

Chapter- 1

Introduction

1.1 The enactment of the 73rd and the 74th Constitutional Amendment Acts marked a new era in the federal democratic set up of the country in so far as it conferred constitutional status to the panchayats and municipalities and recognized them as the Third tier of government. The main features of the amendments are the following:

- Establishment of a three tier structure for panchayats and municipalities.
- Regular elections to panchayats and municipalities at the expiration of every five years.
- Reservation of seats and offices of Chairpersons to SC and ST in proportion to their population.
- Reservation of seats and offices of Chairpersons for women.
- Constitution of State Election Commission.
- Constitution of State Finance Commission at the expiration of every five years to recommend measures to improve the finances of panchayats and municipalities.

1.2 Since the passage of the amendments almost all the States have enacted the necessary legislation pertaining to panchayats and municipalities. Accordingly in Assam, three tier panchayats at village level, intermediate co-terminus with Sub Divisional level and district level have been constituted. Similarly for urban areas a municipal corporation for Guwahati, municipal boards for comparatively larger urban areas and town committees for transitional and relatively smaller urban areas have been functioning. The amendments provide for devolution of powers and responsibilities with respect to preparation of plans and programmes for economic development and social justice and its implementation relating to 29 and 18 subjects listed in Schedules XI and XII respectively for panchayats and municipalities. It also provides for the sources of revenue to be allocated to them. Given the above statutory power and authority, the panchayats and municipalities in Assam are yet to emerge as instrument of self-governance. In order to make a complete turn around, the vision enshrined in the Constitution need be translated into action through appropriate empowerment of the PRIs and ULBs consistent with the spirit of amendments.

(a) Constitution of the SFC

1.3 After the enactment of the 73rd and 74th Constitutional Amendment Acts, the Governor of Assam in pursuance of the provision of Articles 243 I and 243 Y of the Constitution of India, read with Section 2(1) of the Assam Finance Commission (Miscellaneous Provision) Act, 1995 had constituted three SFCs which had submitted their reports and the fiscal 2010-11 is the terminal year covered by the award of the Third SFC.

- 1.4 Pursuant to the aforesaid provisions, the present Commission which is the fourth generation SFC of Assam has been constituted by the Governor of Assam under Notification No FEA (SFC) 110/2009/114 dated April 23, 2010 headed by Shri P.K. Bora, IAS (Retd), Ex-Chief Secretary, Assam as the Chairman. The other members of the Commission are the following:

1. Principal Secretary, Panchayat & Rural Development	Member
2. Principal Secretary, Urban Development Department	"
3. Commissioner & Secretary, Guwahati Development Department	"
4. Shri R.S. Prasad, IAS, Commissioner & Secretary, Finance Department	Member Secretary

- 1.5 Soon after constitution of the Commission, Shri M.S. Manivannan, IAS, Joint Secretary, Finance Department was appointed as Secretary of the Commission in addition to his duties as Joint Secretary, Finance Department. Apart from his substantive posting as Joint Secretary Shri Manivannan was also posted as Managing Director of Assam Financial Corporation. On transfer of Shri Manivannan elsewhere, Shri A. Agnihotri, Secretary Finance was appointed as Secretary of the Commission from 25th April, 2011. However, Shri Agnihotri was withdrawn on June 18, 2011 without placing a substitute. Meanwhile, Shri R.S. Prasad, Member-Secretary of the Commission was transferred and posted elsewhere. In his place Shri S.P. Nandy, Secretary Finance was appointed as Member Secretary of the Commission with effect from June 13, 2011 vide Annexure- 1.1.
- 1.6 It is evident from the composition of the Commission that apart from the Chairman, all members including the Member-Secretary and the Secretary are serving State Government officials saddled with other responsibilities relating to their respective departments. The Commission was therefore deprived of the benefit of the full time services of these officials on a continued basis for the time bound task.
- 1.7 Though the Commission was constituted on 23rd April, 2010, a good deal of time was lost in finding a suitable office accommodation for the Chairman. Eventually the Chairman was able to assume office on 11th June, 2010. There being no permanent SFC Cell under State Finance Department, a small wing under Finance (Economic Affairs) Department was entrusted to provide Secretarial assistance to the Commission. Other staff required to assist the Commission were gradually put in place by the respective nodal departments.

(b) Terms of Reference

- 1.8 The substantive part of the terms of reference (ToR) is reproduced below:
The Commission shall make recommendations as to the following:
- a) The principles which should govern

- i. the distribution between the State of Assam and the Panchayats/Municipalities of the net proceeds of taxes and duties, levied and collected by the State,
 - ii. the determination of the taxes, duties, tolls and fees, which may be assigned to, or appropriated by, the Panchayats/Municipalities;
 - iii. the grants-in-aid to the Panchayats/Municipalities from the Consolidated Fund of the State.
 - b) The measures needed to improve the financial position of the Panchayats/Municipalities with special emphasis on rationalization of property tax, collection of user charges and innovative realization methods.
 - c) Examine the feasibility and make recommendations on raising of resources by the Urban Local Bodies (ULBs) through issuance of bonds .
 - d) Examine the feasibility and make recommendations on creation of urban infrastructure and other civic amenities by the ULBs, through public-private partnership (PPP) and exploring avenues of viability gap funding.
 - e) Any other matter referred to the SFC by the Governor in the interests of sound financial position of the panchayats/municipalities .
- 1.9 The other salient features of the ToR is that the Commission is asked to make an assessment of (a) the actual debt position of each of the local bodies as on 31.03.2010 and (b) the estimated debt position of each local body as on 31.03.2011 and suggest suitable measures relating to the debts as are deemed necessary, keeping in view the financial requirements of the State Government also.
- 1.10 In making its recommendations on the various matters aforesaid, the Commission shall adopt the population figures of latest available Census in all cases where population is regarded as a factor for determination of devolution of taxes and duties and grants-in-aid.
- 1.11 The original notification constituting the Commission was amended later by a second notification No FEA (SFC) 110/2009/119 dated May 14 , 2010 giving additional ToR to the Commission. As per the additional ToR, the Commission is required to make recommendations regarding an appropriate staffing pattern and corresponding revised scales of pay and allowances for the employees of PRIs and ULBs. The Commission is asked to obtain from the concerned departments the reports of the Study Groups relating to staffing pattern appointed by the nodal departments of Panchayat & Rural Development, Urban Development and Gauhati Development. Further, the Commission is also required to make recommendations in respect of provincialization of the services of the employees of panchayats and municipalities in the context of 73rd and 74th Constitutional Amendments.
- 1.12 A copy of the notification constituting the Fourth Assam State Finance Commission with the full text of its ToR is appended at Annexure- 1.2. A copy of the notification inserting additional ToR is at Annexure- 1.3.
- 1.13 The Commission is required to make its final report covering the period of five years from 1st April, 2011 to 31st March, 2016, available to the Governor of Assam by 31st

December, 2010. The Commission took up the work in right earnestness. Questionnaires were sent out to the PRIs and ULBs and the departments concerned. Commission visited districts to have field level interaction at the level of PRIs/ULBs and also held number of meetings/consultations with officials and others. The flow back of information and data to the Commission was however meagre and the Commission had no other alternative but to request Government to extend the time upto 31.03.2011 for a preliminary report and upto 31.12.2011 for the final report. In response, government extended the tenure of the Commission upto 31.10.2011 and that for the preliminary report upto 31.03.2011 vide Annexure- 1.4. Accordingly, the preliminary report covering the period 2011-12 was submitted on 25.03.2011 vide Appendix- I. However, the difficulty in obtaining valuable data persisted and it became apparent that a qualitative assessment cannot be made ignoring vital gaps in information. Besides, apart from Panchayat & Rural Development Departments the reports of the Study Groups on staffing pattern and scale of pay were not made available to the Commission by the other two departments. As such the Commission had again to request Government to extend the time upto 29.02.2012 which was agreed by the government vide Annexure- 1.5.

- 1.14 The Commission will have further sittings to finalise the staffing pattern and pay scales of PRIs/ULBs including GMC. The recommendations will be submitted in a separate report by 29.02.2012 to cover the items in the additional ToR.

(c) Design of the Report

- 1.15 By and large, the report is designed as per the template suggested by the Thirteenth Finance Commission. It contains 13 chapters altogether. Chapter- 1 is introductory, Chapter- 2 deals with approach and issues, Chapter- 3 status of implementation of previous SFC recommendations, Chapter- 4 review of State finances, Chapter- 5 review of decentralization governance, Chapter- 6 assessment of physical services provided by local bodies, Chapter- 7 assessment of finances of PRIs, Chapter- 8 assessment of finances of ULBs, Chapter – 9 recording of best practices, Chapter- 10 assessment of gap and scheme of devolution, Chapter - 11 general observations and concluding remarks, Chapter- 12 monitoring and evaluation and Chapter- 13 summary of recommendations.
- 1.16 Each chapter contains separate table and annexures and the numbering of tables and annexures is done chapter-wise. Small data and calculations are shown in a tabular form in the body of the chapter whereas, detailed calculation, lengthy data, copies of notifications, circulars etc are given at annexures which are appended to the main report.

(d) Data and Information Collected

- 1.17 The initial difficulty faced by the Commission after assumption of office was the absence of a permanent set up in State Finance Department which could update the database and review the follow up actions on the recommendations of previous SFC and CFC. As a result, in the interregnum between demitting office by the Third and

assumption of office by the Fourth SFC, there has been no agency solely responsible for collection, compilation and analysis of data and for reviewing the Action Taken Report (ATR). In view of this formidable lacuna, this Commission after assuming office had to pick up the thread virtually from where it was left by the Third SFC.

- 1.18 In this backdrop, the major constraint faced by this Commission in fulfilling its objective of balancing the receipt and expenditure on revenue account of local bodies in general and of each local body severally, has been the lack of authentic and updated data. This apart, the problems of infrastructural shortcomings like office space and supporting staff have also affected the initial operation of the Commission. Eventually the Commission could initiate its preliminary works in the middle of June only though the Commission was constituted in late April. In the performance of its functions the Commission adopted procedures that are found suitable at the relevant points of time.
- 1.19 At the first stage, the Commission gave wide publicity as to its formation and ToR through print media published in some English and local language newspapers. The public notice was issued asking for views, opinions and suggestions from the members of the public including MLAs, MPs, representatives of recognized political parties, elected representatives of local bodies, economists and other eminent personalities.
- 1.20 In the wake of non-availability of authentic data, a set of general questionnaires covering the whole gamut of physical and fiscal administration of PRIs and ULBs were formulated. This questionnaire was circulated to all concerned upto the grass root level with a request to send back the filled in questionnaire in a time bound manner. Adequate care has been taken through official correspondence and personal interaction with the functionaries of PRIs and ULBs to explain to them the modalities of filling up the questionnaire. Any query raised or clarification sought was instantly resolved across the table.
- 1.21 Apart from the general questionnaire, specific questionnaire relating to creation of physical infrastructure, maintenance and upkeep of existing infrastructure like roads and buildings falling within the jurisdiction of local bodies, capacity building of local body functionaries through training and maintenance of accounts and audit, have been formulated and sent to appropriate stakeholders for their response.
- 1.22 The questionnaire method of gathering information is, no doubt, very effective nonetheless it is time consuming as it requires frequent interaction with large number of grass root level entities spread all over the State. The Commission therefore, asked the nodal departments of Panchayats and Rural Development, Urban Development and Guwahati Development for three status reports on present state of finances of PRIs, ULBs and GMC respectively. Among other things, the status papers were intended to record the present state of activity mapping of PRIs and ULBs, progress of functional devolution linked to transfer of fund and functionaries, level and quality of services provided by them, service deficits with additional investment required to make good such deficits and the present state of finances

indicating the current level of their income from own sources and expenditure as per latest available actual.

(e) Major Activities

- 1.23 After assumption of office by the Chairman on 11.06.2010, the first meeting of the Commission was held on 16.06.2010 to deliberate on various issues relating to its course of action particularly about the manner of gathering data and information from the field level.
- 1.24 The second meeting of the Commission was held on 21.08.2010 to take stock of issues deliberated in the first meeting and to review the progress of activities.
- 1.25 The third meeting held on 30.09.2010 was preceded by a session with economists and representatives of NGOs. Their views, opinions and suggestions were of immense help to the Commission in formulating its findings.
- 1.26 The ninth meeting was held on 24.01.2011 to finalise the draft of the final report of the Commission covering the four year period 2012-13 to 2015-16.
- 1.27 Apart from the general meetings of the Commission, an in-house meeting was held with Director of Audit (LF) to discuss issues relating to transparency and accountability in financial transactions by the PRIs and ULBs. In order to assess the training need of PRI and ULB functionaries and other stakeholders an in-house meeting was held which was attended among others, by the DAG (Audit), Director SIRD/NIRD/Audit (LF)/NIC.

(f) Field Visit

- 1.28 The first phase of field visit of the Commission started from 16.09.2010 and by 24.09.2010 five districts of Upper Assam was completed. In the second phase the Commission visited three districts of lower Assam viz, Dhubri, Goalpara and Bongaigaon from 5th to 8th October, 2010. In the third phase another five districts was covered between 29.05.2011 to 25.06.2011. Nagaon district was covered on 18.11.2011. Thereafter, three districts of Barak Valley was covered from 28.11.2011 to 01.12.2011. In the final round Kamrup and Morigaon districts was covered on 09.01.2012 and 11.01.2012 respectively. In course of the field visits inter-active sessions were held with the elected representatives and official functionaries of PRIs and ULBs. The field officers of PWD, PHE, Local Audit, DRDA, District NIC, DDOs of ULBs, Deputy Director of Town & Country Planning and respective Treasury Officers also participated in the inter-active sessions. The field visit concluded with a meeting of the representatives of GMC with Chairman held on 09.01.2012. The general meeting of the Commission and its field visit date-wise is listed at Annexure- 1.6.

(g) Acknowledgements

1.29 The Commission would like to place on record its appreciation of the hard work put in by the officers and staff of SFC Cell headed by Shri Jiban Choudhury, Director, Finance (Economic Affairs) but for whose unstinted support and co-operation it would not have been possible for the Commission to prepare this report. The Commission would also like to put on record its deep appreciation of the services of Shri Sujit Dutta, Consultant of FASFC who with remarkable commitment and conscientious application drafted the report almost unaided. The Commission appreciates the hard work done by Shri Matilal Sarkar, Senior Research Officer in collecting mass of data from the grass root level and also for preparing the Technical Supplement for interse distribution of recommended devolution among the PRIs and ULBs. The Commission is also thankful to all the distinguished persons and NGOs who attended the meeting of the Commission and interacted on various issues. The Commission is also thankful to the officers of Principal Accountant General (Audit), SIRD/NIRD/NIC and Director of Audit (Local Fund) for attending meeting of the Commission and interacting on important issues. Further, the Commission is extremely thankful to all other officers of nodal and line departments who contributed significantly to our work. And finally the Commission would like to record its appreciation of the work done by the officials named in Annexure- 1.7 for their assistance in the functioning of the FASFC.