

CHAPTER - I

INTRODUCTION - URBAN LOCAL BODIES IN THE STATE OF BIHAR

1.1 Constitutional Background

The Urban Local Bodies (ULBs) came into existence as institutions of Local Self Government in 1920. The 74th Constitutional Amendment Act, 1992 provided the State Government sufficient authority to make the ULBs full-fledged vibrant institutions of local self-governance by vesting them with powers, functions and responsibilities of various departments of State Government. Accordingly the ULBs were classified into Municipal Corporations/Nagar Nigams, Municipal Councils/Nagar Parishads and Nagar Panchayats (erstwhile Notified Area Committees). After the said Amendment, first election for constitution of elected bodies in ULBs was held in the year 2002 and subsequently in the year 2007. A new act namely Bihar Municipal Act, 2007 was enacted in January 2007. Presently, there are 11 Nagar Nigams, 42 Nagar Parishads and 86 Nagar Panchayats in the State of Bihar. At the State level, Urban Development and Housing Department (UD&HD) is the controlling Department. Important statistics of the State of Bihar are given in the table below:-

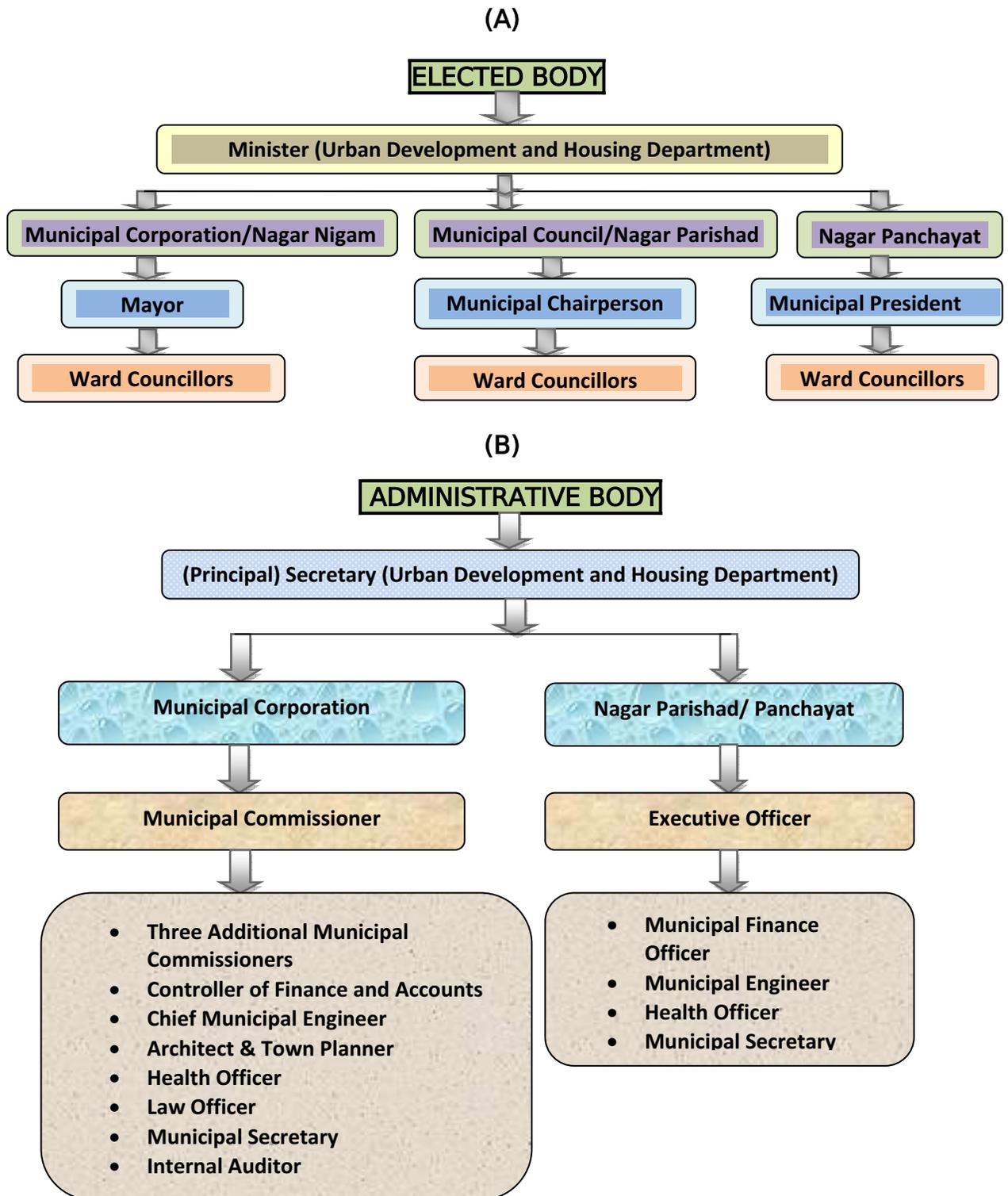
Table - 1
Important Statistics of the State of Bihar

Sl. No.	Particulars	Unit	State figure	Ranking among States	All India figure
1.	Share in Country's Population	<i>per cent</i>	17.90	3	---
2.	Share of Urban Population	<i>per cent</i>	11.30	---	31.16
3.	Total Area	<u>km²</u>	94,163	12	32,87,590
4.	Population Density	<u>per km²</u>	1102	1	382
5.	Literacy rate (2011)	<i>per cent</i>	63.82	28	74.04
6.	Sex ratio	per 1000	916	23	940

(Source: - Census 2011 (Provisional) and National Portal of India site (india.gov.in))

1.2 Organisational Structure of ULBs

The following flow chart depicts the organisational structure of the ULBs at different levels.



The following table depicts a brief summary of Powers and Role of State Government in relation to the ULBs under BMA, 2007.

Table - 2
Powers and Role of State Government

Authority	Powers and Role of State Government	Power utilised by the Government
Section 65 and 66 of BMA, 2007	<p>Power of State government to call for the records etc.- The State Government may, at any time, require any municipal authority -</p> <p>(a) to produce any record, correspondence, or other documents,</p> <p>(b) to furnish any return, plan, estimate, statement, accounts, or , statistics, and</p> <p>(c) to furnish or obtain any report and thereupon such municipal authority shall comply with such requirement.</p> <p>Power of State government to depute officers to make inspection or examination and report</p> <p>The State Government may depute any of its officers to inspect or examine any department, office, service, work or property of the Municipality and to report thereon, and such officer may, for the purpose of such inspection or examination, exercise all the powers of the State Government under section 65 provided that such officer shall be not below the rank of -</p> <p>(a) a Deputy Secretary to the State Government in the case of a Municipal Corporation, and municipal council of class "A" and "B",</p> <p>(b) an Under Secretary to the State Government in the case of a Class 'C' Municipal Council or Nagar Panchayat, as the case may be.</p>	Utilisation of such powers is yet to be reported.
Section 274 & 275 of BMA, 2007	<p>Representation in District Planning Committee or Metropolitan Planning Committee- Having regard to the provisions of article 243ZD and article 243ZE of the Constitution of India and of State law enacted under these articles, a Municipality shall participate in the election of members of the District Planning Committee or the Metropolitan Planning Committee, as the case may be, and such members shall actively represent the interests of the Municipality in such Committees.</p> <p>Municipality to implement development plans: -</p> <p>(1) Having regard to the draft development plan, as prepared by the District Planning Committee or the Metropolitan Planning Committee, as the case may be, and as approved by the State Government, the Municipality shall implement such components of such development plan as relates to its jurisdiction and carry out such functions as may be assigned to it in this behalf.</p> <p>(2) Without prejudice to the generality of the foregoing provisions of this section and subject to the provisions of section 10, the Municipality shall undertake -</p> <p>(a) preparation of plans for improvement under chapter XXXV, and</p> <p>(b) plans for infrastructure development including water supply, drainage and sewerage, solid waste management, roads, and transport system accessories.</p>	Plan prepared by the DPC is being approved by a high powered committee headed by the Chief Secretary of the State.

Authority	Powers and Role of State Government	Power utilised by the Government
Section 419 of BMA, 2007	<p>Power to make rules</p> <p>(1) The State Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.</p> <p>(2) Any rule made under this Act may provide that any contravention thereof shall be punishable with fine which may extend to five thousand rupees.</p> <p>(3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rules or the State Legislature agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.</p>	For conduct of business of ULBs the Government has prepared Draft of Bihar Municipal Accounts Rules which is yet to be approved by the State Legislature.

1.3 Audit Arrangement

With the enactment of BMA, 2007 and provisions thereunder, the State Government, in exercise of power conferred under Section 91 (1) of the Act, declared the Examiner of Local Accounts (ELA), Bihar as the Director, Local Fund Audit (DLFA) to conduct the audit of ULBs till further order in November 2007. The Principal Accountant General (Audit), Bihar authorised the ELA, Bihar to conduct the audit of ULBs as per provision of Bihar & Orissa Local Fund Audit Act, 1925 and the matter was intimated to the State Government in November, 2007.

Accordingly, the audit of ULBs is being conducted by the ELA under the supervision of the (Principal) Accountant General (Audit), Bihar. This Annual Report discusses the important audit findings in 57¹ ULBs audited during the year 2010-11. Replies furnished by the ULBs if any, have also been incorporated suitably in this report. Besides, the State Government has constituted three tier

¹ *NAGAR NIGAM - Ara, Begusarai, Bhagalpur, Biharsharif, Darbhanga, Gaya, Katihar, Munger, Muzaffarpur, Patna, and Purnea. NAGARPARISHAD - Araria, Aurangabad, Bagaha, Barh, Bettiah, Bhabhua, Buxar, Chapra, DehriDalmianagar, Dumraon, Gopalganj, Hajipur, Hilsa, Islampur, Jamalpur, Jehanabad, Khagaria, Khagaul, Lakhisarai, Masaurhi, Sasaram, and Sitamarhi. NAGAR PANCHAYAT - Bahadurganj, Bairganja, Barahia, Bodhgaya, Chanpatia, Daudnagar, Dighwara, Dumra, Hisua, Kesariya, Koath, Maharajganj, Mahnar, Mairwa, Maner, Murliganj, Nirmali, Rafiganj, Revilganj, Sahebganj, Shahpur, Sherghati, sugauli and Warsaliganj*

committees- District Level, Departmental Level and High Level to deal with the reports and compliance thereof.

1.4 Recommendations of the State Finance Commission

As per the Fourth State Finance Commission Report, the revenue management is the key to economic stability and development of urban infrastructure. In order to discharge its function properly and cater to the requirements of economic development, the ULBs have to generate adequate resources. The Commission recommended many steps for revenue augmentation of ULBs. Some of them are as under:-

1. Share of 7.5 *per cent* in State's own tax revenue, net of collection costs should be devolved on to the local bodies. Out of total devolution of taxes to local bodies, 30 *per cent* should be for ULBs.
2. Fifty *per cent* of the proceeds of entertainment tax from a municipal area be assigned to the municipality.
3. Arrears of retirement benefit to employees of local bodies should be cleared by giving one time lump sum Grant-in-Aid.

1.5 Status of Transfer of Funds, Functions and Functionaries

The 74th Constitutional Amendment Act, 1992 enables the State Government, under Article 243W of the Constitution to empower the ULBs with such powers and authority, by enacting law, to function on 18 subjects enlisted in the XII Schedule as institution of self-governance. Though, ULBs are carrying out functions related to 13 subjects, transfer of funds, functions and functionaries to ULBs related to rest of the five subjects is yet to be done by the State Government.

1.6 Status of Recovery by Surcharge Proceedings - ₹ 2.42 lakh

As per provisions contained in Section 9 of LFA Act, 1925, the Examiner of Local Accounts, Bihar is empowered to order recovery of any loss due to

negligence and misconduct of employees or every payment which appears to him to be contrary to law through surcharge from persons responsible.

In three ULBs, five Surcharge Notices involving ₹ 2.42 lakh were issued to the person(s) responsible for lapses through the District Magistrates (DMs) by the Examiner of Local Accounts, Bihar during the year ending 31 March 2011 (Table- 3).

Table - 3
Details of Surcharge Notices Issued

(₹ in Lakh)				
Sl.No.	Name of ULB	Period	No. of Surcharge Notices	Amount
1.	Biharsharif	2008-09	1	1.01
2.	Birpur	2004-05 to 2008-09	2	0.43
3.	Samastipur	2008-09	2	0.98
Total			5	2.42

1.7 Recovery at the Instance of Audit - ₹ 22.99 lakh

In 12 ULBs, ₹ 22.99 lakh was recovered from persons at fault during the course of audit (Appendix- I).