

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
URBAN DEVELOPMENT DEPARTMENT**

Explanatory Memorandum as to the action taken on the recommendations made by the Fourth Delhi Finance Commission.

The Fourth Delhi Finance Commission was constituted on 14.10.2009. It was scheduled to give its report in the year January, 2010. However, it submitted its report in March, 2013.

Its recommendations were to be implemented from 2010 to 2015. The Commission's report was delayed at least by three years.

(A) The terms of reference of the 4th Delhi Finance Commission were as follows:-

1. To review the financial position of the municipalities
2. To make recommendations as to the principles which should govern -
 - (a) The distribution of net proceeds of taxes, duties, tolls and fees leviable by Government of National Capital Territory of Delhi between Government and the municipalities.
 - (b) The determination of taxes duties, tolls and fees which may be assigned to the Municipalities. The grants-in-aid to the municipalities from consolidated fund of Government of National Capital Territory of Delhi.
3. Measures needed to improve the financial position of the municipalities.

(B) Commission gave recommendations for Govt. of India as follows:-

1. Ensure that Ministry of Urban Development, Govt. of India does not deal with matters relating to constitution and powers of the municipalities and other local authorities of the union territory of Delhi.

2. Display its commitment towards the 73rd and 74th Amendment of the Constitution by starting the process of enforcing them in letter and spirit beginning with transfer of control over other local authorities such as the Delhi Development Authority and the Competent Authority appointed under the Slum Areas (Improvement and Clearance) Act, 1956 or limiting the authority of the municipalities on matters relating to regulation of building activities or undertaking of improvement works.
3. Should hold the Delhi Development Authority responsible for infrastructure deficits in terms of requirements for municipal services befitting the national capital despite its paying the deficiency charges to other local authorities and should compensate the municipalities for being forced to bear the brunt of providing infrastructure deficits out of their resources.
4. Appreciate that the provisions contained in Article 243W of the constitution does not empower the government to either take back existing empowerment or enact a law establishing a local authority with authority to perform functions reserved for municipal governance because of the provisions contained in Article 243ZF of the constitution.
5. Omit or amend Provisions of municipal laws which are not in line with the provisions contained in Part IXA of the constitution be omitted or amended particularly those in section 28 the Delhi Police Act, 1978 to the extent these relate to matters reserved for municipal governance being against the provisions of Article 243ZF of the constitution.
6. Recuse from framing of building bye-laws for regulating the construction of buildings in Delhi.
7. Direct the commissioner of police to refrain from framing or enforcing of regulations that impede implementation of the municipal laws enacted by Parliament.
8. Recognize that its current fiscal policy in relation to the union territories with legislature is contrary to the explicit provisions of Article 367(1) of the constitution.

9. Consider releasing the share of the NCT of Delhi in the taxes and duties in the union list as at par with other states in the Union of India.

10. Should also permit the GNCT of Delhi to collect and appropriate stamp duties and duties of excise on the medicinal and toilet preparation included in the union list and taxes on services levied by the Government of India at par with other states in the Union of India under Articles 268 and 268A of the constitution respectively.

11. Not deny the GNCT of Delhi to enjoy benefit of assignment of proceeds of tax on sale or purchase of goods and on consignment of goods levied and collected by the Government of India at par with other states in the Union of India under article 269 of the constitution.

12. *Government to include the net proceeds of taxes collected by the Government of India in respect of matters for which the legislative Assembly of NCT of Delhi has powers to enact laws and also the share of the union territory of NCT of Delhi in the net proceeds of the taxes and duties in the union list. GNCT of Delhi is not getting adequate share in central taxes from the Central Government at par with that of other States. Upto 1995-96, the Municipalities were assigned the total net collection from the State Vehicles Taxation Act and Entertainment Tax.*

(C) It recommended the following for the Municipal Corporations :-

1. The Municipal Bodies should carry out the core municipal functions which would also improve their financial health and should start exercising economy in expenditure on non-core functions, i.e. which are beyond the scope of the Twelfth Schedule of the Constitution.

For example, unlike the Panchayati Raj institutions, providing Education^s at school level is not a Municipal Function. Surprisingly, the Municipalities in Delhi despite legal restrictions continue to spend funds in providing primary education. This has resulted in making the Govt. of India oblivious to its legal responsibility to determine the norms for

Municipal school infrastructure, and Municipalities are forced to spend on this account.

Also, the Municipal Corporations also should not provide public health services independently of State Public Health Policy. The Municipalities have an implicit obligation to integrate their Public Health Services with over all State Health Policy.

2. Less than 25% of the stock of the buildings and vacant lands are paying property tax on voluntary basis. There is a need to widen the tax base.

Each Municipality should:

- (a) Impose liability to pay license for using the rights of the municipalities in respect of land under and along the pavements/streets/roads.
 - (b) Review the number of properties that are currently exempted from paying property tax.
 - (c) Set up their own Municipal Valuation Committees and grading of colonies has to be municipality specific.
 - (d) Ensure recovery of Tax arrears by enacting a special law to validate the right of each of the municipality to recover past arrears of tax due to the Municipal Corporation of Delhi assigned to the municipality concerned by the Director of Local Bodies and to make assessments in areas based on territorial jurisdictions of properties.
 - (e) Impose electricity tax and to enforce system of assessment and Collection of electricity tax.
 - (f) Build paid bus stops for the buses operating under the contract carriage permit scheme.
 - (g) Earn revenue from proposed tourist facilitation services and granting of permission to open temporary food courts from open areas.
3. *Prevention of dangerous diseases and vaccination inoculation- Govt. Should consider taking over of infectious diseases hospitals*

and Hindu Rao Hospital which need massive investment for improving the health delivery infrastructure.

4. *Each municipality should commence ambulance service within their respective territorial limits on the pattern of the central accident and trauma service (CATS)*

Each municipality to consider framing bye-laws to regulate the specifications for types of ambulances.

(D) It recommended the following for the Govt. of NCT of Delhi:-

- (i) **12.5% of the taxes, duties, fees and tolls collected by the Government of the National Capital Territory of Delhi during the financial years 2012-13 onwards shall be kept in the divisible pool of the NCT of Delhi for each financial year.**
- (ii) **For determining the percentage share of the municipalities the net proceeds of motor vehicle tax and the entertainment and betting tax shall not be included because these stand assigned to the municipalities. (Section 113 of Delhi Municipal Corporation Act).**
- (iii) **Government to include the net proceeds of taxes collected by the Government of India in respect of matters for which the legislative Assembly of NCT of Delhi has powers to enact laws and also the share of the union territory of NCT of Delhi in the net proceeds of the taxes and duties in the union list.**
- (iv) **Existing formula of sharing of funds amongst the municipalities from the divisible pool that is population and area (in the ratio of 70%: 30%) to be changed as it has adversely affected financial health of at least two of the four municipalities for a long time.**
- (v) **In the new scheme, 50% of the funds in the divisible pool shall be distributed amongst all the municipalities with reference to existing principle based on population and area in the ratio of 70: 30;**
- (vi) **Residual 50% to be distributed keeping in view the comparative financial health of each municipality and the infrastructure deficit judged with reference to the quality of four specific municipal services namely 1) right of way of the human and vehicular traffic; 2) the public**

health; 3) regulation of buildings; and 4) maintenance of parks and conveniences.

- (vii) New Delhi Municipal Council and the South Delhi Municipal Corporation have a fairly robust financial health and possess a better infrastructure as compared to other two municipalities. Accordingly, North Delhi Municipal Corporation and the East Delhi Municipal Corporation alone qualify for getting transfer payment under this sub-head.
- (viii) 50% of the remaining available funds in the divisible pool be distributed in the ratio of 34:66 for the financial years 2012-13 onwards between North Delhi Municipal Corporation and East Delhi Municipal Corporation.
- (ix) To ensure that transfer payments received by the municipalities are not utilized for fungible (inter changeable) activities,
- (x) The government while releasing the funds to the municipalities shall specify the purpose for release of those funds and the conditions under which those funds may be utilized by the municipalities.
 - a. Until such time the Government of the National Capital Territory of Delhi is able to convince the Central Government to disburse the amounts of revenue collected by it in respect of subjects for which the Legislative Assembly is empowered to enact laws and releases the withheld share of the Union Territory of the NCT of Delhi in the net proceeds of taxes and duties in relation to the Union List and makes allocation of funds to strengthen the Consolidated Fund of the NCT of Delhi, the Government should compensate the municipalities to the extent of 50% of the loss suffered by them due to lack of action on the part of the Government.
 - b. The net proceeds of the Delhi Motor Vehicle Taxation Act, 1962 and the Delhi Entertainment and Betting Tax Act, 1996 should be assigned to the municipalities being adjunct to the item bearing numbers (b) & (c) of sub section (1) of section 113 Delhi Municipal Corporation Act, 1957 and item bearing numbers (b) & (c) sub

section (1) of section 60 of the New Delhi Municipal Council Act, 1994.

(xi) Need to integrate Public Health policy of the National Capital.

- Government to replace the Delhi Nursing Home Registration Act, 1953.
- Government to consider having its own law regulating the registration of establishments rendering treatment to the sick.

The Govt. of NCT of Delhi has decided to accept the recommendation of Fourth Delhi Finance Commission in totality in the following sequence: -

1. The Government of India to accept implement the recommendation of the Fourth Delhi Finance Commission mentioned in Para (B) 1 to 12 of this summarized note and as recommended in the report of Fourth Delhi Finance Commission.
2. Only after the Government of India implements the aforesaid recommendations, Govt. of NCT of Delhi will then implement the recommendation of the Fourth Delhi Finance Commission, mentioned in Para (D) i to xi of this summarized note and as recommended in the report of Fourth Delhi Finance Commission. It needs to be emphasized that Govt. of NCT of Delhi is keen to implement the recommendations of the Commission. However, it would be completely impossible for Govt. of NCT of Delhi to do that till such time as Government of India implements its own part of recommendations mentioned in Para (B) 1 to 12.
3. Municipalities to implement the recommendation of the Fourth Delhi Finance Commission, mentioned in Para (C) 1 to 4 of this summarized note and as recommended in the report in the Fourth Delhi Finance Commission.


(MANISH SISODIA)

MINISTER OF URBAN DEVELOPMENT