

## CHAPTER 7

### ADEQUACY OF POWERS OF LOCAL BODIES AND STREAMLINING THE PROCEDURES

**4.7.01** Considering the magnitude of development works taken up each year by Local Bodies, both in rural and urban, wide variation is found with respect to powers of sanction between the Rural Local Bodies and Urban Local Bodies. While Village Panchayats and Panchayat Unions enjoy adequate powers with regard to administrative sanction for schemes and works, irrespective of the fact, whether such expenditure is to be incurred from their own funds or funds provided externally, viz through State and Central assistance, the Urban Local Bodies have certain limitations. The ceiling for sanctioning powers in respect of Corporation of Chennai was Rs.7.00 lakhs and that of Madurai, Coimbatore Corporations Rs.3.00 lakhs; while that of Municipal Councils ranges from Rs.0.50 lakhs in respect of III Grade Municipalities to Rs.4.00 lakhs in respect of Special and Selection Grade Municipalities. In between come I Grade and II Grade Municipalities with sanction powers of Rs.2.0 lakhs and Rs.1.00 lakh respectively. Only in 1994, Government enhanced the powers of the Chennai Corporation from Rs.7.00 lakhs to Rs.50.00 lakhs and that of Madurai and Coimbatore Corporations to Rs.25.00 lakhs from Rs.3.00 lakhs. The recently upgraded Corporations of Salem, Tiruchirapalli and Tirunelveli are still bracketed with other Municipal Councils in this respect.

**4.7.02** After detailed discussion, it is generally agreed that there is need for greater decentralisation and delgation of financial powers to the Local Bodies. However, Government may also build sufficient mechanism to safeguard the public interest and the properties of the Local Bodies with special reference to Revenue expenditure, Capital expenditure and receipts from Lease/Auction.

**4.7.03** At present, works roughly to the tune of one crore of rupees is being executed in a Panchayat Union, mostly through funds made available under the Centrally sponsored schemes. These works have to be completed within the time frame of one year, viz. atleast before the end of the financial year. This would require that the Technical Officers, at the District Level and at Panchayat Union Level are adequately empowered with technical sanction for timely completion of works. The situation in respect of Municipal works is also similar in nature. The Commission, during its discussions with the District and Panchayat Union officials, and Municipal officials, during the Departmental Seminars and District sittings, gained an impression that the present powers of technical sanction vested with various levels of technical officers are not adequate both from the point of view of escalating cost of materials and labour and the need to adhere to the given time schedule for their completion. The technical officers also indicated to the commission that considerable time could be saved by avoidance of sending estimates to higher authorities for financial sanction, through enhancement of such powers at every level. The same impression was sought to be conveyed to the Commission by the Chief Engineer of P.W.D., Highways and Rural Works Department and Municipal Administration Department. The Commission is of the unanimous view that technical powers of sanction for works, should undergo an upward revision atleast at the District and Panchayat Union levels, which are the cutting edges of administration and scheme implementation. This would involve enhancement of such powers from the level of Executive Engineers/Divisional Engineers down the line, and include Assistant Executive Engineers/

Assistant Divisional Engineers and Junior Engineers. The commission therefore recommends that powers of the aforesaid officers, particularly those dealing with Rural and Urban Local Bodies, may be enhanced as indicated in Appendix-106

#### **Tender System:**

**4.7.04** All Panchayat, Panchayat Union works except those relating to Rural Development and employment generation programmes, and all the Municipal works are carried out by adopting the standard procedure of tender system. Rules and regulations governing tender procedures are well established based on PWD works code, which has stood the test of time very well, meeting the demands of promoting healthy competition between bidders, ensuring quality of works, and completion of works on time, through introduction of stiff penalty clauses against defaulters. However, the commission noted with deep concern, the creeping in of certain unhealthy practices, entirely out of tune with the well established tender procedures. These mainly relate to restrictions sought to be imposed on the issue of tender schedules, and awarding of work contracts, on limited tenders often single tender. While the former restricts the field of competition, the latter kills competition effectively. Either way, public funds and people are poorer to the extent of sufferance in quality of work and cost escalation and time escalation emerging out of protracted decision making procedure. Tender procedures should not only be transparent but should also appear to be transparent for promoting healthy competition, and a keenness to strive for an excellence in quality. Though the works codes have been conceived to aim at this objective, in practice, this is met more in breach than in adherence. No single circumstance or factor is responsible for the present state of affairs; a nebulous combination of bureaucratic apathy, prevailing social and political ethos and an apparent lack of commitment to probity in public affairs, and a permissive atmosphere, constitute the root cause for present state of affairs.

**4.7.05** The Commission, firmly believes that the present practice of getting works executed by the Local Body, in respect of employment oriented and poverty alleviation programmes, as per the Guidelines issued by the Government shall be continued, so as to ensure that the targeted group of unemployed locals are fully benefitted. However, in order to ensure accountability, the Commission suggests that execution of such employment generation programmes shall vest with the Village Panchayats, who shall be made fully responsible for every paise spent on the works. The Commission also recommends adoption of same procedure in respect of similar works undertaken by Urban Local Bodies.

**4.7.06** The schedule of rates mainly deal with cost of labour, which varies from District to District, cost of lead, viz. hauling of materials like sand, bricks from its sources and cost of materials of cement, steel, etc. All these items have variable cost, depending how the market mechanism behaves; often times, rates decided by the schedule of Rates Conference appear to be deliberately depressed, vis-a-vis market rates, resulting in tender rates being quoted with premiums, considered abnormally high. The Commission therefore is of the view that Schedule of Rates Conference, should display more transparency, bereft of secrecy and must reflect market rates atleast to reasonably close levels.

**4.7.07** The Commission also stresses forcefully that for enabling every qualified person to take part in sealed tender floated by the Local Bodies, along with tender notice, tender schedules should also be published with reference to type design (already prepared and made available) with

instructions to type the schedule, filling the rates and submit the (sealed) tender within the time limit prescribed; this will obviate the present difficulties of obtaining tender schedules on time in the office of the Local Bodies. Alternatively, abstract of estimates could be published along with tender notices, so as to achieve the purpose of transparency. The Commission also recommends that as the cost of tender schedule fixed by the Local Body is nominal, the cost can be dispensed with, considering the benefit of enabling all tenderers to take part in the tender. The commission also recommends that a "Works Committee" be constituted in each Local Body except the Village Panchayat (which itself can deal with this) and the power of making recommendations to the Council on the tender may be entrusted to the Works Committee. Any complaint about the lapses in calling for tenders, may be entrusted to the Works Committee which may be empowered to look into the issues and settle them. The Commission, is also of the firm view that if any tenderer after having obtained the tender schedules, has not responded to the tender, shall be dealt with very severely. Recurring defaulters shall have their registration revoked, either temporarily or for an indefinite period, depending upon the seriousness of such default or its frequency of occurrence. The Commission also went into the issue of sanction powers for works which are quoted excess over estimates. The present system of decision making, at graded levels, starting from the lower levels of technical functionaries, upto the Government, passing through in the process Executive Engineer / Divisional Engineer, Superintending Engineer and Chief Engineer, is mainly responsible for the protracted delay, often leading to cost escalation through revision of estimates and calling for retenders, all of which have a cascading effect. At today's level, the funds handled by the Rural and Urban Local Bodies annually, is of the order of Rs.800.00 to 900.00 crores. To gauge the time spent in obtaining sanction for excess over estimates, it would be suffice to indicate that all excess estimates not more than 25 percent of the amount of the original estimates of works sanctioned by Chief Engineer or by a lower authority upto limit of Rs.2,00,000 only, on any rural work, can be sanctioned by the Chief Engineer. In respect of urban Local Bodies, council has sanction powers upto 5 percent above estimate rates in respect of own funds and at estimate rates in respect of Government funds. The Chief Engineer attached to Director of Municipal Administration, has powers to accept excess of 10 percent above estimates if the value of work is less than Rs.10.00 lakhs and 5 percent, if the value is between Rs.10.00 lakhs and Rs.25.00 lakhs.

#### **4.7.08 The Commission therefore recommends that**

i) where as it is generally agreed that there is need for greater decentralisation and delegation of financial powers to the Local Bodies, Government may in consultation with Heads of departments concerned build sufficient mechanism to safe-guard the public interest and the properties of the Local Bodies with special reference to Revenue Expenditure, Capital Expenditure and Receipts from Lease/Auction.

ii) the technical sanction power for works may be suitably enhanced, in respect of technical officers of the Rural and Urban Local Bodies, at various levels as given in para 4.7.03 for ensuring quality and adhering to the stipulated time frame for their completion.

iii) all employment generation schemes be carried out as per procedure prevalent at present and the responsibilities may vest with the Panchayats who will be fully responsible for proper and timely execution of works. Similar powers may vest with Town Panchayats and Municipal Councils

in respect of Employment generation programmes in the Town Panchayat and Municipal areas and they may be made fully accountable for them.

iv) tender procedures should not only be transparent for promoting healthy competition but should also aim at excellence in quality of works. In respect of works, where tender procedure is adopted, along with tender notice, tender schedules may also be published with reference to type design (already prepared and made available) with instructions to type the schedule filling the rates and submit the sealed tender to overcome the difficulty at present experienced in obtaining tender schedules from the Local Body Offices.

v) supplying tender documents on cost be dispensed with, as the cost involved is very nominal.

vi) schedule of rates finalised by technical departments should display more transparency rather than secrecy must reflect market rates to a reasonable extent.

vii) a "Works Committee" be constituted in each Local Body except Village Panchayats with powers to recommend to the Council for deciding tenders and also to look into complaints about lapses in dealing with tenders and settle them. In the case of Village Panchayats, they themselves can attend to this work. This committee can also look into quality of implementation.

viii) Local Body Council be vested with powers to accept tenders in excess of estimate rates with the recommendation of the works committee instead of passing them up for sanction through various levels as is prevalent now, with a view to decide the tenders quickly and start the works early.