

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 24TH DAY OF NOVEMBER 2020 / 3RD AGRAHAYANA, 1942

WP(C).No.24782 OF 2020(S)

PETITIONER:

RAMESH CHENNITHALA, AGED 60 YEARS,
S/O. LATE V RAMAKRISHNAN NAIR,
MEMBER KERALA LEGISLATIVE ASSEMBLY,
RESIDING AT CANTONMENT HOUSE,
THIRUVANANTHAPURAM, PIN-695033.

BY ADVS. SRI. T. ASAF ALI
SRI. RASHEED C.NOORANAD
SRI.V.S. CHANDRASEKHARAN
SMT. LALIZA T. Y.

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 2 THE DIRECTOR,
KERALA STATE AUDIT DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695001.
- 3 UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI-110011.

R1-R2 BY SRI. RANJITH THAMPAN, ADDL. ADVOCATE GENERAL
BY SRI.V.MANU, SENIOR GOVT. PLEADER
R3 BY ADV. SRI. P. VIJAYAKUMAR, ASG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-11-2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 24th day of November, 2020

S. Manikumar, CJ

Alleging that Exhibit-P1 communication dated 04.09.2020 issued by the Director, Kerala State Audit Department, Government of Kerala, Thiruvananthapuram (respondent No.2), is illegal whereby, audit of accounts of the Local Self Government Institutions (LSGIs) in the State, for the financial year 2019-2020 has been stopped, in contravention of the statutory mandate, instant public interest writ petition is filed for the following reliefs:

- i) To call for the records relating to issuance of Exhibit-P1 communication dated 4th September, 2020 vide No.K.S.A-793/S.S.3/2020 addressed to all the Heads of LSGIs, issued by the 2nd respondent, and a writ of certiorari or any other appropriate writ or order may be issued quashing Exhibit P1 as *ultra vires*, null and void, and unenforceable in law;
- ii) To issue a Writ of Mandamus or other appropriate writ, order or direction commanding respondents Nos.1 and 2 to audit accounts of the LSGIs in the State for the financial year 2019-2020, in terms of the provisions of Kerala Panchayat Raj Act, 1994, Kerala Municipalities Act, 1994, and KLFA, Act 1994, within the time frame fixed by this Court;

2. Facts leading to the filing of the writ petition are that, petitioner is an MLA representing Haripad Assembly Constituency and Leader of the Opposition in Kerala Legislative Assembly. He had served as a Minister for

Rural Development from 1986 to 1987 and also as Minister of Home and Vigilance in the last United Democratic Front (UDF) Government, for the period from 2011 to 2016. He has also served as a Member of Parliament representing Kottayam Parliamentary constituency four times.

3. 1st respondent is the Chief Secretary representing Government of Kerala, 2nd respondent is the Director, Kerala State Audit Department, and the 3rd respondent is Union of India, represented by Secretary to the Government, Ministry of Finance, Government of India.

4. Petitioner has further stated that with the 73rd and 74th amendments to the Constitution of India, three tier Panchayat Raj institutions became a reality in the State. The enactments of Kerala Panchayat Raj Act, 1994 and Kerala Municipalities Act, 1994 witnessed decentralization of powers and functions at the lower level giving effective people participation in the governance of LSGIs. With decentralization of powers, funds from various Government agencies have been devolved to LSGIs in the State.

5. According to the petitioner, under Articles 243J and 243Z of the Constitution of India, Legislature of the States may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts regularly in every year. In compliance with the said Constitutional mandate, Kerala Panchayat Raj Act, 1994 and Kerala Municipalities Act, 1994 have been enacted providing for provisions relating to

auditing of accounts. Under Local Fund Audit Act, 1994 (hereinafter referred to "KLFA Act, 1994"), the 2nd respondent is empowered to audit the accounts of LSGIs, in the State of Kerala, every financial year. In this context, petitioner has referred to Section 295 of the Municipalities Act and Section 215 of the Panchayat Raj Act.

6. Referring to Section 9 of the KLFA Act, 1994, the petitioner has further stated that accounts of the local authority shall be prepared or caused to be prepared by the executive authority, in such form and in such manner, as may be prescribed, and presented for audit, within four months of the close of that financial year. Similarly, under Section 23 of the said Act, the 2nd respondent shall send to the Government annually a consolidated report of the accounts audited by him containing such particulars, which he intends to bring to their notice, and the Government shall, within a period of three months after receipt of the same, cause it to be laid before the Legislative Assembly.

7. Petitioner has further stated that audit of accounts of the public funds is intended to safeguard itself from fraud, extravagance and more importantly, to bring credibility to the functioning of the audited institutions. For sound and effective functioning of LSGIs, and to ascertain that the benefits of public funds being used, reach the lowest strata of the society and every individual, audit is an indispensable tool. In order to prevent non utilisation of funds of the LSGIs, and also against waste, improper or illegal use, embezzlement of

public funds, defalcation or loss in money and also against non-recovery of money dues due to LSGIs, annual auditing is an imperative necessity. Failure to do so would cause great loss to LSGIs. If the audit of the account of LSGIs is postponed or abandoned, public interest would be vitiated.

8. Petitioner has further stated that on 04.09.2020, the 2nd respondent has issued Exhibit-P1 communication to all the Heads of LSGIs, whereby it has been instructed to stop all audit proceeding of the accounts of LSGIs, for the financial year 2019-2020 for want of operational guidelines for the implementation of grants on the basis of Fifteenth Finance Commission recommendations from the Government of India. According to the petitioner, the very reason for stopping auditing is not legally and factually correct in as much as the Ministry of Finance, Government of India has already issued Operational Guidelines for the implementation on Rural Local Body (RLB) grants of Fifteenth Finance Commission and circulated the same to the 1st respondent, as early as on 01.06.2020, long prior to issuance of Exhibit-P1 and, therefore, Exhibit-P1 is unenforceable.

9. On the above facts, the petitioner has filed this writ petition on the following grounds:

- A. Perusal of Exhibit-P1 shows that it was issued without any bona fides and by suppressing Exhibits-P2 and P3. It appears that respondent No.1 is very particular that auditing of

accounts of LSGIs in the State would be postponed till election to the local body institutions and to the State Legislative Assembly, which is scheduled to be held in April, 2021.

- B. Exhibit-P1 is vague, since it does not disclose any legally sustainable grounds for dispensing with or postponing the audit of accounts in LSGIs during the financial year 2019-2020, which is mandated under law. Under Section 9 of the KLFA Act, 1994, the accounts of the local authority should have been prepared or caused to be prepared by the executive authority, in such form and in such manner as may be prescribed, and presented for audit before 31.07.2019. Since the 3rd respondent has already issued Exhibit-P2 Operation Guidelines, as early as in June, 2019, there is no legally sustainable justification for stopping or postponing the audit.
- C. The 2nd respondent has exceeded his authority and power in issuing Exhibit P1 communication, whereby audit of accounts in the LSGIs in the State has been illegally stopped. The act of the 2nd respondent is highly illegal, arbitrary, and unconstitutional.
- D. The 2nd respondent has acted in contravention of Section 13 of the KLFA Act, 1994 in not auditing the accounts of LSGIs in the State and sending a copy of the reports of audit to such officers prescribed by the Government within the time limit of three months, as mandated under law.
- E. Since the 2nd respondent has not acted in terms of Section 13 of the KLFA Act, 1994, the Executive authorities concerned have deprived of discharging their mandatory statutory duty in remedying the defects or irregularities which may have been pointed out in the reports.

- F. It is very significant to note that there is no warranting circumstance for dispensing with detailed audit of LSGIs in the State on the strength of Exhibit P1, and the reason shown in Exhibit P1 is not legally sustainable.
- G. Exhibit P2 Guidelines would show that there is no ambiguity for implementation of the schemes and no question of postponing audit of accounts arise at all. At any rate, public interest and also in order to ensure transparency and accountability in public expenditure of central funds, it is highly essential to complete audit of accounts of LSGIs in the State within the time limit prescribed as mandated under Kerala Panchayat Raj Act 1994, Kerala Municipality Act, 1994 and KLFA Act, 1994, and any infraction thereto would cause great loss and prejudice in the financial managements of LSGIs.
- H. In order to ensure transparency and good governance in the functioning of the LSGIs in the State, every tax payer, whose benefit this Writ Petition is filed has the legal right to get the accounts of LSGIs audited in terms of Kerala Panchayat Raj Act, 1994, Kerala Municipalities Act, 1994 and KLFA Act, 1994. Hence, the petitioner is entitled to file this writ petition as PIL, acting *bona fide* for the enforcement of the legal rights of the tax payers in the State.

10. When the matter came up for admission on 13.11.2020, this Court has ordered the 2nd respondent to file a counter affidavit. Pursuant to the said order, the learned Senior Government Pleader on behalf of the Director, Kerala State Audit Department, Government of Kerala, Thiruvananthapuram, 2nd respondent, has filed a statement.

11. Constitutional and statutory provisions referred to in the supporting affidavit to the statement filed by the 2nd respondent, are extracted hereunder:

"A. Articles 243J & 243Z of the **Constitution of India** read thus:

"243J. Audit of accounts of Panchayats.--The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts."

"243Z. Audit of accounts of Municipalities.--The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts."

B. Section 295 of the **Kerala Municipalities Act, 1994** speaks about accounts and audit and it reads thus:

"295. Accounts and Audit.— (1) The Municipality shall maintain its accounts and other books connected with the accounts in the manner and form as prescribed and shall enter the receipt and expenditure accounts forthwith in such books.

(2) The responsibility to maintain or cause to maintain the accounts and the connected books of the Municipality in the manner and form as prescribed and to submit or cause to submit such accounts to the Local Fund Examiner for conducting audit in the time shall vest with the Secretary.

(3) The Examiner of Local Fund Accounts and his nominees shall be the auditors of the Municipality.

(4) The auditors shall maintain a continuous audit of the accounts of the Municipality and shall, after completing the audit for a year or for any shorter period or for any transaction or

series of transactions, send a report to the Municipality concerned and a copy thereof to Government.

(5) The auditors shall specify in the report under sub-section (2) all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the Municipality or any laws or waste of money, or other property thereof caused by the neglect or misconduct of the officers or authorities of the Municipality.

(6) The auditors shall also report to Government on any other matter relating to the accounts of the Municipality as required by the Government.

(7) The Municipality shall forthwith remedy any defect or irregularity pointed out by the auditors and report the action taken to Government within three months.

(8) The Auditors shall in the performance of their functions under this Act have all the powers of the civil court under the Code of Civil Procedure 1908, (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office; and
- (e) such other matters as may be prescribed.

(9) The auditors shall, after giving a reasonable opportunity to the person concerned to explain his case, disallow every item of expenditure incurred contrary to law and surcharge the same on the persons incurring or authorising the incurring of such expenditure and may charge against any person responsible therefor the amount of any deficiency, loss or

unprofitable outlay occasioned by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person:

Provided that no surcharge under this sub-section shall be made after a period of four years from the date on which the expenditure in question was incurred.

Explanation.— It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person.

(10) The auditors shall state in writing, the reasons for their decision in respect of every disallowance, surcharge or charge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(11) Any person aggrieved by any disallowance, surcharge or charge may, within fourteen days after the date of service on him of the decision of the auditor, make an application to the district court to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary may confirm, modify or remit such disallowance, surcharge or charge with such orders as to costs as it may think proper in the circumstances.

(12) Where an application is made to the court under sub-section (9) the auditors shall be the sole respondents thereto and the applicant shall not make either the Government or any other person a party to the proceedings.

(13) From the decision of the District Court under sub-section(10) an appeal shall lie to the High Court.

(14) Every sum certified by the auditors to be due from a person under this Act shall be paid by such person to the Secretary of the Municipality concerned within thirty days after the date of service on him of the decision of the auditors unless within that time such sum, if not so paid, or such sum as the court declares to be due shall be recoverable as if it were an arrear of land revenue.

(15) An abstract of every annual report of a Municipality as certified by the auditor showing its receipts under each head, the charges for the establishment, works undertaken, the sum expended on each work, the balance if any, remaining unexpended together with the audit report thereon shall be submitted to the officer authorised by Government, in this behalf, not later than fifteenth day of the second month of the next financial year.

(16) On receipt of the report referred to in sub-section (13), the said officer shall forthwith consolidate it and submit to the Government.

(17) The Government shall-

(a) cause the accounts of the Municipality together with the audit report thereon received by it under sub-section (16) to be laid before the Legislative Assembly; and

(b) cause the accounts of the Municipality to be published in such manner as may be prescribed."

C. **Kerala Local Fund Audit Act, 1994** is an act to provide for and to regulate the audit of the local funds under the managements or control of certain local authorities in the State of Kerala.

D. Section 9 of the Kerala Local Fund Audit Act, 1994 speaks about liability of local authorities to prepare and present accounts for audit and it reads thus:

“9. Liability of local authorities to prepare and present

accounts for audit.- (1) The accounts of a local authority or local fund included in the Schedule relating to a financial year shall be prepared or caused to be prepared by the Executive authority, in such form and in such manner as may be prescribed, and presented for audit within four months of the close of that financial year.

(2) Where an Executive authority makes default in the preparation and presentation of accounts for audit within the period specified under sub-section (1), he shall be punishable, on conviction, with fine which may extended to three thousand rupees but which shall not be less than one thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgement, impose a fine of less than one thousand rupees.

(3) No proceedings under subsection (2) shall be taken by the Director without giving the person affected thereby an opportunity to show cause, within fifteen days, why such proceedings should not be taken against him.”

E. Section 13 of the KLFA Act, 1994 speaks about audit reports to be sent to certain officers and bodies as Government may direct and it reads thus:

“13. Audit reports to be sent to certain officers and

bodies as Government may direct.- As soon as practicable after the completion of the audit, but not later than three months thereafter the auditor shall send to the

local authority concerned a report on the accounts audited and examined by him and the copies of the report shall also be sent to such officers and such bodies as the Government may direct or as may be specified under the law governing that local authority.”

F. Section 23 of the KLFA Act, 1994 speaks about laying of audit report and it reads thus:

“**23. Laying of audit report:-** The Director shall send to the Government annually a consolidated report of the accounts audited by him containing such particulars which he intends to bring to their notice and the Government shall, within a period of three months after the receipt of the same, cause it to be laid before the Legislative Assembly.”

12. Relying on the decision in **S.P.Anand v. HD Deve Gowda and others** (AIR 1997 SC 272), the 2nd respondent has stated that a person seeking to espouse a public cause owed it to the public as well as to the Court that he did not rush to Court without undertaking a research, even if he was qualified or competent to raise the issue. Reliance has also been made on a decision of the Hon'ble Division Bench of this Court in **Vidhya Sangeeth v. District Collector, Thrissur and Others** [2015 (2) KHC 445], to substantiate his contentions.

13. Based on the statement and documents enclosed, Mr. Ranjith Thampan, learned Additional Advocate General, submitted that in the case of Corporations, audit for the year 2018-2019 is over, except in Kannur

Corporation; in the case of Municipalities, audit for the year 2018-19 is over, except three Municipalities; and, in the case of 14 District Panchayats, audit for the year 2018-2019 is over, and audit for 2019-20 has commenced.

14. Learned Additional Advocate General further submitted that as regards Block/Grama Panchayats, audit for the year 2018-19 was delayed due to COVID-19 pandemic situation and the staff in the Local Self Government Institutions were deputed for COVID-19 preventive activities. Most of the officers of the Audit Department, responsible for the auditing of LSGIs, were within the containment zones, resulting in closure of the offices. In the above said circumstances, the Director, Kerala State Audit Department, Government of Kerala, Thiruvananthapuram 2nd respondent, has requested the Government to intervene in the matter, and sought permission to commence the conduct of audit activities, maintaining COVID-19 protocol. He further submitted that statutory audit of the Block/Grama Panchayats for the year 2018-19, will be completed in November, 2020.

15. Learned Additional Advocate General further submitted that the circumstances under which Exhibit-P1 communication dated 04.09.2020 was issued by the 2nd respondent would have been made known to the petitioner, if he had made any request.

16. Learned Additional Advocate General further submitted that the Ministry of Panchayat Raj (MoPR), Government of India, as part of 15th

Finance Commission's conditions for release of grant to the State in relation to Local Bodies (Rural), instructed the State Government to conduct the audit of 20% LSGIs (Rural) in the Central Digital Platform called AUDIT ONLINE, which is integrated to the Central Ministry's accounting software for LSGIs known as PRIASoft. This required integration of SAANKHYA (the accounting software of the State LSGD) with PRIASoft (the accounting software of MoPR); on boarding of AUDIT Online platform of the Central Government, and uploading annual plans in the e-Gram Swaraj Platform. In PRIASoft (the accounting software of MoPR), the Annual Financial Statements of LSGIs are prepared on the basis of each grants treated as funds with separate Annual Financial Statements, whereas there was no provision to capture source wise details of appropriation balance in the SAANKHYA (the accounting software of the State LSGD). SAANKHYA has the facility to capture the fund details grant wise. Further, the audit framework of the Accounts and Audit system had to be reviewed in the changed scenario and necessary orders had to be issued by the Government of Kerala treating the account statements to be generated through PRIASoft and made available to audit in the AUDIT Online portal of the Central Government as Grant Utilisation Statements and annexure to Annual Finance Statements. These and other issues regarding the matter were considered in the meeting held on 17.08.2020 in the Chambers of the Additional Chief secretary (Finance), Government of Kerala, for the release of

15th Finance Commission's Local Body Grant (Rural). In this context, he referred to Annexure-R2(a). He also submitted that Annexure-R2(a) has been referred to in Exhibit-P1 communication issued by the 2nd respondent.

17. Referring to Annexure-R2(a) minutes of the meeting held on 17.08.2020, learned Additional Advocate General further submitted that the meeting was attended by at least eight officers of the Government and it was in relation to the release of 15th Finance Commission's Grants to Local Bodies (Rural), from Government of India. He further submitted that pursuant to meeting held on 17.08.2020 in the Chambers of the Additional Chief Secretary (Finance), a DO Letter dated 20.08.2020 was issued by the Government of India, with reference to the conditions indicated for release of subsequent installments of the Central Commission award to Panchayat Raj institutions. It was requested that in view of the pre-existing system for e-submission of Annual Finance Statement (AFS), conduct of financial audit, compliance with the standards of audit and the transparency and accountability of the institution that have been ensured in the process of audit undertaken for Local Governments in Kerala, the State might be exempted from the condition of 20% audit of its PRIs by on boarding AUDIT Online. It was suggested that a link can be created to enable viewing of the audit reports of the Panchayats in Kerala, in order to satisfy the requirement of transparency and access to the Government of India and the general public to the reports.

18. Learned Additional Advocate General further submitted that certain District Audit Officers completed the audit of Rural LSGIs for the year 2018-19 and initiated the audit of 2019-20 in AIMS, without the above-mentioned data requisites for uploading in the Audit Online of MoPR. In the said circumstances, the 2nd respondent was forced to temporarily halt the commencement of audit for 2019-20, until further clearance from the Government. It is the directives of the State Government that are sought to be awaited in Exhibit-P1 communication and not the operational guidelines of the MoPR or the Union Government.

19. Learned Additional Advocate General further contended that the audit was temporarily halted and not stopped permanently, as alleged. It was only to facilitate the Government to issue orders to Information Kerala Mission to conceive the Grant-wise Data of LSGIs in the required format of Annual Financial Statement in the same pattern, as in PRIASoft and integrate to AIMS through e-submission for audit. As per Annexure-R2(c) communication dated 09.09.2020, the MoPR, Government of India, agreed to the concerns raised by the Director of Kerala State Audit Department (KSAD) regarding Audit Online software and asked the State to continue with the existing online platform i.e. AIMS, but to provide the complete Audit Report Data of Kerala's LSGIs from AIMS to the Audit online Platform of MoPR / MoF, as a special condition for the release of Central Finance Commission Funds to Kerala.

20. Learned Additional Advocate General further contended that to integrate the data into the Audit Online Platform of MoPR, State has to make changes in the Annual Financial statements (AFS) of LSGIs digitally and submit it to AIMS for audit. At present, the AFS prepared as per the provisions of Kerala Panchayath Account Rules, 2011 and submitted through e-submission in AIMS by LSGIs for audit, does not reflect the Grants (Central Grants, CFC Grants, State plan and maintenance grants, other Grants received etc.) and scheme-wise utilization of such grants received by LSGIs. In other words, the present AFS is not incorporated with the Grant-wise details, as required by the Ministry of Panchayati Raj, Government of India.

21. Learned Additional Advocate General further contended that a meeting of the 2nd respondent with the officials of Information Kerala Mission and KELTRON for evaluating the scope of e-submitting data for the effective conduct of audit of LSGIs as for the year 2019-20 was held through Google Meet platform on 12.10.2020. In the meeting, the 2nd respondent pointed out the urgent need for conduct and completion of the financial audit of LSGIs for the year 2019-2020 and to initiate uploading of the audited data in the MoPR site, which was a precondition for release of Central Finance Commission Funds for the State for the year 2019 - 2020. The necessity of modification to the AIMS software was pointed out. The 2nd respondent also presented the details of the data required from SAANKHYA software. In the meeting, it was

decided that the Government had to be informed about the necessary modifications in the AIMS software and that necessary sanction for porting data from IKM software would be obtained from the Government at the earliest. In this context, he referred to Annexure-R2(d) minutes dated 12.10.2020, which, according to him, reveals the earnestness of the 2nd respondent to commence the audit of Rural LSGIs of the State for the year 2019-2020.

22. Learned Additional Advocate General has also submitted that a review meeting was held on 30.10.2020, by the Principal Secretary, LSGD, with the officials of the Urban Directorate, Panchayat Directorate, State Audit Department, and IKM, regarding upgradation of plan accounts to AUDIT Online platform, which was mandatory for the release of next installment of Finance Commission Grant from the Central Government. In the meeting, it was decided that a finalised format by the State Audit Officer in consultation with IKM should reach the LSGD for issuing a Government order enabling online AES to be on boarded to the AIMS platform. It was also decided that the audit works for 2018-19 should be completed by 30.11.2020. Further, it was decided that the previous audit reports were to be made available in the public domain and all the LSGIs should upload their audit reports in the website. The Local Self Government Department, in the said meeting, agreed

in principle, to incorporate the proposed grant utilisation statements in the present AFS by a Government order and to provide Grant wise details as in the same pattern as in PRIASoft, to the audit domain AIMS. Reliance was placed on Annexure-R2(e) minutes of the review meeting conducted by the Principal Secretary, LSGD.

23. Learned Additional Advocate General further submitted that the prerequisites for CFC grant release i.e. uploading Audited Report Data of LSGIs in the Audit Online of MoPR cannot be achieved, without modifying the existing online platform of KSAD i.e. AIMS or implementing the customised Audit Online software in KSAD. If Audit Online software is customised and implemented, State would have to discard its SAANKHYA software, which is an accrual-based system of accounting software. Hence, the only viable option before the commencement of audit of LSGIs for the year 2019-2020 was the upgradation of Audit Financial Statements of LSGIs and upgradation of existing AIMS platform of KSAD. The arrear audit of LSGIs for the year 2018-19 is expected to be completed by the end of November, 2020, as decided in the meeting convened by the Principal Secretary, LSGD. Upon completion of the same, KSAD will be ready for modifying AIMS for the audit of 2019-20.

24. Learned Additional Advocate General further submitted that the contention of the petitioner that audit has been stopped to prevent the

exposing alleged corruption in LIFE schemes of the Government before LSGI elections is not true. The audit of the Rural LSGIs was temporarily halted for the above said reasons and the instruction for the temporary halt of the audit was given only for the audit of Grama Panchayats, Block Panchayats, and District Panchayat. The Municipal Corporations and Concurrent Municipalities which houses audit wings in their offices have commenced audit for the year 2019-20, expecting that the proposed modifications can be implemented before they finalise their Audit Reports.

25. Learned Additional Advocate General further stated that the State, on updation of its AIMS and SAANKHYA Platforms, is also giving link to the MoPR, to access the audit reports of the Rural LSGIs. This will contribute on a large scale to the transparency of the system. For the above reasons, the 2nd respondent has prayed for dismissal of the writ petition.

26. By way of reply and inviting the attention of this Court to Exhibit-P1 communication dated 04.09.2020 issued by the 2nd respondent, Mr. T. Asaf Ali, learned counsel for the petitioner, submitted that the minutes is silent on the subject COVID-19 and the agenda is different from the reasons now assigned.

27. Referring to Annexure-R2(c) letter of the Ministry of Panchayati Raj (FD Division), Government of India, New Delhi, dated 9.9.2020, addressed to the Principal Secretary, LSGD, Thiruvananthapuram, learned counsel for the

petitioner submitted that though it has been decided that the conditions of mandatory on boarding on eGramswaraj – PMFS interface and Audit Online application to access online the audit reports of at least 20% of the PRIs accounts for the Financial Year 2019-20, Audit Online will not be insisted upon for recommending subsequent installments of XV FC grants to the PRIs in the State of Kerala, the same has not been done.

28. Referring to the letter dated 01.10.2020 filed along with an interlocutory application, learned counsel for the petitioner submitted that though directions were issued on 01.10.2020 by the Principal Secretary to the Government, Local Self Government (FM) Department, Thiruvananthapuram, to the Director, Department of Audit, to forward the details of 20% panchayats, which are to be uploaded in the public domain, the same has also not been complied. According to him, it is the fundamental duty of every citizen to ensure that the Grants made by the Government of India are properly spent and that there is transparency.

29. Referring to paragraphs 19 and 20 of the statement of facts by the 2nd respondent, learned counsel for the petitioner finally submitted that reasons for the delay are not properly explained in Exhibit-P1 communication.

30. Rebutting the above and taking this Court through the communications issued pursuant to Exhibit-P1 proceedings of the Director,

Kerala State Audit Department, Thiruvananthapuram regarding the starting of Kerala State Audit Department for the financial year 2019-20 dated 04.09.2020, Mr. Ranjith Thampan, learned Additional Advocate General, contended that there is no willful laches or intentional delay on the part of the Government in conducting the audit for the release of 15th Financial Commissions grants to Local Bodies (Rural), by the Central Government and that, after the clearance of the bottleneck in integrating the software, auditing is being done. For the above said reasons, he prayed for dismissal of the writ petition.

31. Heard the learned counsel for the parties and perused the material on record.

32. Exhibit-P1 communication dated 04.09.2020 issued by the 2nd respondent is extracted hereunder:

“Office of the Director, Kerala State Audit Department
Vikas Bhavan, Thiruvananthapuram

No. K.S.A.793/SS3/2020

Dated: 04.09.2020

Director,

To the Heads of Local Self Government Audit Office

Sir,

Topic: - Regarding the starting of Kerala State Audit Department for the financial year 2019-20.

Reference: - Minutes of the Meeting with the Additional Chief Secretary on 17.08.2020

As the guidelines for the disbursement of grants under the Fifteenth Finance Commission of the Local Self Government Institutions has not been issued till date, it is proposed to temporarily suspend the audit of Local Self Government annual financial statements for the financial year 2019-20. It is hereby directed that the commencement of the audit of the 2019-20 Annual Financial Statements of the Local Self Government Institutions shall only be done after obtaining clear instructions from the Finance Department in this regard. It is also directed that the reports of the 2019-20 audits conducted so far shall be published only after the aforesaid direction is issued. The directives are not applicable to the settlement of outstanding dues on the audit of annual financial statements up to 2018-19 and the audit of other institutions. If other urgent actions, including audit, are not possible at present, arrangements should be made at the respective office level with the assistance of the core team to categorize the observations in the audit reports and prepare a digital database.

Sincerely,

(signed)
Director

With approval
Signature, Audit Officer"

33. Exhibit-P2 Operational Guidelines for the implementation of recommendations on Rural Local Body (RLB) Grants of 15th Finance Commission, issued by the Ministry of Finance, Government of India, Expenditure Department, read thus:

No. 15(2)FC-XV/FCD/ 2020-25
 Government of India
 Ministry of Finance
 Department of Expenditure
 (Finance Commission Division)

Operational Guidelines for the implementation of the recommendations on Rural Local body(RLB) grants contained in Chapter 5(Local Body Grants) of the Fifteenth Finance Commission (FC-XV) Report.

Introduction

1. The Fifteenth Finance Commission (FC-XV) was constituted by the President on November 27th, 2017 and was, inter-alia, mandated to recommend measures needed to augment the Consolidated Funds of the States to supplement the resources of the Panchayats and Municipalities during 2020-25. Subsequently, the Commission was mandated to submit two reports, one for the year 2020-21 and the final Report for the period 2021-22 to 2025-26. The Commission submitted its first Report covering the financial year 2020-21 to the President on 5th December, 2019.
2. The Union Government on 31-01-2020 vide Explanatory Memorandum as to the Action Taken on the Recommendations made by the Fifteenth Finance Commission in its Report for the year 2020-21 inter-alia accepted the recommendations of the FC-XV in respect of the Local Bodies.

Grants recommended

3. The FC-XV have inter-alia worked out a total size of the grant for local bodies amounting to Rs. 90,000 crore for twenty-eight States. Out of this corpus, the Commission have recommended allocation for RLBs amounting to Rs. 60,750 crore in 2020-21. 50% of the recommended grant will be Basic grant(untied) and the remaining 50% as tied grant. State-wise allocation of RLBs grant is given in **Annexure-I**. Step-wise distribution of grant to all entities and detailed modus-operandi to be adopted for release/utilization etc is as follows:-

Step-I:- The States should workout **inter-se share of all tiers of Panchayats** as per the directions given in para 5.3(ii) & (v) and **intra-tier distribution**(within each tier) among the relevant entities across the State as per the directions given in para 5.3(vi) of Chapter 5 of the FC-XV Report.

Step-II:- The States should also make allotment of grants for all the Excluded Areas, (where **Part IX & IXA does not apply**) falling within the State based on the weightage of **90% to population (as per Census of 2011) and 10% for Area**.

Step-III:- The State Governments(State Finance Department) should transfer each instalment of the RLBs grants received from the Department of Expenditure to all the concerned entities [GP/BP/ZP & Excluded Areas, if any] without any deduction through their nodal Department as per the share worked out in **Step-I** and **Step-II** within ten working days of receipt from the Union Government. Any delay beyond ten working days will require the State Governments to release the same with interest as per the effective rate of interest on market borrowings/State Development Loans (SDLs) for the previous year.

Modalities for Release of grants

4. **Basic Grants:-** Basic grants i. e. 50% of the allocation will be released in two instalment by the Ministry of Finance, Department of Expenditure(Finance Commission Division) after receipt of Grant Transfer Certificate in the prescribed format(Annexure-II) and recommendation from the Ministry of Panchayati Raj(MOPR), Govt. of India.

5. **Tied Grants:-** Tied grants i. e. 50% of the allocation will be released in two instalments by the Ministry of Finance, Department of Expenditure(Finance Commission Division) after receipt of recommendation from the Ministry of Panchayati Raj, Govt. of India. Department of Drinking Water & Sanitation, Ministry of Jal Shakti, Govt. of India and MOPR will assess the following before recommending for release of grant;

- (a) Status & maintenance of Open Defecation Free local body
- (b) Supply of drinking water, rain water harvesting and water recycling.
- (c) Uploading of GPDP and details about utilization 15th F.C. funds on the website.
- (d) Any other condition which Ministry of Jal Shakti may deem fit in connection with the stated objectives of the tied grant.

(Assessment of eligibility for the year 2021-22 will be based on the outcomes during the year 2020-21. Same procedure will be adopted for the remaining period of the award year.)

Utilisation of the FC-XV recommended Local body grant

6. **Basic Grants:-** The basic grants are untied and can be used by the local bodies for location-specific felt needs, **except for salary or other establishment expenditure.**

7. **Tied Grants:-** The tied grants can be used for the basic services of (a) sanitation and maintenance of open-defecation free (ODF) status and (b) supply of drinking water, rain water harvesting and water recycling. The local bodies shall, as far as possible earmark **one half of these tied grants** each to these two critical services. However, if any local body has fully saturated the needs of one category, it can utilise the funds for the other category.

Monitoring and concurrent evaluation

8. Ministry of Panchayati Raj, Govt. of India shall monitor the implementation of the remaining recommendations of the FC-XV with regard to RLBs.

Allocation of RLBs grant for the remaining years of the award period

9. State-wise Allocation for the remaining period of the award period will be intimated to all the States in due course of time.

*_*_*_*_*

Annexure -I

RURAL LOCAL BODY GRANTS FOR THE YEAR 2020-21(Rs. crore)				
Sl. No.	Name of State	Basic Grant	Tied Grant	Total RLB's Grant
1	2	3	4	5
1	Andhra Pradesh	1312.5	1312.5	2625.00
2	Arunachal Pradesh	115.5	115.5	231.00
3	Assam	802	802	1604.00
4	Bihar	2509	2509	5018.00
5	Chhattisgarh	727	727	1454.00
6	Goa	37.5	37.5	75.00
7	Gujarat	1597.5	1597.5	3195.00
8	Haryana	632	632	1264.00
9	Himachal Pradesh	214.5	214.5	429.00
10	Jharkhand	844.5	844.5	1689.00
11	Karnataka	1608.5	1608.5	3217.00
12	Kerala	814	814	1628.00
13	Madhya Pradesh	1992	1992	3984.00
14	Maharashtra	2913.5	2913.5	5827.00
15	Manipur	88.5	88.5	177.00
16	Meghalaya	91	91	182.00
17	Mizoram	46.5	46.5	93.00
18	Nagaland	62.5	62.5	125.00
19	Orissa	1129	1129	2258.00
20	Punjab	694	694	1388.00
21	Rajasthan	1931	1931	3862.00
22	Sikkim	21	21	42.00
23	Tamil Nadu	1803.5	1803.5	3607.00
24	Telangana	923.5	923.5	1847.00
25	Tripura	95.5	95.5	191.00
26	Uttar Pradesh	4876	4876	9752.00
27	Uttarakhand	287	287	574.00
28	West Bengal	2206	2206	4412.00
	Total	30375.00	30375.00	60750.00

34. Exhibit-P3 letter dated 01.06.2020 issued by the Director (FCD), Ministry of Finance, Government of India to the 1st respondent and all the other Chief Secretaries, is extracted hereunder:

"No. 15(2)FC-X V/FCD/ 2020-25
Government of India
Ministry of Finance
Department of Expenditure
(Finance Commission Division)

11th Block, 5th Floor,
CGO Complex, Lodi Road,
New Delhi- 110003.
Dated:- 01-06-2020

To ,

The Chief Secretary,
(All State Governments)

Subject:- Issue of Operational Guidelines for the implementation of the recommendations on Local body grants contained in Chapter 5 of the Fifteenth Finance Commission (FC-XV) Report — regarding.

Sir,

The recommendation of Fifteenth Finance Commission (FC-XV) for the Award year 2020-21 include, inter-alia, release of grant-in-aid to State Governments for Rural Local Bodies.

2. Kindly find enclosed herewith a copy of the guidelines for release and utilization of Grants recommended by the Fifteenth Finance Commission (FC-XV) for Rural Local Bodies for information and necessary action.

Yours faithfully,

Encl.: as above

(Dr. Bhartendu Kumar Singh)
Director (FCD)"

Copy to:-
Principal Secretary/Secretary (Finance),
All State Governments."

35. Letter dated 01.10.2020 (Ext.P4) issued by the Secretary to Government, Local Self Government (FM) Department, to the Director, KSAD, 2nd respondent, reads thus:

"GOVERNMENT OF KERALA

Local Self Government (FM) Department,
01/10/2020, Thiruvananthapuram
No.LSGD-FM3/204/2020-LSGD

From
Principal Secretary to Government

To
The Director, Department of Audit

Sir,

Sub:- LSGD - Details of Panchayats - Reg.

Ref:- Minutes of the meeting convened by Additional Chief
Secretary (Fin) 17.08.2020.

Adoption of AuditOnline platform for online audit of at least 20% of the RLBs accounts in the State for auditing of FY 2019-20 is mandatory requirement of Central Finance Commission grants. Subsequently the MoPR has decided that the above condition will not be insisted upon for recommending subsequent instalments. 15th FC grants to the PRIs in the State. But the Audit reports has to be uploaded in the public domain. Hence, I am to request you to forward the details of 20% panchayats which are to be uploaded in the public domain by return.

Yours faithfully,
RAJEEV C.R.
UNDER SECRETARY

For Principal Secretary to Government"

36. Annex.-R2(a) minutes of the meeting held on 17.08.2020 in the chambers of Additional Chief Secretary (Finance) on the conditions to be met for release of 15th Finance Commission Local Body Grant (Rural) reads thus:

"Minutes of the meeting held on 17.08.2020 in the Chamber of Additional Chief Secretary (Finance) on the conditions to be met for the release of 15th FC Local Body Grant (Rural)

The meeting started at 11 AM. The participants are as follows:

1. Sri. Rajesh Kumar Singh IAS, Additional Chief Secretary (Finance).
2. Smt. Sarada Muraleedharan IAS, Principal Secretary (LSGD)
3. Dr. P. K. Jayasree, Director of Panchayat.
4. Sri. D. Sanky, Director of Kerala State Audit Department.
5. Sri. P. Gopakumar, Joint Secretary, Finance Department.
6. Sri. Neelakantan D.S., deputy director (Technical).
7. Sri. Jiju Krishnan K., Domain Expert, Information Kerala Mission.
6. Sri. Anish A., Project Manager, Information Kerala Mission.

2) At the outset of the meeting, Principal Secretary (LSGD) explained the current status of the requirements which are to be met for the release of 15th FC grants to Local Bodies (Rural), such as,

1. Integration of PriyaSoft – Saankhya
2. Onboarding Audit online platform
3. Uploading annual plan in e-GramSwaraj portal

3) She added that the issues were discussed with the Secretary, MoPR and they have agreed that the existing IFMS interface and putting the Audit Report in the public domain will meet the requirement. Director, KSAD stated that institution wise Audit report is presently available in the website of institutions.

4) Director, KSAD pointed out that there is no provision to capture source wise details of appropriation and balance in the Saankhya. Deputy Director (Technical), IKM stated that the new version will have the facility to capture the fund details and the same is expected to be rolled out by September 2020. Director, KSAD further stated that in order to comply the MoPR requirement, a Government Order needs to be issued specifying that the Accounts Statements, if any, need to be generated through PRIYASOFT and made available to audit in the Audit Online shall not be treated as the LSGIs Annual Financial Statement (AFS) prescribed by the relevant Act and Rules. Instead, they shall be treated as annexure to the AFS submitted for audit as Grant Utilisation Statement by name of the respective grants so as to enable certification in the Audit Online portal. He also suggested

to set up a co-ordination committee to review the Legal framework of Accounts and Audit System of LSGIs.

5) Principal Secretary (LSGD) agreed to the suggestions. ACS (Finance) directed to set up co-ordination committee to review the Legal framework of Accounts and Audit System of LSGIs comprising representatives from LSGD, IKM, KSAD and Finance Department.

6) ACS (Fin) also requested PS (LSGD) to raise these points in the proposed Video Conferencing meeting with MoPR in order to have more clarify in this matter and take necessary steps to comply with the requirements for getting the subsequent release of Local Body Grants from Government of India.

7) The meeting came to end at 11.45AM.:

37. Annex.-R2(b) D.O letter dated 20.08.2020 sent by the Principal Secretary, LSGD, Thiruvananthapuram to the Secretary, Ministry of Panchayati Raj, Government of India, New Delhi, reads thus:

"D.O.Lr. No.FM3/204/2020/LSGD dated 20.8.2020

Dear Sir,

Subject: Conditions for release of subsequent installments of the CFC grant to PRs.

Reference: Do letter addressed to JS MoPR by Principal Secretary Government of Kerala, dated 18.5.2020.

This is with reference to the conditions indicated by MOPR for the release of the subsequent installments of the Central Finance commission award to PRIs, where it is a mentioned that the GDPDs of the PRIs and their accounts are to be uploaded on the E Gram Swaraj platform, and that accounts of at least 20% of the PRIs are to be audited online through the Audit online. As the State Government has been using its own applications for plan approval and accounting, an intense exercise is underway between NIC and

IKM (the Kerala government's digital service provider to Local Governments) to align with the e-gram swaraj platform so that the data can be ported seamlessly.

With regard to online audit of PRIs, the following submissions are made: -

1. Audit of the PRIs of Kerala is governed by the Kerala Panchayat Raj Act, 1994, the Local Fund Audit Act, 1994 and the Local Fund Audit Rules, 1996. There are three types of annual audit done - financial audit, compliance audit and performance audit, all of which are statutory requirements.
2. The Audit of PRIs is done in compliance of the Audit standards of the C&AG as per the recommendations of the TGS committee from 2002 onwards. 100% audit is to be done every year.
3. From 2015 onwards, audit of all Local bodies including PRIs is done through an online platform — the Audit Information Management System (AIMS), a centralized web solution, which is workflow enabled and security audited. This is integrated with the Local Governments' Accounting application Saankhya.
4. The rectification report as well as the report on charges and surcharges is also processed online.
5. The consolidated audit report of the previous year is to be tabled in the Assembly; the deadline for submission of this report to Government is September 30th. It is to be tabled in the Assembly within 3 months of receipt.
6. The individual audit reports are to be uploaded on the concerned Local Government's website. The consolidated Audit report is available on the website of the Kerala State Audit Department.

A presentation on the features of the audit of the PRIs of Kerala may be seen as attachment. It is requested that in view of the pre existing system for online capture of accounts, conduct of financial audit, compliance with the standards of audit, and the transparency and accountability of the institutions that have been ensured in the process of audit undertaken for local governments

in Kerala, the State may be exempted from the condition of 20% audit of its PRIs by onboarding Audit online. A link can be created to enable the viewing of the audit reports of the Panchayats of Kerala, so as to satisfy the requirement of transparency and access to Government of India and the general public to the reports.

It is also brought to attention that the State has not onboarded panchayat expenditures on to PFMS, as it already has a functional IFMS. As the Central Finance Commission allows for the integration of the software with the IFMIS wherever it exists in States, it is requested that the existing system may be allowed to continue in the State of Kerala.

With warm regards,

Yours sincerely

Sd/-

Sarada Muraleedharan.

Sri. Sunil Kumar
Secretary
Ministry of Panchayati Raj
Government of India
New Delhi."

38. Annex.-R2(c) communication dated 9.9.2020 of the Under Secretary to the Government of India, MoPR (FD Division), to the Principal Secretary, Local Self Government Department, Thiruvananthapuram, reads thus:

"F. No. M-11015/251/2020-FD
Government of India
Ministry of Panchayati Raj
(FD Division)

11th Floor, Jeevan Prakash Building
25, Kasturba Gandhi Marg,
New Delhi-110001

Dated 9th September, 2020

To
The Principal Secretary,

Local Self Government Department,
Government of Kerala, Government Secretariat,
Thiruvananthapuram-695001.

Subject:- Conditions for release of subsequent Installments of XV
FC Grants to PRIs in Kerala

Madam,

I am directed to refer to your DO letter No.FM3/204/2020/LSGD dated 20-8-2020 on the above subject and say that the matter has been examined in the Ministry. It has been noted that the linking of the Saankya Software Application of the Kerala State Government with the eGramSwaraj system of Ministry of Panchayati Raj (MoPR) is in progress. Similarly, a link may also be created in Audit Online application to access online the audit reports of the PRIs in the State of Kerala – which is already doing 100% online financial/compliance/performance Audit of PRIs through Audit Information Management System (AIMS), as per the State's statutory requirement and in accordance with C&AG's standards – so that a consolidated audited report/data of PRIs vis-a-vis all the States including Kerala is available with MoPR/MoF as well as in public domain for perusal/information.

In view of the above, it has been decided that the conditions of mandatory on boarding on eGramswaraj – PMFS interface and aforesaid online audit of at least 20% of the PRIs' accounts of FY 2019-20 through Audit-Online will not be insisted upon for recommending subsequent installments of XV FC grants to the PRIs in the State of Kerala.

Yours faithfully,

Sd/-
(Tara Chandar)
Under Secretary to the Government of India.”

39. Annex.-R2(d) minutes of the meeting held by the Director, KSAD on 12.10.2020 for evaluating the scope of e-submitting the data from Sulekha and Saankhya, for the effective conduct of audit of LSGIs for the year 2019-2020 reads thus:

“Minutes of the meeting of the Director, Kerala State Audit Department on 12.10.2020 in Goodle Meet Online platform with IKM and Keltron (KRAN) for evaluating the scopt of e submitting the Data from Sulekha & Saankhya for the effective conduct of Audit of LSGIs for the year 2019-2020.

Meeting Platform: Online Meeting Mode : Google Meet

Meeting Code : wbf-tkky-bok Time : 3.30 PM

Participants

Sri. Sanky D., Director of Kerala State Audit Department

Sri. Manoj K.Nair, Audit Officer(HG), Kerala State Audit Department

Sri. Jiju Krishnan, Software Consultant, IKM

Sri. Anish Asok, Senior Consultant, IKM

Sri. Arun Kumar, Senior Consultant, IKM

Sri. Romi Lal, Senior Consultant, Keltron/KRAN

Agenda

Porting Fund details and its utilisation along with Project details of LSGIs from SAANKHYA/SULEKHA software to AIMS for the year 2019-2020

The meeting began at 3.30PM and was presided over the director Sri. D. Sanky in the Google Meet Online Platform. The Director began the meeting by reiterating the urgent need for the conduct and completion of Financial audit of LSGIs of the State for the year 2019-20 and to initiate the uploading the Audited Data of LSGIs in the MoPR site which is a pre-condition insisted upon by the MoPR for the release of Central Financial Commission Funds for

the State for the year 2019-20. In order to complete the above task its necessary that the details of FUNDS received by LSGIs and their subsequent utilisation are ported and migrated to AIMS software from SAANKHYA and SULEKHA software through webservice so that audit can be performed online without any delay. Hence the Modification to the AIMS software too was inevitable and an absolute necessity. The Director also presented the details of DATA required from SAANKHYA /SULEKHA SOFTWARE to the panel from IKM which is attached with this meeting minutes. The IKM officials along with the Technical consultant of Keltron/KRAN deliberated on the requirements with the Director put forth and the following decisions were made.

Recommendations & Decisions

1. KSAD along with the AIMS software developer may design the format consisting of the DATA that is required to be ported from SAANKHYA and SULEKHA software for making the e submission to AIMS.
2. Since DATA to be ported from SAANKHYA as well as SULEKHA software, the development of a separate webservice other than the one used for e submission of AFS is required for porting DATA from SULEKHA software.
3. End users of AIMS are high in number and as the DATA demand for making audit online is on the larger side, the scope of using multiple webservice may be considered to prevent the slowness of the System developed.
4. KSAD along with AIMS developer do a sit in with the IKM software developers to discuss the type of DATA (as per the design developed by KSAD) that shall be ported to AIMS, the number of webservice required and also decide on the timelines to be set for such development and porting.
5. Detailed Effort quantification and Cost estimation for system modification shall be submitted by the developer for evaluation of the Technical Committee of KSAD.
6. KSAD shall inform the Technical committee constituted by the government as per the decision of the Additional Chief

Secretary, finance and Principal secretary, LSGD on 17.08.2020 about the requirements for modification in the existing software (AIMS) and obtain necessary Government sanction for porting DATA from IKM software SAANKHYA & SULEKHA at the earliest.

The meeting concluded at 05.00 PM.

D. Sanky
Director
Kerala State Audit Department"

40. Annex.-R2(e) minutes of the review meeting held on 30/10/2020 as regards the updation of plans, accounts and audit on e-platform reads thus:

"Minutes of the Review Meeting held at 3 5pm on 30/10/2020 on updation of plans, accounts and audit on E-Platform

An online meeting was conducted by the Principal Secretary, LSGD on 30/10/2020 with officials of Urban Directorate, Panchayath Directorate, State Audit Department & IKM regarding updation of plans, accounts and audits on E-platform, which is mandatory for the release of next installment of Finance Commission Grant from the Central Government.

The Principal Secretary pointed out the importance of updating plans and accounts in the web portal in a time bound manner to get the PC releases on time.

1) Updation of GPDP

IKM representative informed that 486 Grama Panchayaths have uploaded GPDP e-Grama Swaraj Web Portal and the process is continuing. Some issues were noticed due to the opening of revision of projects in the web portal. Where revision of projects was necessitated, site was not allowing the new projects to be uploaded because the original entered projects were not being deleted, leading to double counting of and the site reporting excess allocation beyond 10%. This was to be taken up separately with MC and GOT for resolution.

Decision 1:- The Director of Panchayats should closely monitor uploading of projects and take up issues with MoPR regarding revision of projects. A detailed note on the issues to be submitted to the Principal Secretary in consultation with SRG.
(Action - Director Of Panchayats)

Decision 2:- IKM to examine the portal proposed by MoHUA for entry of FFC grants and report on whether Sulekha software had to be aligned, and if so how, so that there are no issues further on in sharing data.
(Action - Director IKM)

2) Sankhya Software Integration.

IKM representative, Sri. Anish informed that some technical/mapping issues existed in integration which are rectified and now there is no problem in integration.

Decision:- A close and regular monitoring is necessary in this regard.

SARADA MURALEEDHARAN IAS
PRINCIPAL SECRETARY"

41. Perusal of Exhibit-P1 communication dated 04.09.2020 issued by the 2nd respondent shows that Government of Kerala have directed that the commencement of audit of 2019-20 Annual Financial Statements of the Local Self Government Institutions shall only be done after obtaining instructions from the Finance Department. Perusal of Annexure-R2(a) minutes of the meeting convened on 17.08.2020 in the Chambers of the Additional Chief Secretary (Finance) on the conditions to be met for the release of 15th Financial Commission Local Body Grant (Rural) shows that there were some difficulties in integrating the software of the Central Government and the one used by the Local Self Government Institutions.

42. As rightly pointed out by Mr. Ranjith Thampan, learned Additional Advocate General, about eight officers, including Additional Chief Secretary (Finance), Principal Secretary (LSGD), Director of Panchayat, and officers from the Audit Department, were present and minutes of the meeting dated 17.08.2020 has recorded the discussion and way out to clear the difficulties.

The main topics were,

1. Integration of PriyaSoft – Saankhya
2. Onboarding Audit online platform
3. Uploading annual plan in e-GramSwaraj portal

43. In the said meeting, the Additional Chief Secretary (Finance) has requested the Principal Secretary (LSGD) to discuss the points raised in the proposed Video Conferencing meeting with the Ministry of Panchayati Raj, in order to have more clarity in the above matter and take necessary steps to comply with the requirements for getting the subsequent release of Local Body Grants from Government of India.

44. Pursuant to the decision taken on 17.08.2020, the Principal Secretary (LSGD), Thiruvananthapuram, has issued Annexure-R2(b) D.O. Letter dated 20.08.2020 with regard to the online audit of Panchayati Raj Institutions and thereafter, the impugned communication dated 04.09.2020 (Exhibit-P1) has been issued by the 2nd respondent. Subsequently, the Under Secretary to the Government of India, MoFR (FD Division), New Delhi, has sent Annexure-R2(c) letter dated 09.10.2020 to the Principal Secretary, LSGD,

Government of Kerala, Thiruvananthapuram stating that it has been decided that the conditions of mandatory on boarding on e-Gram Swaraj – PMFS interface and online audit of at least 20% of the PRIs' accounts of FY 2019-20 through Audit-Online will not be insisted upon for recommending subsequent installments of XV FC grants to the PRIs in the State of Kerala. Thereafter, on 01.10.2020, the Principal Secretary to the Government has written a letter to the Director, Department of Audit to forward the details of 20% panchayats, to be uploaded in the public domain by return.

45. After 01.10.2020, the Director, Kerala State Audit Department has convened a meeting for porting fund details and its utilisation along with project details of LSGIs from SAANKHYA/SULEKHA software to AIMS for the year 2019-2020. Material on record also discloses that there was a review meeting by the Principal Secretary, LSGD, on 30.10.2020, along with the officials of Urban Directorate, Panchayat Directorate, State Audit Department & IKM as regards updation of plans, accounts and audits on E-platform, which is mandatory for the release of next installment of Finance Commission Grant from the Central Government.

46. Thus, material on record clearly shows that there were some difficulties in the integration of software and uploading of the details of 20% panchayats in the public domain. Perusal of the letter dated 09.09.2020 [Annexure-R2(c)] shows that letter dated 20.08.2020 [Annexure-R2(b)] of the

Principal Secretary of the Local Self Government Institutions, Government of Kerala, Thiruvananthapuram, addressed to the Secretary, Ministry of Panchayati Raj (MoPR) (FD Division), Government of India, New Delhi, has been considered by the Government of India and that there is also a discussion with reference to the linking of SAANKHYA software application of the State Government with the eGramSwaraj system of Ministry of Panchayat Raj, New Delhi.

47. From the above, it could be deduced that there is no intention on the part of the State in stopping auditing of the accounts as regards the Local Self Government Institutions (Grants), in the State of Kerala, for the financial year 2019-2020. But, owing to the software issue, it was temporarily stopped and after discussion with the MoPR, Government of India, New Delhi, auditing of accounts of LSGIs (Grants) is being done for the financial year 2019-20.

48. As stated supra, in respect of statutory audit to be done by the LSGIs, audit has already been completed for the year 2018-19, except in certain, Municipalities, Corporations, and District Panchayats, and it is likely to be completed by the end of November, 2020, by strictly adhering to COVID-19 protocol. Statutory audit in respect of 2019-20 for the Local Self Government Institutions, is stated to have commenced.

49. Placing on record the above submissions and taking note of the materials on record, we are of the view that there was no willful intention on

the part of the Government of Kerala, to temporarily stop the audit of accounts relating to the Local Self Government Institutions in the State, for the financial year 2019-20, including grants.

In the light of the subsequent events, Exhibit-P1 communication issued by the 2nd respondent dated 04.09.2020, cannot be said to be illegal or arbitrary, warranting interference due to the reason that, pursuant to the developed circumstances, as discussed above, it has lost its relevance. Hence, this Writ Petition is disposed of recording the above.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
SHAJI P. CHALY
JUDGE

krj

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 COPY OF THE COMMUNICATION VIDE NO. K.S.A-793/S.S.3/2020 DATED 4TH SEPTEMBER ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P1(A) ENGLISH TRANSLATION OF THE COMMUNICATION VIDE NO. K.S.A-793/S.S.3/2020 DATED 4TH SEPTEMBER ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P2 COPY OF THE OPERATIONAL GUIDELINES FOR THE IMPLEMENTATION ON RURAL LOCAL BODY (RLB) GRANTS OF FIFTEENTH FINANCE COMMISSION, ISSUED BY MINISTRY OF FINANCE, GOVERNMENT OF INDIA, EXPENDITURE DEPARTMENT.
- EXHIBIT P3 COPY OF THE COVERING LETTER DATED 01-06-2020 VIDE NO.15(2)FC-XV/FCD 2020-25 ISSUED BY THE DIRECTOR (FCD), MINISTRY OF FINANCE, GOVERNMENT OF INDIA, EXPENDITURE DEPARTMENT ADDRESSED TO THE 1ST RESPONDENT AND ALL OTHER CHIEF SECRETARIES.
- EXHIBIT P4 COPY OF THE LETTER DATED 01-10-2020 VIDE NO. LSGD-FM3/204/2020-LSGD ISSUED BY THE SECRETARY TO THE GOVERNMENT, LOCAL SELF GOVERNMENT (FM) DEPARTMENT TO THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:-

- ANNEXURE-R2(A): PHOTOCOPY OF THE MINUTES OF THE MEETING HELD ON 17.08.2020.
- ANNEXURE-R2(B): PHOTOCOPY OF THE DO LETTER NO. FM3/204/2020/LSGD DATED 20.08.2020.
- ANNEXURE-R2(C): PHOTOCOPY OF THE COMMUNICATION DATED 09.09.2020.
- ANNEXURE-R2(D): PHOTOCOPY OF THE MINUTES OF MEETING HELD ON 12.10.2020.
- ANNEXURE-R2(E): PHOTOCOPY OF THE MINUTES OF THE REVIEW MEETING HELD ON 31.10.2020.

//TRUE COPY//

P.A. TO C.J.