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Band bajaa deployed by PMC to shame property tax defaulters is illegal

PMC has been using local musical band players for the purpose since the last four years

This has been pointed out by a retired judge and activists, even as the civic body has hiked the budget for the initiative to Rs 25 lakh

Four years after it was launched with much pomp, it now transpires that Pune Municipal Corporation's (PMC) decision of using brass bands to humiliate property tax defaulters in order to make the collections, is in fact illegal. This has been brought to light by civic activists and a newly-inducted Nationalist Congress Party (NCP) corporator — both have emphasised that it is not part of the Maharashtra Municipal Act. It does not help that this year the corporation has budgeted Rs 25 lakh for the initiative.

Adv Bhayyasaheb Jadhav, who is retired Judicial Magistrate First Class (JMFC) and the NCP corporator from Kharadi, said, "The Act provides for a different mode of recovery. There is no mention of playing brass bands to recover pending property tax. This is absolutely an illegal act and the corporation should stop it. Should an untoward medical crisis occur when the band is playing to shame a defaulter, will the corporation take responsibility?"

Jadhav's remonstrance stems from the fact that the Act does not endorse humiliation of any citizen. "The corporation has been employing this method since years, but it is time to stop. I have issued a formal objection, which the property tax department has tabled in the standing committee. I have been pursuing the matter with the department, urging its officers to show the legal status of this norm, but I have yet to receive any response."

Civic activist Vivek Velankar has objected to PMC issuing a tender of Rs 25 lakh for playing a musical band for tax recovery. "It is an illegal act and if corporation doesn't stop it, we will take legal action against it. There are provisions in the corporation law to recover tax from defaulters, which the corporation does not follow. Instead, it chooses to bypass the laws by taking the help of other agencies to do their work," he said.

When queried on the issue, Ravindra Thorat, head of PMC's legal department, said, "This is not part of the Maharashtra Municipal Corporation Act-1949. There is the provision of sending legal notices to seize or attach a property. The case will not stand a chance in court, should anyone take an objection."

However, Suhas Mapari, head of the property tax department, defended PMC's tradition of the last four years, as he said, "We have been following the traditional methods for shaking up defaulters, such as sending legal notices, filing court cases, seizing and attaching properties. This was just an additional effort to make the recovery. We have been spending around Rs 10 lakh till now, but we have now demanded Rs 25 lakh for the musical band. We have managed to recover around Rs 60 crore till now, although it is difficult to calculate how much of it was only due do deploying brass bands."

Property tax department officials state that this year the corporation has sent notices to two lakh tax defaulters, seized more than 3000 properties and attached around 60. The target for this financial year is set at Rs 1800 crore.

The method was brought into play four years ago by the then additional municipal commissioner Rajendra Jagtap, who, previously as the chief executive officer of Ahmednagar cantonment, had adopted this method to recover dues from defaulters. Subsequently, in March 2013, property tax department hired a brass band, and recovered almost Rs 25 crore in a month. The drive was launched as an experiment, but between September and December in the same year, the civic body collected property tax dues of Rs 80 crore through this method. Six brass bands were used in different wards across the city, which cost the civic body Rs 20 lakh a year. Nitin S Vibhute, a music contractor, arranges the bands for the PMC every day. About 18 musicians, who are divided into teams of three, participate in the drive every day.

The Municipal Act provides for a different mode of recovery. There is no mention of playing brass bands to recover pending property tax.

Infra Project Financing: Capitalising on value creation

Urban local bodies can use value capture financing as an infra funding tool by tapping the appreciation in land value resulting from such projects

Lack of adequate municipal revenues is throttling development of urban infrastructure in the country, despite the bevy of schemes rolled out by the Centre such as the Smart Cities Mission, the Swachh Bharat Mission, and the Atal Mission for Rejuvenation and Urban Transformation.

Value capture financing (VCF) works on the conviction that public policy and infrastructure projects typically lead to improvement in the quality of housing, jobs access and transportation, yield other social benefits, and lead to the emergence of important commercial, cultural, institutional, or residential developments in the influence area. This, in turn, leads to an appreciation in land value in the neighbourhood.

Given this, VCF seeks a share of the enhancement in value for the municipal body, as the appreciation has resulted from positive externalities other than the land/property owner's investments. It comprises a range of funding instruments or tools that 'capture,' 'recover' or 'share' a portion of the extra value of land and buildings resulting from public investments and policy initiatives in the influence area.

For all that, VCF is not necessarily a new tax; it could just as well be a manner of computation of existing levies that captures a portion of incremental property value.

The VCF process comprises 4 key steps:

* Value creation: Public regulations, policies and investments lead to creation of value
* Value realisation by private owners: For instance, the investment made by a developer fetches a bigger monetary value when he sells housing units along a metro corridor planned by the government than he would have without the project
* Value capture: It involves the government and private owners agree to a sharing mechanism for the value captured
* Value recycle: The resources collected are ploughed back in other parts of the city to create fresh value

Thus, VCF can serve as an infrastructure financing tool, directly or indirectly.

VCF includes a range of financing instruments used across the world: land value tax, fee for changing land use, betterment levy, development charges, transfer of development rights, premium on relaxation of floor space index and floor area ratio, vacant land tax, tax increment financing, zoning relaxation for land acquisition and land pooling system. Some of these tools, such as betterment levy and development charge, have been used extensively across states.

These tools contribute to the urban local bodies' (ULBs') own sources of revenue. However, their potential is yet to be fully realised as these have not been systematically deployed. Limitations in existing legislations and political constraints in fixing rates have restricted their use, along with absence of provisions for ring-fencing revenues for capital investments.

As per the 13th Finance Commission report, ULBs' own sources of revenue met only half of their total expenditure and a whopping 82 per cent of their revenue expenditure in fiscal 2008. This indicates revenues from fees and taxes collected by ULBs did not even meet the committed costs of wages and operations, leave alone generate surpluses for capital investment.

In a bid to provide guidance to state governments and union territories to leverage their assets optimally and make use of under-utilised resources such as land, the Centre announced a policy framework and issued a guidance note on VCF in June 2017. The policy suggests a framework to examine the possibilities of using VCF to generate resources by making it a part of a project's feasibility study.

Around the world, various cities have tried to capture value from land and harness it to develop major infrastructure. For instance, the city of Chicago has used tax increment financing to improve infrastructure and amenities at street level in its central business district (CBD), investing in bus shelters, subway entrances, landscaping (including trees, flower beds and planters) and street lighting. This has attracted people and commercial activity back into the CBD.

Cities in India, too, have resorted to such measures. Recently, the Karnataka government decided to create a dedicated fund for investment in mass transit systems using VCF methods, such as fixing premium FSI and levying fees for change of land use in the vicinity of a project. Specifically, provisions have been made for levying a betterment tax, equal to one-third of the increase in value of the land.

Similarly, the Maharashtra government is levying a 1 per cent surcharge on stamp duty to fund vital urban transport projects related to mass rapid transit system such as metro rail, mono rail, freeway, and sea-link. In 2010, Maharashtra changed the rate of its development charge, from area-based (rate per sq m) to percentage of ready reckoner land rate.

In Andhra Pradesh, the Greater Hyderabad Municipal Corporation has imposed a 0.5 per cent tax on registration value of land, if it is not used exclusively for agriculture purpose or is vacant.

But, these are early days. It is anticipated that Indian cities will be able to reduce the gap between demand and supply of infrastructure by using VCF tools more aggressively.

Property tax relief: HC quashes NDMC bylaws

In a major relief to property owners in New Delhi Municipal Council (NDMC) areas, the high court has struck down NDMC bye-laws of 2009, under which it was empowered to charge property tax even on vacant land.

A bench of Justice S Muralidhar and Justice Pratibha M Singh also "invalidated" the action taken by the civic agency under the new bye-laws, which had brought about a change in the method of arriving at the rateable value for the purposes of property tax.

The court's direction came on a batch of 28 writ petitions filed in the last few years by group of individuals, corporates and residents welfare associations alleging that under the 2009 NDMC bye-laws, the civic body was charging property tax on vacant land at a rate equal to the constructed area.

The petitioners argued that such amendment to bye-laws was carried out despite the fact that in a large portion of the NDMC area, no construction is permitted on vacant land due to the Lutyen's Bungalow Zone restrictions or Archaeological Survey of India regulations. Hence the owners argued they can't be penalised for not doing something which is prohibited under law.

Allowing the petitions challenging the constitutional validity of these bye-laws, the bench said it "invalidates all actions taken by the NDMC under the new bye-laws in terms of levy, assessment, collection and enforcement of demand of property tax. All property demands made under the new bye-laws are hereby invalidated and declared unenforceable."

It further said that in terms of the interim order passed by the court, the excess of the tax deposited has to be refunded but exact amount can be determined only as per the existing rules under the NDMC Act.

"Such refund of excess tax deposited would be in accordance with the law and together with the interest payable thereon in terms of the NDMC Act. It will be open to the individual tax payers to seek appropriate remedies in regard to refund together with interest at the appropriate stage after completion of the assessment in terms of the extant provisions of the NDMC Act," the bench said in its 40-page order.

NMC to tap source of avenues through Value Capture Financing

Living in Nagpur city may become costlier in near future when Smart City project development works begin. Based on ministry of urban development directives, the Nagpur Municipal Corporation is set to prepare source of avenues through Value Capture Financing (VCF).

To know its abilities to earn revenue under VCF (a type of public financing that recovers some or all of the value that public infrastructure generates for private landowners), the NMC is all set to appoint a project management consultant — Crisil Risk and Infrastructure Solution Limited (CRISIL) for Smart City project.

The estimated cost of Smart City project is Rs3,577.77 crore. Central government will give Rs500 crore (Rs100 crore every year for five years) and state government will contribute Rs250 crore (Rs50 crore per annum for five years). The Nagpur Improvement Trust will bear NMC's share of Rs250 crore. The remaining cost will have to be raised through land pooling, PPP projects, regularization and other charges.

Crisil will help the NMC to tap sources of income. "Once the VCF system is in place, the NMC will be able to raise funds from land value tax, fee for changing land use, betterment levy, premium on relaxation of floor space index and floor area ratio, vacant land tax, tax increment financing, zoning relaxation for land acquisition and land pooling system," explained a senior official.

The NMC's finance department has submitted the proposal to appoint Crisil for the purpose and it will be submitted before the standing panel on August 4. The NMC will pay Rs63 lakh to the firm for preparing project under VCF.

Meanwhile, the NMC has signed a memorandum of understanding with Grand Thorton, a New Delhi-based firm, to assist the civic body to implement Smart City project.

The firm will assist the civic body for Area-Based Development (ABD) for three years. The NMC will pay Rs17.15 crore to the firm. "It will assist us right from preparing development plan report to invite tenders for various works besides supervising quality and their pace," said a senior official.

Though the NMC has started the work town planning scheme of ABD, the actual infrastructure work will begin from January 2018 and NMC hopes to complete the ABD in next three years.