GRANTS FOR LOCAL BODIES

10.1 The provisions of article 280 of the Constitution, under which Finance Commissions have been constituted, prescribe (a) mandatory terms of reference as laid down in clause (3) of article 280 and (b) such other matters as may be referred to the Commission by the President "in the interests of sound finance". Till the time this Commission was constituted i.e. by the Presidential Order dated 15th June, 1992, mandatory terms of reference under article 280(3) were as follows:

Article 280(3)

" (a) the distribution between the Union and the States, of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India."

10.2 Subsequent to the setting up of this Commission, article 280(3) has been amended to provide for yet another mandatory duty to be performed by the Finance Commission. By the 73rd and 74th amendments to the Constitution, two new sub-clauses (bb) and (c) have been introduced in clause 3 of article 280. These sub-clauses make it obligatory upon the Commission to recommend "the measures needed to augment the Consolidated Fund of a State to supplement the resources of the panchayats/municipalities in the State on the basis of the recommendations made by the Finance Commission of the State."

10.3 The Union Ministries of Rural and Urban Development, several State Governments, the National Commission for Women and the Rajiv Gandhi Foundation have taken note of the fact that the recommendations of the State Finance Commissions are not likely to be available during our term. Nevertheless, they have represented that the Commission should recommend measures needed to augment the resources of States to enable them to supplement the resources of newly created constitutional bodies i.e. panchayats and municipalities. Assuming that the reports of the State Finance Commissions will not be available earlier than mid-1995, the Union Ministry of Rural Development has argued " while the Tenth Finance Commission cannot therefore wait for the recommendations of State Finance Commissions, it cannot also leave the subject of supplementing the resources of the Panchayats untouched as it would mean ignoring a key area which represents the basic tier of administration throughout the country. In our opinion, the Tenth Finance Commission must necessarily look into the measures needed to supplement the resources of the Panchayats." In his evidence before the Commission, Secretary, Ministry of Rural Development had argued in much the same vein. A similar plea has been made by the Ministry of Urban Development. It has argued that "The third stratum of self-governance has been constitutionally created at a time when almost all the States are suffering from a severe financial crunch. That apart, the resource base of the States is rather narrow. Self-governance connotes a sense of autonomy. There cannot be any measure of autonomy without some degree of independence in relation to access to resources. Hence, in order to implement the Constitution (74th Amendment) Act in letter and spirit, sufficient provisions have to be made from now on for access to resources by Municipalities."

10.4 Several States have submitted that even in the absence of recommendations of State Finance Commissions, it would still be necessary to provide for the augmentation of the consolidated fund of the State, in order to enable the latter to set up local bodies, hold elections thereto and supplement their resources. Assam has requested us to bridge the gap of Rs.88.45 crores for the urban local bodies in the State. Karnataka has laid claim to Rs.372.93 crores for panchayats. Orissa has asked for a provision of Rs.492 crores to be made available for municipalities and notified area councils of the State. Rajasthan has projected a requirement of Rs.1000 crores for the five year period. Himachal Pradesh has asked for Rs.158.55 crores for panchayats. Bihar, Goa, Madhya Pradesh, Maharashtra, Uttar Pradesh and West Bengal have also argued for strengthening their resource base to enable them to effectively discharge their constitutional obligation of making panchayats and municipal bodies financially viable.

10.5 The amendment of article 280(3) was not followed-up by an amendment of our terms of reference. The question before us now is whether we should and can recommend measures for augmenting State resources (for the purpose of supplementing the resources of panchayats and municipalities) by taking cognizance of the purpose, intent and spirit underlying the Constitution 73rd and 74th amendments.

10.6 Article 280 sub-clauses (bb) and (c) stipulate that the recommendation by the State Finance Commissions is to be the basis of our recommendation to the President regarding "the measures needed to augment the Consolidated Fund of a State" to supplement the resources of panchayats/municipalities. The State Finance Commissions are required to be constituted under article 243-I of the Constitution. In terms of article 243-I and article 243-Y, the State Finance Commission is required to review the financial position of the panchayats/municipalities and recommend to the Governor, inter-alia, the principles of distribution and shares of proceeds of shareable taxes, duties, tolls and fees as between the State and panchayats/municipalities. The Commission is also required to recommend to the Governor "the measures needed to improve the financial position" of the panchayats/municipalities.

10.7 Under article 280 (3), "The Finance Commission" has "the duty" to make a recommendation to the President regarding the "measures needed to augment the Consolidated Fund of a State", once the recommendations of State Finance Commissions become available to it. On the 'basis' of the recommendations made by the State Finance Commission, the Finance Commission would have to first ascertain the "need" for augmentation of the consolidated fund of a State and then recommend 'measures', which may not necessarily involve any transfer of resources. It is obvious to us, however, that once the State Finance Commissions complete their task, it would be obligatory upon the Finance Commission to assess and build into the expenditure stream of the States the funding requirement for supplementing the resources of panchayats/municipalities. This would be necessary to determine the measures needed for augmentation of the State consolidated fund.

10.8 Since at present the recommendations of the State Finance Commissions are not available, there is no duty cast on this Commission to make a recommendation in terms of article 280(3) of the Constitution. At the same time the Commission is not precluded either, in terms of article 275 of the Constitution, from making a recommendation regarding grants-in-aid of the revenues of such States as may be determined to be in need of assistance. That being so, we have to consider whether or not we would be failing in our duty if we were to overlook the implications for State finances of local self-government consequent on the Constitutional amendments.

10.9 Our recommendations have a time span of five years i.e. 1995-2000. This entire period would witness the emergence and consolidation of the new place and role of panchyats/ municipalities in the Constitution. Now the Constitution envisages supplementation of their resources by the State with the help of the Union. It would not be wrong to assume, therefore, that while a proper consideration of the measures as such to augment the resources of the States must await the recommendations of respective State Finance Commissions , ad hoc augmentation of the Consolidated Fund of States would be in keeping with the spirit of the amendments.

10.10 The panchayats/municipalities are late entrants in our federal democratic structure but their action or inaction is likely to affect the welfare of the people and area under their jurisdiction more directly than either the actions of the State or the Union. Therefore, within the constraints imposed on us by our terms of reference, we are inclined to consider assistance to the States for panchayats/municipalities.

10.11 The Ministry of Rural Development has stated that the finances of panchayats have unfortunately not been studied in detail for several years now and the published figures relate only to the year 1976-77. Based on these figures, two projections have been offered for the year 1992-93. One of the projections is based on the derived share of allocable taxes and grants to panchayats and the other on the proportion of States' own resources made available to panchayats. In 1976-77, taking all States together, per capita share of taxes and grants assigned to panchayats has been worked out as Rs.14.75. This has been projected for the year 1992-93 to reach a per capita figure of Rs.54.87. It has been then multiplied with the latest census figure of rural population of 62.87 crores to arrive at the needed amount of Rs.3445 crores, rounded to Rs.3500 crores.

10.12 The Ministry of Rural Development has, however, not recommended this alternative as in their view it would amount to freezing the grant at 1976-77 level. Instead, the second alternative, by working out the share of taxes and grants to panchayats as a proportion of States' own revenues, has been pursued. It is claimed that in 1976-77 taxes and grants assigned to panchayats for all States put together worked out to 12.02 per cent of the own resources of all the States. The Ministry is of the view that the percentage share of States' own resources being made available to panchayats by way of assigned taxes and grants would have to be improved upon. In 1976-77, 87 per cent of the all States' total assigned taxes and grants to panchayats was contributed by only four States - Andhra Pradesh, Gujarat, Maharashtra and West Bengal. The rest of the States put together accounted for only 13 per cent. The Ministry's view is that " it will be necessary to provide them (panchayats) a minimum of 15 per cent of the total resources of the States specifically earmarked for the purpose." On this basis and taking into account the revised estimate for 1992-93 of resources of all States and Union Territories, the Ministry of Rural Development has suggested that it will be "appropriate to earmark a sum of Rs.7,500 crores specifically for being distributed to panchayati raj institutions out of the States (and Union Territories) own resources during the period covered by the Tenth Finance Commission."

10.13 The responsibility of sharing taxes with panchayats and assigning grants to them has not been transferred from the States to the Centre. The responsibility for providing panchayats with an independent source of revenue as also grants for specified purposes is very much that of the State Governments. The State Finance Commissions are there to ensure proper allocation of resources as between the State and panchayats . If in the process of supplementation of the resources of panchayats a need arises for the augmentation of the State Consolidated Fund, it has to be considered by the Finance Commission. The percentage of States' own resources made available to panchayats in 1976-77 may be an indicator of what the States should do to help panchayats but it cannot become a standard for augmentation by the Centre of a State's Consolidated Fund. Some of the States like Gujarat and Maharashtra have had, for many years, a three-tiered panchayati raj structure similar to the one now incorporated in the 73rd amendment of the Constitution. The figures of 1976-77 supplied by the Ministry of Rural Development indicate that in Gujarat the share of assigned taxes worked out to 29.60 per cent of States' own resources and grants accounted for 22.90 per cent of the total. Since in many other States similar institutions did not exist, they did not transfer a comparable level of resources from the States to the panchayats.

10.14 In terms of the 73rd amendment to the Constitution, many of the functions of the State would have to be transferred to panchayats . It can be assumed that the transfer of functions and responsibilities from the State to panchayats would be accompanied by the transfer of staff already working on these schemes/projects as also the financial allocations budgeted for and envisaged to be spent on the transferred activities. Such a transfer is, therefore, not likely to result in any extra burden on the State. The States are still in the process of setting up panchayats and as such it is not yet feasible to work out the additional financial burden a State might have to bear to enable the panchayats to discharge their duties effectively. Even so, it is possible to visualise that the local bodies, rearing to get on with their job once they are in position, would generate a need at least in the initial stages for augmentation of the consolidated fund of states. A few States have already reported that the number of panchayats may increase as a result of fresh delimitation exercises. Even taking into account the existing infrastructure and other facilities available to panchayats , there would still be an initial need for supplementation of resources in order to provide for not only the additional set up, including infrastructure facilities, but also the heightened expectations of people from these bodies.

10.15 While considering the 'measures' needed to augment the consolidated funds of states, in pursuance of article 73 of the Constitution, we have taken note of the fact that a large amount of money is already going to the rural areas through Jawahar Rojgar Yojana (JRY) and other district level schemes. In future these amounts are likely to be channelised through the panchayats.

Even if much of it is tied to specific programmes and activities, it would still leave some leeway for discretionary programmes to be taken up. The corpus of untied funds in the hands of panchayats would, however, require to be supplemented. We assume, though, that the need for measures to augment the State Consolidated Funds, on account of supplementation of the resources of panchayats , would not really arise until 1996-97, since in most cases the panchayats are yet to become functional.

10.16 In the above background we have approached our task as one of making an ad hoc provision of specific grants to States. This has been estimated with reference to the rural population according to the 1971 Census figures. The rural population of all States in India was 4,380.93 lakhs. Most of the funding requirements of panchayats are likely to be met by transfer along with functions from the States and their own resources. We are making an ad hoc provision of Rs.100 per capita of rural popoulation . For all States the figures are indicated at Annexure X.1. This amount should be distributed amongst the panchayati raj institutions, over and above their due by way of their share of the assigned taxes, duties, tolls, fees, transferred activity related budgets and grants. Even in those States which are not required to have panchayats , as envisaged in the 73rd amendment of the Constitution, the additional amounts would be required to be given to supplement the resources of similar local level representative bodies.

10.17 As regards the need for additional funds for municipal bodies, in pursuance of the 74th amendment of the Constitution, the Ministry of Urban Development has stated that without waiting for the recommendations of the State Finance Commissions, a sum of Rs.500 crores, Rs.100 crores per annum, in the next five years may be provided to improve the basic civic services in various urban local bodies. In support of its representation, the Ministry has pointed out that between 1981-91 the urban population had increased from 159 million to 217 million. It registered a decadal growth of 36 per cent. By the year 2001 the urban population is expected to be more than 300 million. In 1991 the slum population in urban areas was of the order of 46.62 million. By the year 2001, it is estimated to be 63.76 million. The increase in urban population, particularly the growth of slum population, is overstraining the meagre resources of urban local governments who are now finding it difficult to provide even the basic civic services like drainage facilities, garbage disposal, latrines, street lighting, etc. The Ministry of Urban Development has, therefore, represented that there is an urgent need to supplement the resources of municipal bodies to enable them to discharge atleast their primary functions in an effective manner. The danger arising from the break-down of urban civic services has been tragically illustrated by the outbreak of epidemics. These are reminders of the cost of neglect of civic services in urban agglomerations.

10.18 An estimate of financial needs for operation and maintenance of core municipal services in urban India made by the National Institute of Urban Affairs indicates that the estimated gap in 1995 worked out to Rs.5,987 crores. It is expected to go up to Rs.12,980 crores in the year 2000. While the accuracy of these estimates and the measures that the state and urban local bodies can adopt to bridge the gap are matters to be discussed and studied by the State Finance Commissions, we are of the view that a provision of Rs.1,000 crores for the five year period covered by our recommendation will go a long way in enabling the urban local bodies to meet their primary obligations. The inter-State distribution of this sum indicated at Annexure X.2 is based on the inter-State ratio of the slum population derived from the urban population figures as per 1971 Census.

10.19 While we have made these provisions for grants to panchayats / municipalities for the discharge of their enhanced responsibilities, this need not necessarily be a precedent for future Commissions. In any case after the reports of the State Finance Commissions become available the need for measures required for augmentation would have to be determined in terms of article 280(3) of the Constitution. For the present, grants recommended by us should be made known to the State Finance Commissions. Further, these amounts should be an additionality over and above the amounts flowing to the local bodies from State Governments. They should draw up suitable schemes with detailed guidelines for utilisation of the grant. The local bodies should be required to provide suitable matching contributions by raising resources. The grant is not intended for expenditure on salaries and wages.

10.20 The total provision should be made available to the States in four equal instalments commencing from 1996-97, as at Annexure X.3 as the rural and urban local bodies are not likely to be fully functional prior to that.