local level. The State Legislative Assembly enacted the West Bengal Municipal Act, 1993, the Kolkata Municipal Corporation Act, 1980 and five other Municipal Corporation Acts. The Acts, *interalia*, envisaged devolution of

functions to the ULBs together with the deployment of staff to carry out the functions devolved.

The devolution of functions, functionaries and funds to ULBs was examined in audit in 11 ULBs,² together with earlier Inspection Reports paras and Audit Reports (ULB),³ during the period December 2007 to February 2008. In addition, records of the Municipal Affairs Department also were test checked.

1.5.2 Functions: The functions contemplated in the Seventy-fourth Constitution Amendment Act other than those relating to fire services were transferred to ULBs in West Bengal.

The District Planning Committee (DPC) and Metropolitan Planning Committee (MPC) have a constitutional obligation to consolidate and coordinate plans for the respective local bodies. However, a number of government organizations⁴ for regional development were set up over the years and given responsibility for preparation of plans for their respective areas alongwith the provision of fund for implementation of the same. The State Finance Commission (SFC) observed (February 2002) that execution works or schemes by such bodies was contrary to the concept of decentralized participatory planning. Accordingly, the SFC recommended reconciliation of overlapping responsibilities for planning and allocation of fund between DPC and regional development boards in rural and urban areas. The State Government agreed (July 2005) to consider the issue in consultation with the concerned departments. However, the final outcome in this regard is awaited.

The Municipal Administrative Reform Committee also recommended that after constitution of MPC, the Kolkata Metropolitan Development Authority (KMDA) would have to emerge in a new role as coordinator, adviser and facilitator of micro-level planning to be undertaken by the municipalities. However, the new role envisaged in respect of KMDA is yet to evolve.

² Barrackpore, Ashokenagar-Kalyangarh, Gayespur, Tarakeswar, Contai, Bally, Dum Dum, Rajpur Sonarpur, Halisahar, Madhyamgram and Serampur.

³ For the period from 2004-05 to 2006-07.

⁴ Kolkata Improvement Trust, Kolkata Metropolitan Water & Sanitation Authority, Kolkata Metropolitan Development Authority, Asansol-Durgapur Development Authority and Siliguri-Jalpaiguri Development Authority etc.

✚ The functions relating to water supply, construction of roads, fly-overs and bridges, and regulation of land-use are listed in the Twelfth Schedule of the Constitution and devolved to the ULBs under the West Bengal municipal laws. However, urban development organizations and also the line departments continued to be engaged in similar kind of work.

✚ Promotion of cultural, educational and aesthetic aspects has been included under the Twelfth Schedule of the Constitution. The municipal laws of West Bengal devolved functions in the sphere of education of non-formal nature viz. pre-primary schools, adult education, social education etc. under the discretionary category. Further in terms of the notification issued by the Government of West Bengal in April 1992, all primary schools under the municipalities should be transferred to the District Primary School Council (DPSC) together with their lands, buildings and other properties. All teachers and other staff were deemed to be employed by DPSC with effect from 15 April 1992.

However, several of the ULBs continued to incur expenditure on primary education though it did not fall under the devolved functions. Test check in audit revealed that 25 municipalities incurred a total expenditure of Rs 22.40 crore towards salary of employees and maintenance of primary schools during the period ranging from one to 13 years as already mentioned under para 2.11, 2.10 and 2.11 of the Reports on ULBs for the year 2004-05, 2005-06 and 2006-07 respectively.

As maintenance of primary schools does not fall even under the discretionary powers/functions of a ULB, continuing their funding adversely impact the maintenance of other civic services.

1.5.3 Functionaries: Devolution of powers and functions to the ULBs requires availability of adequate number of qualified and trained personnel for efficient discharge of those functions. To enable the local bodies to act as institutions of local government, the State Government constituted (2001) Municipal Administrative Reforms Committee (MARC) so as to explore avenues for good urban governance. The Committee reviewed the areas including resource and financial management, support agencies and decentralized planning. The important recommendations on municipal management and staffing structure relating to functionaries were as under:

- ❖ Portfolio management in larger municipal bodies needs to be streamlined in a way comparable with the departmental system in State Government;
 - ❖ Section 61(1) of the West Bengal Act, 1993 characterizes the Chairman as “the executive head of municipal administration”, which seems to have unintendedly given a handle to somewhat irregular exercise of power at least by some, if not all, chairmen. Section 61(1) should therefore be suitably amended on the basis of Corporation Acts;
 - ❖ The specific functions and responsibilities of the Executive Officers and Finance Officer should be clearly stipulated in the Act itself. The daily routine of cheque signing should vest with the Executive Officer and Finance Officer of municipal bodies along with one Councillor so authorised by Board;
 - ❖ A Standing Advisory Committee is to be set up at the State level to review from time to time the norm regulating the size of municipal establishment and the staff pattern;
 - ❖ The State Government will determine size of establishment of municipality in the light of recommendations of the Standing Advisory Committee;
 - ❖ Staff pattern determined by the State Government should be communicated to the concerned municipalities and District Magistrates, State Finance Department and Municipal Affairs Departments;
 - ❖ Any proposal for new appointment should be supported by the observation of the Finance Officer from the financial resource point of view. The proposal then should be considered by the Chairman-in-Council collectively and their recommendation should be placed before the Board of Councillors for approval and
 - ❖ District Municipal Development Officers (DMDOs) should be posted at the District level and the inspectoral functions of Director of Local Bodies should also be vested with the DMDOs. The Directorate of Local Bodies should be recognised (by Government) and it should be entrusted with developmental functions as identified by the Committee.
- ✚ It was noticed that as an executive head of a ULB, all executive and financial power including signing of cheques have been vested with the Chairman

as per Section 61(1) of the West Bengal Municipal Act, 1993. MARC recommended amending the provision. It is still awaited.

✚ The powers and functions of Executive Officer and Finance Officer were notified in April 1995. The West Bengal Municipal (Duties and Responsibilities of the Executive Officer) Rules, 2003 were framed and notified in October 2003. However, the provisions under the Rules could not be made effective due to non amendment of Section 61(1) of the West Bengal Municipal Act, 1993 as recommended by the MARC.

✚ Functionaries of departments including the Municipal Engineering Department (MED) were not under administrative control of the concerned ULB, although MARC had recommended that the existing engineering staff of appropriate category should be posted directly in the respective municipal bodies and the field units of MED should be abolished.

✚ It was also noticed in audit that the municipalities did not prepare annual staff proposal based on actual work load and the procedure recommended by the MARC as mentioned above has not yet been adopted.

1.5.4 Funds: Devolution of funds to ULBs should be a natural corollary to implement the transferred functions. In order to enable the ULBs to carry out the transferred functions, the State Government is to constitute the State Finance Commission to review the financial position of the Municipalities and make recommendations to the Governor as to the principles which should govern:

- ❖ the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under Part IXA of the Constitution and allocation between the municipalities at all levels of their respective shares of such proceeds;
- ❖ the grants-in-aid to the Municipalities from the consolidated fund of the State;
- ❖ the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by the municipalities and
- ❖ the measures needed to improve the financial position of the municipalities.

The second State Finance Commission (SFC) constituted in July 2000 during review of financial resources of the municipalities, noted that the ULBs received substantial amount of grant from the State Government to meet their establishment cost. SFC observed that own revenues were not enough to generate

any surplus for meeting additional expenditure and essential maintenance work had been neglected in almost all the ULBs. No ULB was capable of taking up any new development activities on their own. In February 2002, the SFC submitted its Report which included the following important recommendations pertaining to the municipalities:

- ❖ Sixteen *per cent* of State taxes as entitlement fund for the local self governments (including panchayats) with the minimum of Rs 700 crore for devolution to the local self governments;
- ❖ Continuation of present arrangement of sharing of entertainment tax and
- ❖ The rates and fees levied should be revised and users and service charges should be levied.

The SFC recommended a minimum amount of Rs 700 crore per annum against 16 *per cent* of share of State taxes. Of this 16 *per cent*, 3.20 *per cent* has been recommended for ULBs. The State Government after a lapse of more than three years submitted (July 2005) the explanatory memorandum to the Action Taken on the recommendations and decided to allocate the “maximum amount possible” as against the recommendation of 16 *per cent* share of taxes without specifying any rate. The entitlement and the actual release for 2005-06 and 2006-07 were as follows:

(Rupees in crore)

Year	Tax revenue of the State	Entitlement	Release under SFC	Shortfall
2005-06	10388.38	332.42	71.58	260.84
2006-07	11694.77	374.23	60.75	313.48
Total	22083.15	706.65	132.33	574.32

As against the recommendation of 3.2 *per cent* grants to ULBs as share of tax revenue, the State Government released only 0.69 and 0.52 *per cent* of the State tax revenue in 2005-06 and 2006-07 respectively.

The SFC has not separately recommended any funds from the Consolidated Fund of the State as contemplated under Article 243(1) (a) (ii) of the Constitution. However, the State Government released funds for developmental activities and also for implementation of various Central schemes as shown below:

(Rupees in crore)

Year	State grants for developmental activities	Schemes		Total
		State share	Central share	
2005-06	19.01	172.34	26.85	218.20
2006-07	9.50	319.57	68.07	397.14
Total	28.51	491.91	94.92	615.34

During audit it was noticed that the major part of pay and allowances of the ULBs was borne by the State Government. The Government releases 65.5 per cent of salary, cent percent dearness allowance, 80 per cent of winter allowance and 20 per cent of ad-hoc bonus to all the 126 ULBs. The relief on pension is also reimbursed fully. In addition, fixed grant is released to the ULBs for general purpose both salary and non-salary. The details of grants released by the State Government during 2004-05 to 2006-07 were as under:

(Rupees in crore)

Year	Salary & allowances	Fixed grant	Relief on Pension	Total
2004-05	377.84	104.60	22.40	504.84
2005-06	384.73	102.40	30.96	518.09
2006-07	409.66	119.34	21.09	550.09
Total	1172.23	326.34	74.45	1573.02

In addition to the above grants, the State Government also shares certain taxes with the ULBs. The release of share of various taxes was as below:

(Rupees in crore)

Year	Entertainment tax	Trade Tax	Taxes on vehicles	Total
2004-05	40.51	9.39	0.00	49.90
2005-06	40.20	6.57	21.95	68.72
2006-07	45.30	10.09	6.30	61.69
Total	126.01	26.05	28.25	180.31

Scrutiny further revealed that the Municipal Affairs Department allotted a total sum of Rs 10.38 crore⁵ during 2004-05 to 2006-07 for disbursement of pay

⁵ Rs 3.03 crore in 2004-05, Rs 3.60 crore in 2005-06 and Rs 3.75 crore in 2006-07.

and allowances of the Executive Officers, Finance Officers and Health Officers appointed in various ULB. The amount spent for the ULBs was debited to head “80 – General – 00 - Direction and Administration – Non Plan - Municipal Administration” instead of being classified as “Assistance to ULBs”.

1.6 Twelfth Finance Commission Grants

The Twelfth Finance Commission (TFC) has earmarked Rs.393.00 crore for the ULBs of West Bengal for the period 2005-2010 with the recommendation to provide at least 50 *per cent* of the grants-in-aid for Solid Waste Management (SWM). The State Government may assess the requirement of funding support for data building and maintenance of accounts for each local body and earmark funds accordingly out of the total allocation. According to the recommendation, it is mandatory for the State Government to transfer the grants released by the Government of India to the ULBs within fifteen days of the amount being credited to the State Accounts.

As against the total approved outlay of Rs 235.80 crore for the years from 2005-06 to 2007-08, Government of India released Rs 196.50 crore to the State Government in five instalments of Rs 39.30 crore each. The State Government released the first instalment amounting to Rs 39.30 crore to ULBs after a delay of more than one month and also paid (May 2006) an interest of Rs 23.06 lakh to the ULBs for the delay in release of grants. The receipt and utilisation of TFC grants for 2005-08 are shown below:

(Rupees in crore)

Year	Approved allocation	Receipt from Govt. of India	Released to ULBs	Expenditure
2005-06	78.60	39.30	39.30	20.04
2006-07	78.60	78.60	78.83*	42.49
2007-08	78.60	78.60	78.60	N A
Total	235.80	196.50	196.73	62.53

* Includes an interest of Rs 23.06 lakh for delay in release of grants to ULBs. However, no further delay was noticed in subsequent releases.

Test check of accounts of funds of received by nine municipalities from TFC grants revealed that during 2005-08, these municipalities had received a total of Rs 8.42 crore comprising Rs 3.77 crore for Solid Waste Management and

Rs 4.64 crore for non-Solid Waste Management (NSWM) works. The expenditure incurred on solid waste management and on development works as of December 2007 out of total available fund of Rs 8.42 crore is shown below:

(Rupees in lakh)

Name of the ULB	Year	Receipt			Expenditure		
		SWM	NSWM	Total	SWM	NSWM	Total
Halisahar	2005-08	42.53	54.21	96.74	30.86	53.74	84.6
Contai	2005-08	19.34	31.77	51.11	15.56	23.85	39.41
Rajpur Sonarpur	2005-08	90.90	90.90	181.8	3.98	83.42	87.4
Dum Dum	2005-08	28.53	36.90	65.43	32.58	41.06	73.64
Barrackpore	2005-08	46.71	61.22	107.93	27.98	44.65	72.63
Serampur	2005-08	53.84	75.90	129.74	36.84	78.19	115.03
Ashokenagar-Kalyangarh	2005-08	40.43	50.27	90.7	12.18	39.42	51.6
Gayespur	2005-08	30.50	44.29	74.79	21.76	35.51	57.27
Tarakeswar	2005-08	24.10	19.30	43.4	15.94	14.76	30.7
Total		376.88	464.76	841.64	197.68	414.60	612.28

It may be seen from the above table that there was short release Rs 0.44 crore for Solid Waste Management in respect of these nine ULBs. Furthermore, the ULBs could only spend 52 per cent of available fund of Rs 1.98 crore of the total grants of Rs 3.77 crore that was released for Solid Waste Management.

1.7 Accounting Reforms / Arrangements

In view of the recommendation of Eleventh Finance Commission, Ministry of Finance, Government of India entrusted the responsibility for prescribing appropriate accounting formats for the Urban Local Bodies to the Comptroller and Auditor General of India.

Accrual based system of accounting recommended by the Comptroller and Auditor General of India was accepted by the West Bengal Government. A Steering Committee was formed (January 2004) to coordinate the implementation of the accrual based system of accounting. In the first phase, forty ULBs in the Kolkata Metropolitan area were selected for implementation of accrual based accounting system.

To bring about the change in the accounting system, the Accounting Manual for ULBs, West Bengal (excluding municipal corporations) was prepared in February 2006 based on the National Municipal Accounts Manual. Accordingly, the West Bengal Municipal Act, 1993 was amended with effect from 1 October 2006 and the West Bengal Municipal (Finance and Accounting) Rules, 1999 was amended with effect from 1 January 2007 for implementation from the financial year 2006-07 for the ULBs in Kolkata Metropolitan Area and from 2007-08 for other municipalities.

As of March 2007, Balance Sheets as on 1 April 2004 has been completed for the above forty ULBs.

1.8 Audit Arrangement

The recommendations of the Eleventh Finance Commission stipulate that the Comptroller and Auditor General shall be responsible for exercising control and supervision over proper maintenance of the accounts of ULBs and their audit.

The West Bengal Municipal Act, 1993 and the Acts governing other Municipal Corporations envisage that the accounts of a body shall be examined and audited by an auditor appointed by the State Government. Accordingly, the State Government in exercise of the power conferred by the Acts, appointed the Examiner of Local Accounts (ELA), West Bengal as the Auditor for audit of the accounts of the Urban Local Bodies. The Acts further envisage that the Auditor shall prepare the report on the accounts examined and shall send such report to the Chairman/ Mayor and a copy thereof to the Director of Local Bodies or such other officers as the State Government may direct.

1.9 Audit Coverage

Out of 126 ULBs, audit of accounts of 76 ULBs (**Appendix 1**) covering the financial year upto 2005-06 and 2006-07 was conducted during May 2006 to June 2007.

1.10 Response to Audit Observations

The Chairman/ Mayor are required to comply with the observations contained in the Inspection Reports (IRs) and rectify the defects and omissions and report their compliance to ELA within three months from the date of issue of IRs.

The details of IRs and the paragraphs outstanding as of December 2007 are given below:

Year of issue	No. of Inspection Reports	No. of outstanding paras	Money Value (Rupees in crore)
Upto 2001	28	57	49.08
2001-02	22	58	20.44
2002-03	53	179	89.90
2003-04	116	326	147.63
2004-05	26	111	42.89
2005-06	54	407	293.70
2006-07	94	1349	785.08
Total	393	2487	1428.72

A review of the IRs, which were pending due to non-receipt of replies, revealed that the Heads of the offices, whose records were inspected by ELA, did not send any reply to a large number of IRs/ paragraphs. The Principal Secretaries/ Secretaries of the Departments, who were informed of the position through half yearly reports, also failed to ensure that the concerned officers of the ULBs take prompt and timely action. Although a Departmental Audit Committee was formed, it met only thrice in the year 2006-07. Important findings of audit are described in the succeeding chapters.