

Chapter - IV

URBAN LOCAL BODIES

74th Amendment to the Constitution:

4.1 The Constitution (Seventy Fourth Amendment) Act, 1992, has made it mandatory for the state governments to constitute Municipalities. A new part, Part IX A, has been enshrined in the Constitution after Part IX of the Constitution. It deals with matters like definition, constitution of Municipalities and ward committees, reservation, disqualifications, powers and responsibilities, powers to impose taxes, all relating to the urban local bodies. Article 243 Y stipulates that the Finance Commission constituted under Article 243 I shall review the financial position of the Municipalities and make recommendations regarding distribution of resources between the State and the Municipalities, determination of taxes, duties etc. grants-in-aid to Municipalities, among other matters.

Historical background:

4.2 A peep into the history of the development of municipal government in Assam shows that prior to the introduction of statutory municipal boards there were voluntary associations in several places in Assam. Such associations were functioning in Punjab, Madras and Bengal from where it was extended to Assam. It is on record that in the year 1836, Captain Matthie, the then Collector of Kamrup, had stated that the proceeds from the town tax, which was also extended to all Europeans, should be utilized for municipal purposes. The pathetic sanitary conditions of Gauhati led to the formation of the Town Improvement Committee in 1839 with the Civil Surgeon and the Magistrate as the Members of the Committee.

4.3 However, the first attempt to form statutory Municipal Bodies in the province was made with the introduction of Act 26 of 1850 with amendments of the provisions of Act X of 1842. The Act of 1850 governed the composition, powers and functions of the Municipal Bodies. In 1853, only Gauhati Municipal Board was constituted. The Act of 1850 was followed by the District Municipal Improvement Act 1864 and the District Town Act 1868. Subsequently, the Bengal Municipal Act, 1876, was enforced in Assam in May 1878. Under this Act, the urban areas of Assam were classified as first and second class municipalities, stations and unions. Gauhati was the only first class municipality. It was in 1923 that Assam had its own Municipal Act. This Act was subsequently replaced by the Assam Municipal Act, 1956. The Seventy Fourth Constitution Amendment Act, 1992, has caused the amendment of the 1956 Act, introducing, inter alia, the provision for sharing of resources between the State Government and the Municipalities on the basis of the recommendation of the State Finance Commission.

A. Urban Local Bodies (other than GMC):

Profile of Urban Local Bodies (ULBs):

4.4 The percentage of urban population in Assam as per 2001 census is 12.72%, the all India figure being 27.78%. In the 1991 Census, the rate of urbanization in Assam was 11.1% against the all India figure of 26.13%. However, the decadal growth rate of urbanization in Assam during the decade 1991-2001 was 36.24%, the all India rate being 31.13%.

4.5 The analysis of the growth of urban population in Assam for the period 1981- 2001 for all classes of towns in Assam shows that class-I towns, i.e., towns having a population of 1,00,000 and above, have registered a growth rate of 60.31%. During the period 1991-2001, Guwahati experienced the highest population growth rate of 38.28%. Silchar (23.30%), Jorhat (20.58%), Tinsukia (19.69%), Nagaon (15.13%) and Dibrugarh (9.72%) are among some of the other towns showing a significant growth rate of urbanization.

4.6 The total area covered by the urban local bodies is 685.07 square kilometres which is 0.87% of the total geographical area of the State (78,438 square kilometres). The classification and the number of urban local bodies in the State are shown below:

Municipal Corporation	...	1	(Guwahati)
Municipal Boards	...	28	
Town Committees	...	44	(excluding 2 in the two autonomous Hill districts)

4.7 The population of urban local bodies in Assam as per 2001 Census is shown in **Annexure IV-1**. The Guwahati Municipal Corporation (GMC) has the highest population, the number being 8,08,021. Silchar with 1,42,393, Dibrugarh with 1,22,523 and Nagaon with 1,07,471 are the other populous municipal bodies.

4.8 All health care facilities of urban local bodies are being run by the State Health Department. As a social welfare measure, GMC is also running 6 schools in different areas of the City. No ULB has any solid waste management facility.

4.9 With a view to operationalising the Directive Principles of State Policy, the 74th Constitution Amendment Act accords a Constitutional status to urban local bodies and transfers 18 subjects to the ULBs. The present status of the subjects to be transferred to the ULBs in the light of the 74th Amendment is shown in the following table:

Subject	Present status
1. Urban planning including town planning	Not transferred; with Urban Development Department
2. Regulation of land use and construction of buildings	Regulatory powers with the Revenue Department; permission for building construction given by ULBs
3. Planning of economic and social development	Not transferred
4. Roads & bridges	Main roads and major bridges under State PWD
5. Water supply for domestic, industrial and commercial purpose	8 schemes transferred
6. Public health, sanitation, conservancy & solid waste management	Public health with the State Government; sanitation, conservancy and solid waste management with Municipalities.
7. Fire service	Not transferred
8. Urban forestry, protection of environment and promotion of ecological aspects	Not transferred
9. Safeguarding the interest of weaker sections of the society, including the handicapped and mentally retarded	Not transferred
10. Slum improvement and upgradation	National Slum Development Programme implemented by the ULBs
11. Urban poverty alleviation programme	ULBs implementing under the guidance and supervision of District Urban Development Agencies headed by the Deputy Commissioner
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds, community halls/ centres	Some ULBs maintaining parks, gardens and playgrounds.
13. Promotion of cultural, educational and aesthetic aspects	Not transferred
14. Burials and burial grounds, cremation grounds and electronic crematoriums	Maintained by ULBs
15. Cattle pounds, prevention of cruelty on animals	Maintained by ULBs, leased out to private parties
16. Vital statistics including registration of births and deaths	With the Health & Family Welfare Department
17. Public amenities including street lighting, parking lots, bus stops and public conveniences	Maintained by ULBs
18. Regulation of slaughter houses and tanneries	Maintained by ULBs

4.10 An official notification regarding the transfer of subjects under Schedule 12 of the Constitution is to be issued by the Urban Development Department to complete the formal procedure of such a transfer.

4.11 The latest position regarding the transfer of water supply schemes to ULBs as confirmed by the PHE department can be seen from the following data :

Towns where water supply was provided by P.H.E.D. under rural water supply category before declaration as town	Towns with water supply arrangements where loan was sanctioned by Urban Development Department and work executed by P.H.E.D. as deposit work
<ol style="list-style-type: none"> 1. Bilasipara 2. Chapar 3. Sapatgram 4. Gossaigaon 5. Udalguri 6. Gohpur 7. Dhemaji 8. Silapathar 9. Doboka 10. Bokakhat 11. Sarupathar 12. Barpathar 13. Nazira 14. Sonari 15. Lala 	<ol style="list-style-type: none"> 1. Nagaon 2. Lakhimpur 3. Hailakandi 4. Badarpur 5. Karimganj 6. Silchar 7. North Guwahati 8. Barpeta 9. Hojai 10. Abhayapuri 11. Morigaon
<p>Schemes already handed over to Municipal Boards and Town Committees</p> <ol style="list-style-type: none"> 1. Amguri 2. Sivasagar 3. Mangaldoi 4. Tangla 5. Dhekiajuli 6. Rangapara 7. North Lakhimpur 8. Nalbari 	<p>Schemes maintained by Urban Water Supply and Sewerage Board</p> <ol style="list-style-type: none"> 1. Guwahati (Zoo Road) 2. Jorhat 3. Barpeta Road 4. Goalpara

Total : 15 + 11 + 8 + 4 = 38

Municipal Finances :

4.12 A mismatch is noticeable between the total revenue receipts and total revenue expenditures of ULBs in the State, with revenue expenditure exceeding revenue receipts. Although the total revenue expenditure has increased rapidly in recent years, most of the increase is accounted for by a rise in expenditure related to salaries and terminal benefits. The expenditures in core services appear to be not only highly inadequate, but have also shown limited growth. In the absence of reliable and up-to-date data, so local body-wise estimates of receipts and expenditure could be made.

4.13 The revenue receipts of ULBs consist primarily of own tax and non-tax revenues, transfers from the State Government, Union Finance Commission awards and funds released under Centrally Sponsored Schemes

and State Plan. Apart from these revenue receipts of ULBs, there are also capital receipts in the form of loans from financial institutions like HUDCO and LIC. Items of revenue expenditure consist of salaries to staff, retirement benefits, operation and maintenance (O & M), establishment expenses and so on. Capital expenditure is also incurred for the purpose of creation of assets and facilities for delivery of services.

4.14As reported by the Urban Development Department, while total revenue receipts of ULBs (other than GMC) during the period 1999-2000 to 2001-02 were Rs.1827.32 lakhs in 1999-2000, Rs.2527.74 lakhs in 2000-01 and Rs.2654.00 lakhs in 2001-02, the total revenue expenditure was Rs.2137.45 lakhs in 1999-2000, Rs.2840.22 lakhs in 2000-01 and Rs.2984.36 lakhs in 2001-02.

4.15The expenditure pattern of ULBs shows that the bulk of expenditure is on payment of salaries to staff. Following the revision of pay scales, the expenditure has gone up considerably and the burden on account of arrear dues is being carried by ULBs. The expenditure on social services (education, health, among others) has been remarkably low. On O & M, revenue expenditure rose from Rs.38.99 lakhs in 1999-2000 to Rs.51.62 lakhs in 2001-02. Given the fact that the expenditures on O and M in the past have been meager in comparison to the requirements, the outlay on O and M must be increased substantially in order to arrest the deterioration in the condition of assets of Municipal bodies and to improve their service delivery systems. The statement showing revenue receipt of municipalities and revenue expenditure of municipalities, excluding GMC, is placed at Annexure IV-2 and 2(A).

4.16 A National Institute of Public Finance and Policy (NIPFP) study in the year 2000 shows that the expenditure on operations and maintenance (O&M) accounted for only 1/5th of the total expenditure of Municipal services in 19 states including Assam. Assam's position in respect of expenditure on core services, viz. water supply, sewerage and drainage, conservancy and sanitation, municipal roads and street lighting is as shown below:

Per capita revenue expenditure on core services

1997-1998

(in Rs.)

Water supply	Sewerage & drainage	Conservancy & sanitation	Municipal road	Street lighting	All functions
2.98 [230.00 Maharashtra 0.01 Tripura]	7.46 [165.07 Rajasthan 5.41 U.P.]	12.60 [251.76 Himachal Assam lowest]	24.17 [304.90 Himachal 2.13 Tripura]	2.49 [43.08 Maharashtra 1.29 Bihar]	81.77 [1750.50 Maharashtra Assam lowest]

It may, however, be noted that the NIPFP data is only indicative of the status of civic amenities provided by ULBs in Assam. While it is not clear whether

the expenditure shown is inclusive of the expenditure incurred by the State Government as well, it is abundantly clear that Assam's expenditure on core services is the lowest in the country which has had obvious fallout on the standard of core services expected to be delivered by ULBs.

Sources of Own Revenue:

4.17 Sections 68, 74, 89 and 148 of the Assam Municipal Act, 1956, confer the power to the Municipal Boards and Town Committees to mobilize tax and non-tax revenues. The Assam Urban Immovable Property Tax Act, 1969, also empowers the ULBs to impose urban immovable property tax at the rate of 3% of the annual value of land and buildings. The grand total of both tax and non-tax revenue is estimated at Rs.1187.94 lakhs in 1999-2000, Rs. 1357.94 lakhs in 2000-01 and Rs.1425.77 lakhs in 2001-02.

4.18 As per Sections 68, 74, 89 and 148 of the Assam Municipal Act, 1956, as amended, the Municipal Corporation has the power to levy within its limits the following taxes, fees and tolls: (1) property tax (2) water tax (3) scavenging tax (4) lighting tax (5) tax on draught animals, vessels and vehicles other than those mechanically propelled (6) tax on theatres (7) advertisement tax (8) surcharge on duty imposed by the Indian Stamp Act, 1899 (9) tax on professions, trades and callings (10) betterment tax on properties (11) tax on dogs (12) tolls on vehicles and animals entering the city (13) tax on markets (14) drainage tax (15) tax on pilgrimage (16) toll on bridges constructed by the Corporation (17) surcharge on any tax other than taxation on professions, trades and callings (18) tax on passengers and goods carried by road or inland waterways, (19) Octroi and (20) any other tax with the prior approval of the State Government.

4.19 Similarly, the Municipalities and Town Committees are vested with the power to impose taxes, fees and tolls on the following : (1) tax on holdings (2) water tax (3) lighting tax (4) latrine tax (5) drainage tax (6) tax on private markets (7) licence fee on carts, carriages and animals (8) fee on the registration of dogs and cattle (9) fees on boats (10) tolls on bridges (11) betterment fee (12) fees for setting up and maintenance of fire brigade and (13) fees for improvement of public health. With the sanction of the State Government, the Municipalities may impose any other taxes, tolls, rates or fees. As per Section 68 of the AM Act, 1956, ULBs do not have to seek the prior approval of the State Government in matters relating to the fixation of rates and determination of bases in respect of taxes and fees mentioned in Section 68(1)(A)-(m).

4.20 The basis of local taxation in the form of holding tax, water tax, lighting tax and latrine tax imposed by the ULBs on land and buildings within the limits of Municipalities under Sections 68 and 79 of the Assam Municipal Act, 1956, is the annual value of the holding. A holding means a well demarcated plot of land held under one title or agreement. The annual value of a holding is the gross annual rent expected from letting out the holding. The rates of these local taxes are fixed as a certain percentage of the annual value.

4.21 The assessment of local taxes is done on a quinquennial basis. An assessor is appointed by the Municipal Board/ Town Committee under section 86 of the A.M. Act, 1956, with the approval of the Government for assessment/ reassessment of the annual value of holdings and local taxes. On being required by the assessor, the owners submit returns of rent on annual value of the holdings with description of holdings within fifteen days. As per the Assam Urban Rent Control Act, 1972, the “standard rent” in relation to any house is derived from the rental value calculated on the basis of annual payment of an amount equal to seven and half percent of the aggregate amount of the estimated cost of construction and the market price of the land together with the local Municipal taxes; the monthly rent being one twelfth of the annual amount. In case the house is used as residence by the owner, the annual rateable value will be reduced by 25% of the annual value fixed on letting out basis under section 79(2) of the A.M. Act, 1956.

4.22 The actual position regarding the exercise of the taxation powers of the ULBs is that tax collection as a percentage of demand of these bodies is rather low, the average percentage figure during the last three years (1999-2000 to 2001-02) being a little over 35%. The gap between tax demand and the actual collection of taxes is indicative of the fact that there is ample scope for additional mobilization of tax revenues within the existing tax arrangement. The SSFC, however, observes that tax demand does not appear to have been fixed on the basis of rational, scientific and consistent principles across various ULBs. It would, therefore, be advisable for the State Government to formulate suitable guidelines in this regard.

Transfers from State Government :

4.23 Under the existing arrangements for sharing of taxes by origin, the ULBs including GMC receive Motor Vehicles tax (30% of the tax receipt) as per decision of the State Cabinet. Statutory provisions for MV tax sharing exist only in case of GMC and not for the other ULBs. However, the Cabinet decision on the subject is uniformly applicable to all ULBs. In this connection, it is to be noted that the Assam MV Tax Act, 1936 requires the payment of only road tax. Fines, permit fees, registration fees, licence fees are to be paid as per the provision of the Central Motor Vehicles Act.

4.24 The share of the M.V. tax is received by the ULBs from the Transport Department. The Transport Department works out the share of MV tax of the ULBs in each district on the basis of 30% of the actual total collection of the MV tax in the State in the previous year. The amount is first allocated to each district on the basis of its vehicle population. The share of each district is then further divided among ULBs on the basis of population. The MV tax is utilized by the ULBs specifically for the maintenance of roads.

4.25 Under the existing arrangements, the grants-in-aid sanctioned and released are (a) general purpose grant (b) cash allowance to sweepers (c) special ad hoc general purpose grant (d) maintenance of PWD road side

drains (e) communication grant and (f) flood damage grant. Some of these grants are on paper only (e.g. cash allowance to sweepers).

4.26 The grant for the maintenance of P.W.D. roads and road side drains has been nil. There were no grants for flood damage in 1999-2000 and 2000-01. While the total grant sanctioned and released in 1996-97 was Rs.454.50 lakhs, the figure dropped drastically to Rs.27.00 lakhs in 2000-01.

Finance Commission award:

4.27 The total amount awarded by the Tenth Finance Commission for the ULBs was Rs.1420.00 lakhs, while the amount released by Government of India was Rs.443.75 lakhs. The balance amount was not released as the ULBs could not make the matching contributions. The total award amount of the Eleventh Finance Commission is Rs.2154.00 lakhs. So far, an amount of Rs.435.00 lakhs have been released to the ULBs.

4.28 The inter-state allocation recommended by the Eleventh Finance Commission (2000-05) for the ULBs will be over and above the normal flow of funds to these bodies from the State Government and also the amount that would flow from the implementation of the Second State Finance Commission (SSFC)'s recommendations.

4.29 The ULBs are implementing three centrally sponsored schemes under the urban development sector. These schemes are Swarna Jayanti Shahari Rojgar Yojana (SJSRY), the National Slum Development Programme (NSDP) and Integrated Development of Small and Medium Towns (IDSMT).

General remarks:

4.30 The financial autonomy of ULBs, as envisaged in the 74th Amendment to the Constitution, can be assured only when own resources of these bodies will constitute the major source of revenue. With the growth of urbanization, urban areas will be required to accommodate increasingly larger number of people and to provide suitable living conditions to them. The challenges of growing towns and cities demand, inter alia, sound financial management, efficient system for collection of revenues, cost effective civic amenities, equity and efficiency in delivery of services. Given these, the constitutional status accorded to ULBs can be expected to strengthen democracy at the local level.

B. Guwahati Municipal Corporation (GMC):

4.31 Constituted in accordance with the Guwahati Municipal Corporation Act, 1969, the Guwahati Municipal Corporation is the only such organization in the entire North East. GMC has come into being with effect from 1973.

4.32 The total area of GMC is 216 square kilometres. With the mighty river Brahmaputra to its north, the seat of pilgrimage Basistha to the south, Bagharbori and the Cantonment area to the east and the sprawling Boragaon and Jalukbari to the west, the total population covered by GMC is 8,08,021,

the male population being 4,41,347 and the female being 3,66,674. The gender ratio is 831 females per thousand males. Since independence, the growth of population in Guwahati has been remarkably rapid. The table showing the growth of population in Guwahati is given below:

Year	Population
1891	8394
1901	11661
1911	13481
1921	16580
1931	21797
1941	29009
1951	43615
1961	100707
1971	258466
1991	584342
2001	808021

(N.B. No census was conducted in Assam in 1981)

The literacy rate in GMC area is 86.89%, the male literacy figure being 90.21% and the female 82.87%.

4.33 As per the GMC Act, 1971, the total number of wards of GMC shall not exceed 60. One representative is elected directly by the people from each of the 60 wards into which the City has been divided. In case there is no representative from among the scheduled tribes and scheduled castes in GMC, the State Government has the power to nominate two members from among these two communities. With a view to ensuring smooth conduct of municipal administration, five Standing Committees have been constituted. The Committees are (i) Finance Committee, (ii) Education and Development Committee, (iii) Public Health and Water Supply Committee, (iv) Taxation, Market and Business Committee, and (v) Judicial Committee. It is learnt that these committees have not been meeting regularly.

GMC Finances:

4.34 The statement of revenue expenditure and receipts of GMC for the period 1996-97 to 2000-01 are in **Annexures IV-3 and 3(A)**. The statement shows that GMC's financial condition is indeed precarious and calls for urgent remedial measures.

4.35. About 90% of GMC's income is spent on salaries, terminal benefits and other establishment expenses, leaving only about 10% for maintenance and developmental works.

4.36 GMC has adopted State Government pay scales. In fact, it has revised the pay scales of its employees with effect from January 1, 1996 as per the State Government Revision of Pay Rules, 1998. The number of sanctioned posts in GMC is 3476, excluding the Commissioner.

4.37 The total number of employees due to retire over the period 2002-2006 is reported to be 209. Although this will lower the salary bill, there will be an outgo of about Rs.389.76 lakhs on account of terminal benefits.

4.38 The liabilities of GMC under salary head including Contributory Provident Fund (CPF), arrear pay and allowances, leave encashment, gratuity and group insurance are shown in **Annexure IV-4**.

Sources of revenue and their present status:

4.39 Taxation powers of GMC are given in Part IV (Chapters XI – XXI) of GMC Act, 1971.

4.40 There are four components of GMC property tax. These are (a) general property tax, (b) water tax, (c) scavenging tax, and (d) lighting tax. GMC property tax demand is made quarterly. Additionally, urban immovable property tax is collected annually as per Section 3 of Assam Urban Immovable Property Tax Act, 1969. GMC is collecting only around Rs. 7.00 crores of property tax annually against the demand of Rs.15.00 crores. The Second State Finance Commission (SSFC) has received reports of a large number of cases of buildings coming up without permission leading to evasion of property tax. Property tax collections, in case of buildings assessed has also been irregular. As far as the taxation of Central and State Government property is concerned, it is restricted by Articles 285 and 289 of the Constitution, which states that taxes cannot be imposed by ULBs on such properties. Under the circumstances, GMC and other ULBs may levy service charges on these properties to augment their resources as recommended by the Eleventh Finance Commission.

4.41 Under Section 150 of the GMC Act, 1971 and the subsequent bye-laws relating to Assessment List and Property Tax, 1977, property taxes are fixed on the annual rateable value (ARV). ARV is the annual rent at which such building or buildings might reasonably be expected to be let out. The ARV is equal to 7.5% of the total value of land and cost of construction of the building. Deduction of 10% of ARV shall be allowed for annual repair and maintenance in respect of all categories and types of buildings. Rebate of 25% of the ARV is allowed if the building is exclusively used for residential purpose. The land area not covered by the plinth area of the house shall be considered as vacant land. Along with the ARV of the floors, 5% of the land valuation of vacant land shall be taken into account to arrive at the grand total of ARV. In view of the rise in prices, hike in salary of the staff, sharp increase in the prices of road materials and a quantum jump in land value in Guwahati, increase in property tax is necessary and desirable.

4.42 The SSFC is favourably disposed towards GMC's proposed reform in property tax fixation by replacing the ARV by the Unit Area Method (UAM), also known as the Patna model. The UAM has been approved by the Supreme Court of India. Gujarat, Madhya Pradesh, Karnataka, Bihar, Uttar Pradesh and Tamil Nadu, among others, are adopting this new model. Under UAM, the disparity in assessment of similar property is removed, the scope

for subjectivity and discretion of the tax inspectors is reduced and property tax demand is expected to grow, if estimated correctly. It is also easily amenable to periodic revision. Under this alternative method, the basic tax is related to plinth area/ carpet area. Location, type and use of buildings constitute the three basic elements of UAM. Location wise, buildings may be classified into (i) buildings on principal main road, (ii) buildings on main road, and (iii) buildings on other roads. The types of buildings may be (i) pucca building with RCC roof, (ii) pucca building with asbestos or corrugated sheets, and (iii) other buildings. In assessing the tax, the use of the building should be considered, which can be (i) commercial or industrial (ii) residential or (iii) others. On the basis of all the three key elements of UAM i.e. location of buildings, type of buildings and use of buildings, a reasonable tax rate per square foot may be worked out. For this purpose, the SSFC suggests that an Expert Committee be set up by the State Government to go into the details of the proposal and determine the tax rate under UAM, keeping in view the interest of both the parties - the tax payers and GMC. The essential point is that this method will result in more objectivity, transparency and greater yield. The SSFC suggests that the UAM may be extended to other ULBs, apart from GMC.

4.43 Under the Assam Immovable Property Tax Act, 1969, urban immovable property tax is being collected by GMC as well as Municipal Boards and Town Committees. This tax was previously being realized by the State Government as per the provision of the Assam Immovable Property Tax Act, 1963 and the net collection were passed on as grants to the ULBs. With the introduction of AM Act of 1969, the ULBs were authorized to assess and collect the tax themselves. Presently, this tax is being collected @ 3% of the ARV of the land and buildings. It would be pertinent to point out that the property tax and holding tax being collected by the ULBs is realized @7.5% of the ARV of land and buildings. Essentially, the tax base, viz land and property, as well as the procedure for tax assessment is the same in both cases. The authorities for the assessment and collection of the two taxes are also the same. Under the circumstances, this Commission feels that it would be logical to merge the Urban Immovable Property Tax with the property and holding tax presently being collected under provisions of GMC act and AM Act respectively as this will lead to a simplification of procedures and avoid unnecessary duplication of efforts leading to savings in cost and time.

4.44 Another source of revenue is building permission. The permission for the construction of houses is granted by both Guwahati Metropolitan Development Authority (GMDA) and Guwahati Municipal Corporation on periodic patta land only. The SSFC is of the view that annual patta land should be converted into periodic patta land and, at the same time, the Government should take a decision on illegal and unauthorized constructions on Government khas, ceiling surplus and reserve land. Pending that, GMC should be allowed to collect property tax on a provisional basis from annual patta land and encroached Government land.

4.45 The SSFC strongly feels that the presence of dual authority in granting permission for building construction encourages violation of the Master Plan. GMC is to be the sole authority in matters of granting such

permission and unauthorized construction without GMC's permission should be penalized.

4.46 Guwahati Municipal Corporation has three types of markets – auctioned markets, rented markets and private markets. There are 10 auctioned markets. The total revenue from auctioned markets is expected to be about Rs.73,84,769.00 for the year 2003-04. The number of rented markets is 8. The total annual demand from these markets is Rs.4116768.00 for the year 2003-04. There are also 9 private markets from whom GMC charges monthly scavenging fees and realises fines from the proprietors/land owners of such markets.

4.47 Vehicle entry fee collection centres (check posts) had, in the past, contributed approximately 50% of the total revenue receipts of GMC. Four check posts were set up in exercise of the powers conferred by Section 416-A(9) of the Guwahati Municipal Corporation Act, 1969 and Bye-Laws 1976. Three parking places for commercial vehicles were set up on the basis of GMC Byelaws 1996 and Byelaws 1997. The check gates were at Saraighat, Khanamukh, Khanapara and Narengi. The parking places were at National Highway 37, Jalukbari and Garpandu. The total amount of fees collected from the check gates and parking places during the period 1998-99 to 2002-03 is shown in **Annexure IV-5**. The Government has by order No.GDD/95/2002/24 dated Dispur 12th March, 2003, discontinued these collection centres and parking places, except Garpandu, which is being operated by GMC itself.

4.48 Under tax on professions, trades and callings, any person who carries on any profession, trade or calling indicated in the Fourth Schedule of the GMC Act, 1971, shall have to take out a trade licence annually.

4.49 In this Commission's assessment, there is considerable scope to increase revenue collection under the head of trade licence fees. Currently, collections of trade licence fees is hampered on account of factors such as non-receipt of no objection certificate (NOC) from concerned land owners and the ambiguous status of businesses being undertaken from premises on encroached government land. The Commission is of the opinion that provisional trade licences may be issued to and fees under this head may be collected from all persons or parties engaged in businesses listed in the Fourth Schedule without prejudice to receipt of NOC from land owners or government decision regarding the disposal of encroachment cases.

4.50 Apart from the above mentioned taxes, GMC is to impose taxes as per the Act on theatres, theatrical performances and other shows for public amusement, a tax on advertisement other than advertisements published in newspapers, a tax on dogs kept within the city, a tax on pilgrims, octroi and "any other tax with the prior approval of the State Government."

4.51 During the financial years 1997-98 to 2001-02, GMC has received grants and loans from the Government totalling Rs.2340.37 lakhs.

Borrowings and other liabilities:

4.52 GMC has taken loans from HUDCO from time to time for the purposes of providing housing facilities for its employees, building new markets, improving roads, improving water supply facilities and providing community toilet complexes. However, in view of its precarious financial position, GMC has defaulted in its loan repayment to HUDCO. The total loan liabilities as on December 31, 2002 was Rs.31.53 crores, comprising Rs.10.10 crores as loan principal, Rs.11.00 crores simple interest and Rs.10.33 crores compound interest. GMC may consider negotiating a one time settlement with HUDCO in association with the State Government. Employees' CPF, gratuity, leave encashment dues are also in the nature of borrowings as there are huge unpaid liabilities on this account.

4.53 Borrowings by financially sound ULBs can be a legitimate source of funding in case of income generating assets or self-liquidating proposals. Only viable proposals for the creation of permanent assets or facilities may be considered for debt financing, subject to the condition that ULBs are able to service the loan repayments from their own sources. In no case, borrowings are to be resorted to for meeting the current expenditure requirements of ULBs. While proposals for borrowings must require the prior approval of the State Government, such proposals may be considered only on the basis of project viability where Government guarantee is not required.

4.54 The total liabilities of the ULBs covering salaries, revised pay, DA, CPF, Assam State Electricity Board (ASEB) dues, State Government loans and HUDCO loans are reported to be Rs.14.20 crores as shown at **Annexure IV-6**. Liability towards payment of electricity dues to ASEB in itself explains why the liabilities are so high.

General remarks:

4.55 Guwahati is not only the capital city of Assam, it is also the gateway to the North East. Situated amidst picturesque surroundings and not too far away from India's international borders, Guwahati holds the key to the infrastructural and economic development of the North East. The planned and healthy growth of Guwahati is capable of imparting considerable benefits to the North Eastern States. The city is growing by the day in terms of area, population, vehicles, trade and commerce and similar such parameters of urbanization and growth. Naturally, the demand for civic amenities has increased manifold. An archaic, cumbersome, time consuming core services delivery system will naturally crumble under heavy pressure. The solution lies in the concerted effort by all concerned, including Government, GMC, citizens and the media. Community participation in a number of vital areas like neighbourhood sanitation, park management, street light management, garbage disposal and the like will definitely go a long way in ensuring the emergence of the new city of Guwahati – healthy, planned, disciplined, and free from the 'vicious cycle' of poor finances, low investments, poor delivery of services and low cost recoveries.

Additional resource mobilization:

4.56 As per information received from the Directorate of Municipal Administration, Assam, it has been seen that there is a yawning gap between demand and collection of tax of the municipal bodies and town committees of the State. The data relating to the demand and collection of tax has been placed at **Annexure IV-7**. The total tax collection of 73 ULBs, including GMC, comes to Rs.2082.66 lakhs in 2001-02. The total demand was Rs.3873.13 lakhs, tax collection being 53.78% of total demand. The high percentage of unrealized tax collections shows that there is considerable scope for gearing up the tax administration. If necessary, ULBs may consider engaging tax collectors on commission basis. It is also to be noted that the tax demand figures do not appear to have been based on proper and rational principles.

4.57 The decision of GMC to raise the property tax by about three times has been kept in abeyance. There is, however, a need to revise this tax taking into account the financial position of GMC. The enhanced rate of property tax which is applicable to new holdings should also be extended to existing holdings. This together with the adoption of Unit Area Method (UAM) should double the collection of property tax. The SSFC reiterates the recommendation of the First State Finance Commission for periodic revision in assessment of property tax every five years.

4.58 30% of the total land area in Guwahati is covered by annual patta land, khas land and ceiling surplus land. No property taxes are being imposed by GMC on these categories of land as yet, although civic services are being provided by GMC in these areas. Since houses on annual patta and Government lands have been constructed without any building permission, GMC has lost revenues on this account also. The Commission recommends that annual patta land be converted to periodic patta land and that the State Government take an early decision regarding the regularization or otherwise of the illegal constructions on Government land. Pending these actions at the State Government level, GMC may be authorized to impose and collect property taxes with penalties as admissible under GMC Act from the owner of such unauthorized buildings. The imposition of taxes on these lands by GMC will reportedly yield about Rs.7.00 crores annually. The Commission recommends that similar actions may also be taken in respect of other ULBs.

4.59 The undervaluation of urban land has had a negative impact on property tax collections. The valuation of urban land in different urban areas should be done realistically on the basis of prevailing market prices. With the relentless increase in land prices, the valuation of land must be reassessed periodically, preferably at least once every three years by the Deputy Commissioner along with the computerization of land records and the Sub-Registrar's records. Property tax collections have also suffered due to delays in reassessment of property values. The Commission, therefore, recommends expeditious engagement of assessors so as to ensure timely completion of property tax reassessment.

4.60 There are several avenues through which tax payers can secure exemptions/ concessions in the property tax payable leading to loss of municipal revenues. Sections 68 and 92 of Assam Municipal Act, 1956 provide scope to municipal bodies to exempt any holding used for the

purpose of public charity from assessment of municipal taxes and to reduce or remit taxes on the grounds of excessive hardship. While such steps are welcome on humanitarian grounds, the misuse of this power by the ULBs leads to unnecessary revenue loss. In this connection, it will be pertinent to point out that Section 148 of the GMC Act, 1971, allows GMC to consider exemption only in case of buildings and lands belonging to central government, religious and charitable institutions, and owner occupied properties subject to the condition that rental value does not exceed Rs. 20.00 per month. This Commission recommends that the AM Act, 1956 may be amended suitably so as to incorporate the above mentioned provisions of the GMC Act, 1971, regarding powers of exemption.

4.61 Under Section 152 of the GMC Act, 1971, the Commissioner GMC may, whenever required, fix special rates for scavenging charges to be paid in respect of any hotel or club or any other large premises. The amount of the scavenging charge is to be fixed with reference to the cost or the probable cost of the collection, removal and disposal of garbage from the premises as mentioned. The Commission recommends that the base for levying special service charges be enlarged and such charges be imposed, among others, on hotels, restaurants, private hospitals and nursing homes, cinema halls, residential private education institutions and private markets as these commercial establishments are putting considerable pressure on civic facilities being provided by GMC. Accordingly, this Commission recommends suitable amendment of Section 148 of GMC Act 1991. AM Act 1956, may also be similarly amended to provide scope to other ULBs to adopt special rates for scavenging charges.

4.62 The enhancement of the rate of trade licence fee realized by ULBs is expected to add to their resources substantially. However, apart from GMC other urban local bodies have not revised this fee since 1991 and the proposal for such a revision is pending with the Government. GMC has issued Notifications on January 9, 2001 and November 28, 2001 increasing the trade licence fee by five times. This increase in trade licence fees is to be implemented in two phases. In the first phase, i.e, during 2001-02 and 2002-03, the trade licence fees were increased by three times the original rates. In the second phase starting from April 1, 2003, the full increase in trade licence fees amounting to five times the original rate is being implemented. The Commission recommends that other ULBs may also be allowed to revise the trade licence fee rates every three years in order to augment their resources and these bodies shall also be given the freedom to determine the rates and bases of trade licence fees.

4.63 Trades presently listed in the Fourth Schedule under section 180 of the GMC Act, 1971, do not include many new trade which have come up in recent years. The Commissions observes that private hostel, marriage hall, audio and video cassette production centres, computer centers, cyber cafés, beauty parlours, real estate developers and light are doing brisk business without having to pay any trade licence fee. The SSFC recommends that all such new trades should be included in

the Fourth Schedule so that they come within the trade licence fee net of GMC. Similar action may also be taken in case of other ULBs.

4.64 Under Section 178 of the GMC Act, 1971, GMC is empowered to levy surcharge on stamp duty. Similarly, under Section 89 of Assam Municipal Act, 1956, municipalities also have the power to levy surcharge on stamp duty. The Commission, however, finds that ULBs have not exercised this power properly and surcharge, collected, if any, is being deposited in the State Exchequer. The power to impose and collect surcharge is an inherent taxation power of GMC as well as ULBs. This is a potentially buoyant source of revenue which should be tapped by all ULBs. The SSFC recommends that the State Government should facilitate the collection of surcharge by GMC and other local bodies by streamlining the procedure for such collection. As of now, GMC can collect 2% and the other ULBs 1 % surcharge on sale, gift, and mortgage of land. Although this rate appears to be in order, GMC and ULBs should be given the power to revise the rates.

4.65 In Guwahati and elsewhere unauthorized markets have mushroomed and unauthorized vendors have set up shops virtually every where. The SSFC is of the opinion that apart from imposing fines on unauthorized vendors, GMC and other ULBs should develop proper markets and encourage the vendors to sell their products in such markets. Such an initiative will not only help develop critical market infrastructure, but will also plug leakages in the collection of revenues. As funds are a major constraint in the development of market facilities, ULBs may consider development of these markets with private sector participation or taking up self-financing schemes.

4.66 There are several ongoing unfinished works in many urban areas of the State like the construction of the Fancy Bazar market in Guwahati, which, if completed expeditiously, will yield revenue to the local bodies. As the paucity of fund is an important factor holding up the completion of these works, the SSFC strongly recommends that GMC and other concerned ULBs complete these unfinished works at the earliest, if necessary, with financial assistance from the Government. This will not only prevent further cost escalation, but also further loss of revenues.

4.67 Rent is being collected by GMC and other ULBs from shops or markets owned by them. It is reported that the shops and markets are leased to the private parties through the sealed tender system. In this connection, the SSFC suggests that the lease rent should be revised at least once every three years with a minimum escalation of 15%.

4.68 Article 285 (1) of the Constitution of India does not authorise the local bodies to impose any tax on the properties of the Central Government. Properties of State Government also enjoy similar benefits under Article 289 in so far as it exempts state's property and income from union taxation, with some exceptions. This issue of imposing taxes on Central and State Government properties by ULBs has been examined by the Eleventh Finance Commission in detail. The EFC is of the view that all properties located in

rural and urban areas enjoy the benefit of civic services and, therefore, the properties of the State and Central Governments should be subject to the levy of user charges.

4.69 Improvement in the system of tax collection has been a major area of concern for the Commission. The Commission has had several rounds of discussion with the officials of GMC and Urban Development Department regarding this issue. Based on these discussions, the Commission suggests that the following measures may be taken to improve the system of tax collection and to check tax evasion:

- (a) To allow the payee to pay their tax through post office or commercial banks as it is done in case of electricity dues or telephone dues.
- (b) To introduce systems of rebate for payment within due date as it is done in case of telephone and electricity dues.
- (c) To introduce surcharge for payment after due date.
- (d) Computerized tax billing and collection system to be introduced.
- (e) Requiring municipal tax clearance certificate for obtaining various type of licences, telephone connections etc.

Unlike direct or indirect taxation, there is not much scope for evasion of Municipal taxes like property tax and trade licence fees. Proper assessment of holdings, monitoring of tax collection and the drive for realization of arrears will be of help to the authorities in mobilizing additional resources.

Expenditure management:

4.70 The entire exercise of resource mobilization by the ULBs is bound to be defeated, until and unless the ULBs plan their expenditure rationally. In expenditure planning, proper supervision to ensure cost efficiency and to plug the wastage and misuse assumes tremendous importance.

4.71 Most ULBs including GMC are highly overstaffed. In fact, most of them are not in a position to meet the high establishment costs from their own revenues. To a large extent, the scenario is on account of the free hand that the ULBs have been enjoying in making fresh appointments. The Commission, therefore, strongly recommends the power of ULBs to appoint staff as per Section 50 of A.M. Act, 1956 is subject to appropriate restrictions.

4.72 As noted above, most ULBs have excess manpower. This is because no staffing pattern has been prescribed for the ULBs. In order to rationalize the staffing of ULBs and to curtail their establishment costs, the Commission underlines the need to determine appropriate staffing pattern or norms for all ULBs depending on their size and requirements. While fixing the norms, the Government may take into account technological advances like the availability of computers and information technology and the resultant changes in the work environment. The Government may prepare a VRS for

employees of ULBs and seek funding for the same from the Twelfth Finance Commission. Most ULBs being over staffed, the question of fresh appointments should not arise. The statement showing the number of employees of ULBs, category-wise, indicating the scale of pay, consolidated pay wherever applicable is placed at **Annexure IV-8**.

4.73 Most of the ULBs have adopted the State Government revised scales of pay as given in Revision of Pay Rules, 1998. However, the arrear dues of the employees of the revised scale with effect from January 1, 1996, could not be released on account of fund constraints. The Commission suggests the issue of settlement of pay liabilities may be placed before the Twelfth Finance Commission.

4.74 The Commission has taken note of the fact that there are differences between the employees of the State Government and the employees of ULBs in respect of level of government, educational qualification and the nature of duties and responsibilities. Hence, the Commission recommends that a separate pay structure should be framed in case of ULB employees in consultation with ULBs which, perforce, has to be based on fiscal capacity of ULBs which have been entrusted with wide-ranging revenue powers.

4.75 Service rules and rules relating to Provident Fund, Gratuity etc. for the employees of the ULBs are conspicuous by their absence. This has led to anomalies in recruitment, promotion, misutilisation of P.F. money etc., apart from providing scope for excess appointments which not only hurts the finance of the ULBs but also acts as a demotivating factor for the ULBs employees. The State Government ought to take up this matter on a priority basis.

4.76 The ULBs are to pay a huge amount of electricity dues to the ASEB. As on March 31, 2002, the principal amount of such dues was Rs.4424.59 lakhs and the surcharge was Rs.6721.06 lakhs. The payment of these dues by the ULBs has been long overdue. The State Government may examine the feasibility of introducing a scheme for securitization of dues wherein ASEB agrees to waive at least some part of the surcharge dues. The State Government may take over the liabilities of the ULBs by issuing bonds to financial institutions. However, the current liabilities of the ULBs are to be met by the ULBs themselves. The SSFC feels that the additional liabilities that the State will have to take over on account of the scheme may be projected before the Twelfth Finance Commission.

4.77 In the face of the resource crunch and also the lack of adequate administrative capacity, ULBs may put greater stress on community participation to improve the level of civic amenities. Accordingly, park management committees, neighbourhood sanitation committees, among others, may be constituted which will ensure continuous supervision sans absenteeism of employees. Community participation will ensure cost effectiveness and also raise the level of civic consciousness.

4.78 The Guwahati Development Department is the controlling department for GMC. However, the Urban Development Department and

the PWD and other line departments also take up measures within the GMC area without any intimation to GMC. All schemes relating to the development of Guwahati should be in the knowledge of and also subject to the approval of GMC. Lack of coordination among the concerned agencies, inordinate delays in giving approval to schemes etc. are hindrances to the smooth and satisfactory functioning of GMC. In order to improve planning, coordination and implementation of schemes in urban areas, the Metropolitan Planning Boards, as envisaged in the Constitution should be set up without further delay.

Audit & Accounts:

4.79 In most of the cases, the local audit has not been carried out for about two decades now and wherever it has been done, the problem of unsettled audit objections loom large and the task becomes stupendous for the local audit team to complete. The accounts of GMC have not been audited for the last 16 to 17 years. There is no way to ascertain the accuracy of accounts. The recent audit inspection reports of some ULBs for the period 2000-02 have brought to light the poor level of maintenance of accounts by local bodies.

4.80 As per recommendation of the Eleventh Finance Commission, the accounts format for all ULBs will be the one as suggested by Comptroller and Auditor General of India and which the Accountant General, Assam, etc., will have to follow. As such, required amendments in ULB Act concerning audit and accounts are to be brought in. To illustrate, Chapter X of GMC Act, 1971, calls for a thorough revision. The present single entry system is to be replaced by double entry system on accrual basis. The SSFC suggests that in case the audit staff appears to be insufficient compared to the task at hand, excess staff from other related departments may be redeployed after imparting required training to the personnel.

4.81 The need for capacity building and training of municipal officials in the light of the new functions assigned to them under the Twelfth Schedule can hardly be overemphasized. The training module must include subjects like accounts procedure and methodology of preparing proposal for seeking loans including loans and assistance from international funding agencies, services delivery, imposition of user charges, assessment of taxes and computerization.

Creation of a database :

4.82 The single most important constraint faced by the Second State Finance Commission in the preparation of this Report has been the non-availability of data both at the State and local levels. Data, wherever available, is also mostly un audited. Out of a total number of 73 urban bodies, replies to questionnaires issued by the Finance Commission have come only from 32 bodies out of which again in 16 such bodies, the accounts are yet to be audited. In most of the cases, the Commission has been compelled to make do with district level data. Creation of a data base is of utmost importance. Monitoring and projection are next to impossible

without a data base. For the creation of a database for ULBs the items which may be considered, among others, are:

Demographic	Size of population, density of population, SC/ST population, slum population etc.
Economic and infrastructural	Income level, sources of revenue-internal and external, liabilities, length of roads, street lamps, water supplied, waste collected, parks, etc.
Administrative	Staffing pattern, tax administration etc.,
Reformative	Reform measures introduced since 1991
Public relations	Means of communication with the public

- 4.83** Maintenance of Community assets and other core civic amenities are no less important than their creation. While the capital cost of the assets would be met from funds channelised through various central and state Government schemes, the maintenance cost is to be met by ULBs from their own revenues. EFC grants which are not meant for meeting revenue expenditure of ULBs can be utilized for operation and maintenance of community assets. The expenditure requirement on account of O and M amount which is outside the period covered by EFC award may be placed before the Twelfth Finance Commission.
- 4.84** It is well nigh impossible to arrive at any meaningful estimate of annual requirements for operation and maintenance of assets as no relevant data is available including data on number and types of assets created and cost of depreciation. Lack of maintenance of community assets will entail eventual capital loss which the ULBs can ill afford, given their difficult financial position. Under these circumstances, the Commission recommends that ULBs maintain a Register of Assets showing all the relevant details.
- 4.85** The assets required to be maintained by ULBs are smaller in size and dimension as compared to those maintained by the State Government. Hence, the same set of norms applied for maintenance of assets of the State Government will not be appropriate in case of ULBs too. The Commission recommends that the State Government should enlist the services of technical experts to evolve appropriate norms of maintenance of assets held by ULBs.
- 4.86** The SSFC cannot agree more to the proposal put up by various State Finance Commissions that a permanent cell of the SFC for continuous updating, processing and monitoring of data be created to retrieve data as and when required. This cell may be attached to the Urban Development (Municipal Administration) Department of the State

Government and also to the office of the Directorate of Economics and Statistics at the district level. The lack of such a data base also explains why the Action Taken Report on the FSFC was not available within 6 months time as required for the SSFC to consider. It is noteworthy that the Eleventh Finance Commission has earmarked an amount of Rs.200 crore for all the states for the creation of the data base. The provision for Assam is Rs.222.80 lakhs for both urban and local bodies.