Fifth State Finance Commission, Kerala

Summary of Recommendations of Part I and II of the Report

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Part I of the Report
Submitted on 19th December, 2015

Award period (2016-17 to 2020-21)

Devolution of State Own Tax Revenue

1. The Commission has decided to follow the UFC's approach and devolve funds based on the estimate made for the year of devolution (t). (para 10.25)

2. The Commission has decided to give award specifying the amount of money to be devolved to each LG for each year of the award period as per Appendix 10.1 (Para 10.26)

3. Previous SFCs had taken Gross State Own Tax Revenue (SOTR)/ State plan outlay for devolution of resources. This Commission has decided to take net proceeds of SOTR after deducting collection charges for sharing the State resources in all items of devolution.(para 10.28)

4. The Commission recommends that the grant given by the 14 th UFC for civic services should be treated as a separate grant and it should be transferred in addition to the devolution of the Commission. (Para 10.30)

5. The Commission recommends that the maintenance fund should be used only for the purpose of maintenance of road and non-road assets of the transferred institutions and own assets of LGs. (para 10.32)

6. The Commission recommends that 20% of the net proceeds of annual SOTR shall be devolved to Local Governments as total devolution on (t) basis in the year 2016-17 based on the projection of SOTR of the Commission. For the subsequent years, an annual increase of 1% is recommended. (para 10.41)

7. The Commission recommends that 3.5% of the net proceeds of annual SOTR shall be devolved to Local Governments as general purpose fund on (t) basis for the award period based on the projection of SOTR of the Commission. The fund shall be spent for the items mentioned in para 10.35 and 10.36 (para 10.42)

8. The Commission recommends that 5.5% of the net proceeds of annual SOTR calculated on (t) basis shall be devolved to Local Governments as maintenance fund for the year 2016-17 based on the projection of SOTR of the Commission. For the subsequent four years, the rate shall be increased to 6% per annum. The fund shall be spent for the items mentioned in para 10.37. (para 10.43)

9. The Commission recommends that 11% of the net proceeds of annual SOTR calculated on (t) basis shall be devolved to Local Governments as development fund for the year 2016-17 based on the projection of SOTR of the Commission. The rate of devolution shall be increased to 11.5% in 2017-18, 12.5% in 2018-19, 13.5% in 2019-20 and 14.5% in 2020-21 (para 10.44)

10. The Commission recommends a gap fund shall be distributed to the financially weak grama panchayats and set apart Rs.50 crore from the share of GPF available to the GPs for the purpose. Gap fund may be distributed among GPs in proportion to the gap of previous year (t-1) certified by the Director of Kerala State Audit Department. If the gap certified by the Director is less than the amount set apart, the balance will be distributed among all GPs as per the criteria fixed for the distribution of GPF. Gap is calculated as follows: Own fund plus GPF minus Total of establishment, administrative, operations and other recurring expenses. Gap fund shall be released to LGs by the month of October every year (para 10.45)

11. The Commission recommends an award of Rs 8599.48 crore for the year 2016-17 as the total share from SOTR calculated on (t) basis to be devolved to LGs. The recommendation for the subsequent years of the period are Rs 10105.94 crore for 2017-18, Rs 11850.44 crore for 2018-19, Rs 13868.59 crore for 2019-20 and Rs 16201.19 crore for 2020-21 (para 10.46).

12. The Commission recommends that appropriate changes may be effected in projected gross and net SOTR based on actual tax realization and any excess or shortfall may be adjusted in devolution to LGs in subsequent years (para 10.47)

13. The Commission recommends to transfer the devolved funds to public accounts of LGs in 12 installments starting from April. Release of second and subsequent installments will be based on 80 percent utilisation of the fund released.The unreleased development funds will not be lapsed and the LGs will get another year to utilize the same. However, the GPF will be transferred as per the existing system. There will be no norm for minimum utilization for release of the subsequent instalments of GPF. An IT based mechanism may be evolved for automatic replenishment of funds to the public accounts of LGs based on this principle by the Finance Department. (para 10.48).

14. The Commission recommends that horizontal devolution of GPF shall be effected as per the criteria presented in para 10.49. For distributing share of various categories of LGs (grama, block, district panchayats, municipalities and municipal corporations) as well as individual LGs belonging to each category, the sharing criteria mentioned in para 10.49 (a to o) shall be followed (para 10.49).

15. The Commission recommends the horizontal devolution of maintenance fund shall be effected as per sharing criteria prescribed in para 10.50. For distributing share of various categories of LGs as well as individual LG’s belonging to each category, the sharing criteria mentioned in para 10.50 (a to c) shall be followed (para 10.50)

16. The Commission recommends the horizontal devolution and distribution of development fund into SCP fund, TSP fund and General Sector fund shall be effected as per sharing criteria prescribed in para 10.51 (a to c) (para 10.51).

17. The Commission recommends the horizontal devolution and distribution of SCP portion of development fund shall be effected as per the sharing criteria prescribed in para 10.52 (a to d) (para 10.52)

18. The Commission recommends the horizontal devolution and distribution of TSP portion of development fund shall be effected as per the sharing criteria prescribed in para 10.53 (a to d) (para 10.53).

19. The Commission recommends the horizontal devolution and distribution of general sector portion of development fund shall be based on criteria of distribution mentioned in Table 10.10 (para 10.54).

20. For effective monitoring of the flow of fund to LGs ,the Commission recommends that all transfers including General Purpose Fund, Maintenance Fund(road as well as non road) and Development fund should be distributed through the major head 3604 under suitable subheads. [para 10.56]

Projection of SOTR

21. The Commission recommends that, the SOTR projected by the Commission under 'Minimum Buoyancy in SOTR' in the fiscal year 't' after deducting the projected collection charges (net SOTR) shown at Table 4.10) shall form the basis for vertical sharing (para 4.77).

Maintenance of Assets

22. The Commission recommends that 0.28% of the amount of SOTR be transferred from Maintenance Fund (Non Road) to GPF and hereinafter all recurring expenses, operative cost, purchase of medicine, etc on account of transferred institutions shall be met from GPF only. [para 8.14]

23. The Commission recommends that the distribution of maintenance fund should be based on the road and non road assets of LGs which is in the ratio 78.1:21.9 [para 8.15 & 8.22]

24. The Commission recommends that the entire data of road and non-road assets should be verified, corrected and updated periodically to avoid discrepancies [Para 8.19]

25. Since the Maintenance Fund is calculated based on CPWD rates the Commission feels that adequate quality of maintenance should also be ensured. The Commission also recommends that maintenance period of road repair/retarring works and maintenance of buildings be enhanced to 2 years [para 8.22].

26. The Commission recommends that the share of different categories of LG will be based on their share in total road and non-road assets respectively as shown in Table 8.8 [para 8.24].

UFC Grants

27. The Commission recommends that steps may be initiated by the State Government to request the XV UFC to favourably consider the recommendations of the SFC while evolving its own recommendations as stipulated in Article 280 (3) (bb) & (c) [para 9.19]

28. This Commission recommends that UFC Basic Grant will be distributed among Grama Panchayats, Municipalities and

Municipal Corporations in accordance with formula adopted for the distribution of GPF, i.e 80% weightage for population (2011 census),10% weightage for area and remaining 10% weightage is given to the inverse of own income.[para 9.24]

29. The basic grant should be spent in delivering basic civic services like water supply, sanitation sewerage, waste management, maintenance of community assets, roads, street lighting and other basic functions assigned to them under the Kerala Panchayat Raj Act and Kerala Municipality Act [para 9.24]

30. In order to avail performance grant the Commission recommends that State Government should take urgent steps to revise tax and non tax rates of LGs as improvement in own revenues of LGs over the previous year is made mandatory by the UFC.[para 9.26]

31. For effective monitoring of the flow of fund to LGs this Commission recommends that the Basic grant as well as performance grants to LGs should be distributed through the major head 3604 under suitable sub heads[para9.27].

Mobilisation of Own Resources of LGs

Property Tax:

32. The Commission recommends that the Kerala Panchayat Raj (Property Tax, Service Tax and Surcharge) Rules, 2011 as amended in 2013 and the Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011 as amended in 2013 have to be enforced by revoking G.O (Ms) No. 144/15/LSGD dated 27/04/2015 forthwith. The property tax should be revised at the expiration of every five years as envisaged in the Kerala Panchayat Raj Act and the Kerala Municipality Act and the rules in this regard be framed/amended promptly. Loss of revenue, if any, incurred by Local Governments due to lack of timely revision of property tax has to be completely compensated by the State Government @ 5% per annum as contemplated in section 203(4) of the Kerala Panchayat Raj Act and section 233(4) of the Kerala Municipality Act (para 7.11).

33. The Commission recommends that the range between minimum rate and maximum rate of property tax be reduced. The minimum rate should not be less than 75% of the maximum rate. The minimum rate prescribed in the Notification Nos.19/2011/LSGD dated 14-01-2011 and 36/2015/LSGD dated 24-02-2015 in the case of Grama Panchayats and Notification No. 17/2011/ LSGD dated 14-01-2011 in the case of urban LGs be revised to this effect (para 7.13).

34. The Commission recommends that there should be proper mechanism to identify unauthorized constructions/ expansions and to tax accordingly. Government should issue directions/ instructions in this regard to Local Governments (para 7.14).

35. We recommend that the issue of bringing all buildings of Union Government under the property tax net shall be taken up with the Government of India and request them to take steps to amend Article 285(1) of the Constitution of India so as to bring all buildings of the Central Government under the ambit of property tax net (para 7.15).

36. We recommend that status-quo of 2009 be restored by omitting clause (ba) to section 235 of the Kerala Panchayat Raj Act and clause (ba) to section 207 of the Kerala Municipality Act so as to bring all unaided educational Institutions under the property tax bracket (para 7.16).

37. The Commission recommends that all Grama Panchayats and urban Local Governments should take immediate steps to assess BSNL buildings under property tax and to collect the tax accordingly (para 7.17).

Profession Tax:

38. We recommend that a proper database on all categories of professionals, traders and businessmen, employees and workers in the unorganized sector and self-employed persons should be prepared and they be assessed for profession tax. This data base should be updated from time to time. LGs may seek additional human resources for this purpose without any post creation. All commercial institutions/enterprises which have been issued licences under D&O licence rules should be assessed for profession tax, the assessment be made based on property tax demand register for commercial buildings and D&O licence issued to them. All employees and workers working in such institutions/ enterprises shall also be assessed under profession tax (para 7.20).

39. We recommend that a survey on professionals practicing within the jurisdiction of Local Government concerned be made with the help of Ward Members/Councilors and bring them into the net of profession tax. It should be made mandatory that the Bar Council / Association furnish list of Advocates practicing within their jurisdiction. The Advocates should voluntarily disclose their income and the profession tax be levied based on the self disclosed income which is subject to verification. The profession tax slab shall be as applicable to salaried class. Necessary legislation be made to the effect that an Advocate can practice in a court of law only on production of receipt of the payment of profession tax in any Local Government in the State if he is liable to pay profession tax. The receipt should be produced on the first working day of October and April every year (para 7.21).

40. Similar provision in Rule 3 of the Kerala Municipality (Profession Tax) Rules, 2005 be brought into the Kerala Panchayat Raj (Profession Tax) Rules, 1996 also. Rule 3(2) of the Kerala Municipality (Profession Tax) Rules, 2005 be expanded so as to incorporate Chartered Accountants, tax practitioners, stock brokers, private/chartered engineers, agency businesses, internet cafe, cable operators, dish channel providers, consultancy service, real estate agents/ brokers etc. also (para 7.22).

41. We recommend that State Government shall take up the matter of raising the ceiling on profession tax with the Union Government to get the recommendation of the XIV FC implemented at the earliest (para 7.23).

Entertainment tax:

42. We recommend that the ticketing system for both traditional and multiplex theatres shall be computerised as contemplated in section 5(1)(aa) of the Kerala Local Authorities Entertainments Tax Act, 1961 (para 7.24).

43. The Commission recommends that the subscribers of both cable TV and Dish TV should be brought under the entertainment tax net. A sum of Rs. 10 per month from each subscriber shall be levied. The amount has to be collected by the operators who, in turn, is to remit the same to the Local Governments concerned. Necessary amendment to section 2(4) of the Kerala

Local Authorities Entertainments Tax Act, 1961 shall be brought in this regard. The receipt issued to the subscribers by the cable/dish operators shall also be computerised as envisaged in section 5(1)(aa) of the above Act in order to avoid malpractice, if any (para 7.25).

44. We recommend that entrance fees in tourism centres and agricultural farms and operation of house boat shall be brought under the purview of entertainment tax by making necessary amendments to section 2(4) of the Kerala Local Authorities Entertainments Tax Act, 1961. The entertainment tax can be collected by LGs where the place of journey of houseboats begins or ticket counters of tourism centres and agricultural farms are situated (para 7.26)

45. We recommend that the State Government should not give any exemption to entertainment tax (para 7.27).

Advertisement tax:

46. The Commission recommends that section 209D of the Kerala Panchayat Raj Act, 1994 read with section 256 of the same Act and section 276 of the Kerala Municipality Act, 1994 read with section 567(32) of the same Act shall be suitably amended so as to do away with the system of making bye-laws for regulating advertisement. Government should frame Advertisement Rules applicable to all Grama Panchayats for the regulation of advertisement and collection of tax on advertisement in Grama Panchayats and amend the Kerala Municipality (Erection of Arches and Setting up of Advertisement Boards in Public Streets and Public Places) Rules, 1999 to incorporate necessary provisions for the regulation of advertisement and collection of advertisement tax in Municipalities and Municipal Corporations (para 7.28).

Show tax:

47. The Commission recommends that the existing minimum rate of show tax which varies from Rs. 5 to Rs.50 should be raised by 100% (para 7.29).

Service Tax / Cess:

48. We recommend that section 230 (4) of the Kerala Municipality Act, 1994 and Rule 26 of both the Kerala Panchayat Raj (Property Tax, Service Tax and Surcharge) Rules, 2011 and the Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011 shall be amended to make levying of the service tax/cess by Grama Panchayats and Municipalities mandatory (para 7.31).

Service Charge on Central Government Buildings:

49. The Commission recommends that the Local Self Government Department shall enforce the statutory provisions to collect service charge on Central Government Buildings by the Grama Panchayats and the urban Local Governments (para 7.32).

D&O License fee:

50. (a) We reiterate that the D&O licence rules applicable to rural LGs be renamed as the Kerala Panchayat Raj (Regulation of Trades, Services and Industries) Rules as suggested by the 4th SFC. The proposed rules applicable to urban LGs shall also be renamed in such a manner (para 7.34).

(b) We recommend that Schedule I of the Kerala Panchayat Raj (Issue of License to Dangerous and Offensive Trades and Factories) Rules, 1996 should be widened so as to incorporate all trades and businesses including new generation commercial establishments (para 7.34).

(c) The annual license fee that can be charged as per Schedule II, III and IV to the Kerala Panchayat Raj (Issue of License to Dangerous and Offensive Trades and Factories) Rules, 1996 are recommended to be revised. Schedule II should be revised as detailed at Table 7.2 (para 7.35).

(d) The rates in Schedules III and IV should be enhanced by 100% (para 7.36).

51. The Commission strongly recommends that the trade license rule applicable to urban Local Governments, ie, The Kerala Municipality (Issue of License to Dangerous and Offensive Trades, Other Trades and Factories) Rules, 2011 shall be operationalised immediately (para 7.37).

Building Permit Fee:

52. The existing rates of building permit fee applicable to both the Grama Panchayats and the urban Local Governments are recommended to be hiked by 50% (para 7.38).

Rent on Buildings:

53. The Commission recommends that the rent on shops and buildings rented out by the Local Governments and community halls and auditoriums be rationalised so as to get the rate of rent fixed by the PWD applicable to that area (para 7.39).

Other Non – Tax Revenues:

54. We recommend that the rates of all other non-tax items (except fee for marriage certificate) shall be raised at least by 50% (para 7.40).

55. The Commission recommends that all items of tax and non-tax revenues collected by LGs mandatorily be revised at the expiration of every five years as in the case of property tax subject to ceiling on profession tax as envisaged in Article 276(2) of the Constitution of India. This proposed revision be made based on the recommendations of the SFC. Necessary amendments to the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994 be made in this regard (para 7.41).

Transfer of Building Tax to Local Governments

56. We recommend that the building tax now collected by Revenue Department should be assigned to Grama Panchayats, Municipalities and Municipal Corporations. Necessary legislation in this regard shall be made including amendment to section 200 of the Kerala Panchayat Raj Act, 1994 and section 230 of the Kerala Municipality Act , 1994 (para 7.42).

57. The Commission recommends that the Local Governments which have tax revenue be rewarded with the efficiency in revenue mobilization. Grama Panchayats which have collected in the previous year (t-1) not less than 97% of the total revenue demand shall be given annual Revenue Collection Incentive Bonus @ Rs.5 lakh per Grama Panchayat. In the case of urban Local Governments the percentage of tax collection over demanded can be 95%. The annual Revenue Collection Incentive Bonus for Municipalities shall be Rs.10 lakh per Municipality and for Municipal Corporation be Rs.12.50 lakh per Municipal Corporation. The revenue collection incentive bonus shall be distributed as per the norms mentioned in para 7.43 (para 7.43).

58. The Commission recommends that the Assistant Secretary in Grama Panchayats shall be entrusted with the responsibility to monitor revenue mobilization activities in the Grama Panchayats. He or she shall review the demand and collection of revenue on weekly basis and will be responsible to provide data to the Finance Standing Committee with regard to revenue collected and related matters in the Grama Panchayats (para 7.44).

59. The Commission recommends that the present State Finance Commission Cell in Finance Department shall continue to exist for the monitoring of implementation of recommendations of the Commission as discussed at para 3.8. The cell shall also be entrusted with the responsibility to implement the revenue mobilization proposals enumerated in chapter 7(para 7.45).

e-Governance

60. The Commission recommends that e-governance should be made use of in the area of revenue mobilization. All database relating to revenue mobilization should be computerized and the system generated message through SMS/e-mail as to the tax and non-tax due be sent automatically to all concerned (para 7.46).

Finances of Rural LGs

61. Considering the issue of property tax receipt required by the residents of Idukki and Wayanad districts for various purposes in the absence of valid title deeds, and the possibility of existence of similar problems in other districts as well, the Commission recommends that there shall not be exemption from the payment of property tax (para 5.12).

62. The Commission recommends that all the non-tax items are required to be revised urgently, in order to meet the rising needs of GPs, which at present depends much on the GPF recommended by the State Finance Commission (para 5.24).

63. The Commission recommends to increase the rate of honorarium of elected representatives of three tier Panchayats as follows.

(a) For the elected representatives holding full - time executive positions such as President, Vice-President of District, Block and Grama Panchayats, the honorarium shall be increased by 200 percent from the existing monthly rate. (b) In the case of others, the honorarium shall be increased by 100 percent from the existing monthly rate (c) The increase shall be effected as per Table 5.9 with effect from 1st April 2016 (para 5.34).

Finances of Municipalities and Municipal Corporations

64. In order to address the issue of low priority and meagre expenditure incurred on civic functions mentioned in the Kerala Municipality Act, 1994 by municipalities and MCs, the Commission recommends the following. (a) The Urban LGs should set apart more appropriation from general purpose fund for improving civic functions and that from development fund for capital expenditure in this regard (Para 6.17 and 6.35)

65. In order to solve the pension payment crisis of the staff of municipalities and municipal corporations, the Commission recommends the following. (1) The Director, Urban Affairs shall in the first instance ascertain outstanding amount payable to municipalities/MCs in pension fund after adjusting pension contribution due from them, if any, and the same may be intimated to the Finance Department. (2) The Finance Department should release funds to clear the arrears in four quarterly installments in 2016-17 to the Director of Urban Affairs and the same may be disbursed. (3) The share of Government and LGs will be recalculated commensurate to increase in life expectancy. (4)Municipalities/MCs should remit pension contribution regularly to the pension fund maintained by Director, Urban Affairs. The Secretary of the municipality/MC will be held responsible for delays in payment of pension contribution. (5) The annual pension commitment should be ascertained by Director of Urban Affairs in advance and necessary budget proposals should be forwarded to the Finance Department. (6) The Finance Department shall provide required amount in the budget every year based on the proposal of Director, Urban Affairs. (7) The gap if any in the pension fund maintained by the Director, Urban Affairs and actual annual financial commitment should be bridged equally by municipalities/MCs and State Government. Suitable mechanism may be evolved by the Director, Urban Affairs in consultation with municipalities/MCs. (8) In the case of new pensioners, the payment of pensions and retirement benefits to a retired municipal staff shall be given by the municipality/MC in which the person has served the longest period in his total municipal service. (9) The Secretary, Department of Finance and Director, Urban Affairs will be responsible for providing adequate budget provision and timely allotment of funds. (para 6.14, 6.33)

66. The Commission recommends to increase the rate of honorarium of all elected representatives of Urban LGs as follows. (a) For the elected representatives holding full-time executive positions such as Mayor, Deputy Mayor of MC and Chairperson and Vice-Chairperson of municipalities, the honorarium shall be increased by 200 percent from the existing monthly rate. (b) In the case of others, the honorarium shall be increased by 100 percent from the existing monthly rate (c) The increase shall be effected as per Table 6.32 with effect from 1st April 2016 (para 6.40).

Implementation of Previous SFC recommendations

67. The Commission recommends to continue the existing Cell in the Finance Department to monitor implementation of recommendations of the State Finance Commission. The Commission also recommends to set up another Cell in the LSGD to follow up and monitor implementation of recommendations except devolution, allocation and release of funds, administration of utilization of fund, monitoring expenditure and data base on LG finance which will be entrusted with the SFC Cell in Finance Department. The Cell in LSGD shall have personnel with sufficient field experience in Panchayat and Municipal matters (para 3.8).

68. Recommendations of the previous four SFCs detailed below shall be reaccepted and implemented without any further delay (para 3.9).

First State Finance Commission

(1) Government may undertake a delimitation of revenue villages to ensure that no village falls in more than one L.G.

(2) In respect of advertisement tax, the Government may fix the minimum rate chargeable and leave it to Panchayat or Municipality to fix it above those rates.

(3) L.G. should be made eligible for 50% of the building exemption fee.

(4) All LGs may conduct a systematic tax mapping and assign unique premises number to each premise.

Second State Finance Commission

(5) Grama Panchayat may auction the right to set up temporary shops in public land just as Urban Local Governments are doing so under section 376 of the Kerala Municipality Act.

Third State Finance Commission

(6) For systemic improvement the

following steps may be implemented :

(a) A Demand Collection Balance (DCB) statement of all revenue receipts should be prepared and placed before the meetings of LG once in a quarter (at least) and that should be discussed by the Council and appropriate direction given to officials

(b) A statement on revenue collection and arrear position of LGs should be placed by Government in the State Assembly every year for a one day discussion

(c) For debt position, statement should be prepared and reviewed in Council meetings

(d) A list of major defaulters of property tax should be put up on the notice boards in each Grama Panchayat, Municipality and Municipal Corporation. This should be put on their websites also

(7) Before ordering any exemption/ reduction in tax which is in the domain of LGs, Government should obtain the consent of the LG concerned

Fourth State Finance Commission

(8) To give additionally an amount equivalent to the collection of Entertainment Tax during the last year of the tax to each eligible Grama Panchayat, Municipality and Municipal Corporation whenever the Goods and Services Tax is introduced and the Entertainment Tax is merged with it.

(9) The following has to be done in respect of use of Development Fund and Maintenance Fund for roads:

(a) A connectivity plan has to be prepared in all districts

(b) Once a road is taken up it should be completed in all respects before another roadwork is taken up

(c) LSGD may come out with high quality standards and specifications to ensure the longevity of roads

(d) Third party quality assurance system may be put in place in partnership with Engineering Colleges and Polytechnics akin to the system in place for PMGSY

(e) Whenever Funds are given under Disaster Relief for repair of flood affected roads the proportionate share should be given to roads owned by LGs. The share could be determined by the District Collectors after objective assessment of the damage

(10) The data base of tax shall be computerized and uploaded in the public domain as a proactive disclosure of information to the tax payers.

(11) When the ownership of a property which was assessed under property tax is changed, 50% of the property tax may be levied as a cess on transfer of property from the seller. So also when the occupier of a property is changed that shall be got registered in the Gram Panchayat/ULG and a registration fee equivalent to 25 % of the property tax shall be imposed on the new occupier.

(12) To take urgent steps to frame new Taxation and Finance Rules to enable speedy collection of revenue dues.

(13) To give incentives to those who pay taxes in advance by giving a 1% concession and to discontinue the practice of exempting penal interest at the fag end of the financial year through Government Orders.

(14) Entrance fees are collected in many tourist centres like Periyar Tiger Reserve (PTR), Periyar Lake, Pookkode Lake, Edakkal Caves etc., and certain agricultural farms. Houseboats are plying in backwaters and lakes. But the provisions in the Local Authorities Entertainments Tax Act and Rules are not sufficient to bring these activities under entertainment tax. Huge fees are collected for boat-rides, elephant-rides etc. These entertainments also are to be brought under ET Act. Other new areas of taxation for entertainment may also be explored. ET Act and Rules need a re-visit and comprehensive updation.

(15) Periodical revision of the minimum rates of advertisement tax in Corporations, Municipalities, Special Grade Panchayats and other Panchayats taking into account the cost of advertisement in the competing advertisement media and the cost incurred by the society from the proliferation of hoardings. Considering the negative externalities of the hoardings, it is suggested that the rate of tax of hoardings may be increased substantially so as to have a deterrent effect upon the advertisers. To prescribe an optimum size of a hoarding and larger size may be taxed double the rate so as to disincentivise and discourage larger hoardings.

(16) Home stays have to be registered with the LGs.

(17) Local Self Government Department may come out with a maintenance manual separately for roads and non - roads assets.

(18) Web-based software may be developed and deployed at the levels of LGs and treasuries with a district level terminal so that financial transactions shall be validated as per the provisions in the budget and shall be monitored online.

(19) The period of limitation of recovery of dues may be extended to 15 years.

(20) Minutes of Local Governments should be prepared within 24 hours and entered into a web-based software capable of tracking changes made by the elected head. Formats for agenda and minutes may be indicated for the main categories which come up for decision usually.

(21) For payments of regular items of expenditure of transferred offices and institutions Local Government may transfer the annual estimated amount within normative ceilings prescribed by Government to the head of office so that smooth payments are made.

(22) The practice of permissive sanctions may be done away with and Local Governments having own revenues be allowed to spend a portion of their own revenue surplus for extraordinary items subject to an annual ceiling.

(23) The roles and responsibilities of staff transferred to Local Governments and nuances of the relationship between elected members and office holders and permanent officials need to be set out in detail.

(24) The liability of elected members and officials needs to be clearly spelt out.

(25) At the Local Government level, there is an urgent need to integrate plan with the budgetary process. There should be a single document covering all items of receipts and expenditure passed by each Local Government by March, every year including the annual plan. To this end the Budget Rules may be thoroughly recast

with adequate provisions for participatory planning and budgeting. The Rules should incorporate provisions for transparency; there should also be adequate provisions to ensure the integrity and sanctity of the budget, especially in relation to forecasting of revenues and estimating of expenditure.

(26) Suitable integration of softwares relating to revenue (Sanchaya), Planning (Sulekha), Assets (Sachitra) and Pay Bills (Sthapana) with ‘Saankhya’ may be effected.

(27) One Assistant Engineer is needed in every Grama Panchayat.

(28) E-governance should be completed in the following areas: Accounts, Distribution of pension, Preparation of estimates and work bills, Grievance redressal, Issue of licences and permits, Establishment matters and Asset accounting.

(29) Social audit may be made statutory and elaborate rules prescribed for its conduct and follow up on recommendations.

(30) The performance audit system should be revamped to make it an effective internal audit system which is corrective rather than fault- finding. It should not do formal audit.

(31) In order to improve the quality of formal audit, an Audit Manual may be prepared.

Part II of the Report
Submitted on March 11, 2016

Fiscal Issues

69. The Commission recommends that KURDFC shall be designated as nodal agency to clear all formalities relating to availing of loans by Local Governments for remunerative projects as detailed at para 12.7. State Government may provide guarantee to the borrowings by LGs. (para 12.8).

70. We recommend that audit by the State Audit Department should take a more development-friendly approach without compromising the basic principles of audit (para 12.12).

71. The Commission recommends that Performance Audit System in Urban Local Governments should be strengthened urgently and adequate staff should be provided either through fresh recruitment or through deployment in this regard, so as to make the system as envisaged in the Act and Rules (para 12.16).

72. We recommend that the following shall be done in connection with the assets of LGs:

(i) The 'Sachitra' software be made more user friendly.

(ii) There should be provision to recognize addition/deletion of assets each and every year.

(iii) The 'Sachitra' software be integrated with 'Saankhya' software so as to update assets automatically.

(iv) When a project which creates asset is completed, the asset register should be updated automatically (Asset is mainly created with development fund and own fund. Maintenance fund is given for the maintenance of assets and not for asset creation. However, this fund is permitted to be utilized for the construction of compound wall and roof changing. The assets created so with the maintenance fund can also be added to the existing assets).

(v) In the case of roads which pass through more than one ward/division that should be entered in the asset register as one road in single length chainage.

(vi) While searching the assets, the following details should be exhibited:

a) Name of asset

b) Name of ward/division

c) Name of village

d) Block number

e) Survey number

(vii) The cost of assets the valuation of which could not be undertaken is shown as Re.1 in asset register. The market value of such assets should be assessed and the asset register be updated accordingly.

(viii) Duplication of assets should completely be avoided. The facing sheet of the asset register should contain an abstract of the total assets under the control of Local Government as detailed at table 12.2, 12.3 and 12.4. This abstract should be certified by the Kerala State Audit Department at the time of statutory audit every year (para 12.20).

73. The commission recommends that the lsgd shall take urgent steps to notify the asset register in the official gazette so as to help the local governments to claim legal validity over the assets owned by them. There should be a mechanism in lsgd to monitor updating of asset register by local governments concerned regularly (para 12.21).

74. The commission recommends that the software used by the 5th sfc, which has been developed by the keltron, shall be considered to be modified and this shall be continued to be used for the collection of fiscal data on local governments for the subsequent years from 2014-15 onwards until the management information system (mis) is introduced by the ikm. When the mis comes into force and the ikm is able to provide necessary information on lg finance the data collection through the software developed by the keltron shall be done away with. The sfc cell in finance department shall be entrusted with this task. For this purpose the amc with the keltron be renewed periodically. Any lapse in collection of fiscal data on local governments, publishing them in the domain of finance department and renewal of amc of software developed by keltron shall be avoided (para 12.24).

75. The commission recommends that the sfc software which is adopted for the continued collection of fiscal data on local government be integrated with the 'saankhya' software developed by the ikm (para 12.25).

76. The commission recommends that one post each of an accountant in the rank of head clerk be designated in all municipalities, municipal corporations and district panchayats by deploying existing post in the same lg. No new post shall be created in this regard. The proposed accountant should be responsible for handling afs and budget of lgs. The accountant shall be permitted to be in the post for at least three years. (para 12.26).

77. The Commission recommends that the CTFM under the control of Finance Department and the DAC in GIFT shall be entrusted with the task of imparting training to Local Government staff with regard to finance, accounting, and related matters. The KILA may also be associated while designing the training programme. A fee may be collected from the sponsoring institution in this regard (para 12.27).

78. The Commission recommends that the 'Saankhya' accounting software developed by the IKM and other software shall be fine-tuned after considering the areas/points mentioned at Para 12.30 (i) to (xxxi) (para 12.31).

79. The Commission recommends that the LSGD shall come out immediately with a budget manual applicable to both rural and urban LGs (para 12.31).

80. The budgets of LGs should be more realistic based on systematic and scientific estimates (para 12.31).

Restructuring Plan Formulation and Execution

81. The Commission recommends that the plan

guidelines should give emphasis for the preparation of financially, technically and economically feasible projects, speedy formulation of projects taking into consideration local development requirements, changing the procedures to get speedy approvals and technical sanctions, effective machinery/ mechanism for execution, efficient and time-bound executions and achievement of physical and financial targets. The Commission recommends to prepare three plan guidelines for the three categories, viz. (1) Grama and Block Panchayats, (2) District Panchayats and (3) municipalities and municipal corporations. The Commission recommends that State Planning Board shall constitute an Expert Committee to restructure the plan guidelines taking into consideration all the recommendations of the Commission on restructuring the process of plan formulation and execution. (para 13.42)

82. The Commission recommends that the GPs and municipalities facing problems due to geographic location (coastal area, hilly area, water bound and small islands) shall be permitted to spend 10% of the plan fund for meeting geographic related development projects. (para 13.45)

83. The Commission recommends that the SFC cell should prepare a handbook of guidelines for utilization of funds, viz. General Purpose, Maintenance (Road and Non-Road) and Development for various items in Malayalam. (para 13.49)

84. The Commission recommends that new posts in the cadre of Assistant Engineer shall be created in three regions to look after the engineering related issues of municipal corporations and municipalities. The posts recommended are Environmental Engineer, Mechanical Engineer and Electrical Engineer. (para 13.50)

85. The Commission recommends that the total amount and the rate of subsidies given to similar beneficiary schemes such as housing, land purchase and other schemes meant for BPL households, SC/ST, etc. by the Government Departments and LGs should be made uniform. The rate of subsidies of LGs will be taken as base rate. (para 13.51)

86. The Commission recommends four major changes in the procedures at pre-project formulation stage and project identification. First, reduce the number of working groups and make them more functional and effective in providing inputs for plan formulation. They should review the progress of plan, suggest improvements in execution of projects, prepare status report, discuss with stakeholders and give an overall shape of plan outline. The number of working groups for Grama Panchayats, Block Panchayats and municipalities shall be reduced to three. ((a) Sector wise (primary, secondary and tertiary) and overall development of the local economy (b) Infrastructure, civic amenities and welfare schemes (c) Development of transferred institutions). Five working groups shall be constituted in municipal corporations, viz. (a) Sector wise and overall development (b) Civic amenities (c) Infrastructure (road, water, electricity, housing) (d) Social welfare and poverty alleviation and (e) Development of transferred institutions. In District Panchayats, five working groups shall be

constituted, viz. (a) Agriculture and allied activities (b) Industry and service sector activities (c) Infrastructure (road, water, electricity, housing, etc.) (d) Development of transferred institutions and (e) Social welfare and poverty alleviation. Second, strengthening the role of Grama/Ward Sabhas/Ward Committees to have an effective role in review of projects implemented in the ward, suggest improvement in execution, identify the development requirements and suggest new projects in the next annual plan. Effort should be made to bring more knowledgeable people to the Grama Sabhas/Ward Sabhas/Ward Committees. Third, prepare list of projects and schemes with rough cost estimates to be included in the annual plan/budget for the next year based on the above exercise. Four, the time limit recommended for observing the formalities of pre-project preparation is five weeks during November and first week of December (constitution of working groups, convening Grama/Ward Sabhas, conduct of development seminar and identification of projects). The time limit recommended for preparing a list of preliminary projects for inclusion in the annual plan/budget is three weeks (in December). (para 13.52)

87. The Commission recommends that at least two months should be given to LGs for preparation of projects other than the peak period of execution (January to March). In the case of medium or major engineering or technical projects, the detailed project preparation shall be entrusted to retired engineers, officers, consultancy organisations, engineering colleges and research institutions on payment basis. The DPC shall give approval of a panel of persons and institutions submitted by the LGs for the purpose. (para 13.53)

88. The Commission recommends to reduce the number of projects (plan and maintenance) to a level of two-thirds of the existing number of projects. The recommended range of number of projects for different categories of LGs are given below: Grama Panchayat (60-75), Block Panchayat (30-40), District Panchayat (400-480), municipalities (110-140) and municipal corporations (600-690). In the case of projects using Development Fund, priority should be given to asset creating medium or large size projects in all category of LGs. In GPs and municipalities, out of the total projects, at least one-fifth should have an outlay of Rs 5 lakh per project. (para 13.54)

89. The Commission recommends that a mechanism shall be formulated to scrutinize the work executed by the beneficiary committees. The GPs, municipalities and municipal corporations should place a list of all projects implemented through beneficiary committees in a ward during a financial year in the first Grama Sabha meeting of the subsequent financial year. Details of the names of the persons of beneficiary committee, the purpose of project and amount spent, achievement of physical and financial target, etc. may be placed in the Grama/Ward Sabha for scrutiny and making assessment/observations. The observations of Grama/Ward Sabha may be recorded and appropriate action shall be initiated by the Panchayat Committee/Municipal Council/Council of

MC on it. The quality of the work executed through the contractor should also be scrutinized in the same manner. (para 13.56)

90. In order to prevent the unhealthy practice of bunching of plan expenditure, the Commission recommends execution and completion of projects of non-engineering nature preferably in the first two quarters of the financial year. (para 13.59)

91. The Commission recommends that all the vacant posts of engineers, overseers and other field staff in Grama, Block and District Panchayats, municipalities and municipal corporations should be filled immediately. There should be a mechanism to fill the vacancies as and when they arise. Every Grama Panchayat should have at least a full time Assistant Engineer. The unhealthy practice of frequent transfer of engineers should be stopped. An engineer should be given a tenure of at least three years in a LG. (para 13.60)

92. The Commission recommends to create a clerical post to support the engineering wing in all GPs based on a work study. The expenditure needed for this shall be met from their own fund and General Purpose Fund. (para 13.61)

93. The Commission recommends that all LGs shall be exempted from all Treasury restrictions (para 13.62).

Changes in law, Rules and Procedures

94. The Commission recommends that LGs shall be given more financial powers to undertake health and literacy programmes (para 14.11)

95. We recommend that the present practice of obtaining permission from Government to purchase land by LGs for the construction of their office buildings/providing facilities for discharging civic functions shall be done away with. Instead, a District Level Monitoring Committee with President of District Panchayat as Chairman, the District Collector as the Convenor and five elected representatives of LGs, DDP, ADC (General) and Regional Joint Director of Urban Affairs as members to clear the proposal to purchase land shall be constituted. The decision of the Committee shall be binding on LGs. The District Collector shall be the sole authority to fix the value of the land. If there is any difference of opinion the LGs can appeal before the State Government (para 14.11).

96. We recommend that the Local Governments shall be given the power to demolish an old building of the transferred institution with a view to constructing a new building for the same purpose for which the old building constructed. The decision in this regard can be taken by the Council based on the report of the LSGD Engineering wing and with the concurrence of the Head of the Department of the transferred institution. Executive Engineer in the case of Grama and Block Panchayats and Municipalities and Superintending Engineer in the case of District Panchayats and Chief Engineer in the case of Municipal Corporations will be the authority to give report (para 14.11).

97. The Commission recommends that the staff posted in a LG or transferred institutions shall be permitted to work there for at least three years. Before transferring

them, the views of the Mayor/Chairperson/President of the LG ought to be obtained. A copy of the order transferring and posting an official shall compulsorily be marked to the elected head of the LG concerned (para 14.11).

98. We recommend that departments of Panchayats, Rural Development and Urban Affairs at the Government level shall be integrated to form the Ministry of Local Governments. The Secretary and other staff in Government Secretariat shall be a part of the Ministry. Similarly, the Directorates of Panchayats and Urban Affairs, the Commissionerate of Rural Development and the LSGD Engineering wing shall be integrated into one Department, viz, Local Government Department with a Senior IAS Officer as head. This department will have four wings, viz, Panchayat, Rural Development, Urban Affairs and Engineering. The Panchayat, Rural Development and Urban Affairs shall have a separate Additional Director each and the Engineering wing a Chief Engineer. The proposed Director shall have a role in the affairs of LGs for which the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994 may be suitably amended (para 14.11).

99. The Commission recommends that extensive public awareness programmes shall be conducted to improve participation in Grama/Ward Sabha and Ward Committee meetings. Judicious and fair selection of beneficiaries, provision of effective and mandatory civic services, due consideration of proposals put forward by the participants shall also be ensured to improve participation. The entire proceedings of the Sabha/ Committee shall be video recorded. All participants should be covered in the recording. The CD/ DVD of the recording shall be kept in the office like any other records and the same shall be subject to verification/ inspection/audit in future. The LG shall give an incentive which can be a project costing not less than Rs.1 lakh to one Grama/Ward Sabha and Ward Committee which has the maximum percentage of participation in a financial year. The LG shall keep a complaint/suggestion book in the Grama/Ward Sabha and Ward Committee meeting to record the opinion of the participants as to the functioning of the meeting and their opinion shall be given due weightage in future (para 14.11).

100. We recommend that the provision in section 253 and section 67 which were in existence in the original the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994 respectively shall be re-introduced so as to make the elected representatives also liable for the loss, waste or misappropriation of money or property of the LG occurred due to their action (para 14.11).

101. We recommend that the Advocate fee which an LG can pay in a year in connection with litigation in a Court of Law can be revised as follows:

Litigation up to District level Court – Rs.5000- Rs.10000

Litigation in High Court – Rs.10000- Rs.20000

Litigation in Supreme Court – Rs.50000

The present practice will continue in the case of payment of any amount beyond this ceiling (para 14.11).

102. The Commission recommends that the LGs shall be given the power to cut trees which are found to be dangerous to the vehicles or pedestrians passing through without the permission of the Social Forestry wing provided that the LG shall plant two saplings of the same tree in the same or nearby place (para 14.11).

103. We recommend that the LGs shall be permitted to revise their budget only twice in a financial year. Section 214(5) of the Kerala Panchayat Raj Act, 1994 and section 293 (5) of the Kerala Municipality Act, 1994 shall be amended accordingly (para 14.11).