



KIIFB Borrowings Issue

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Why in News

Recently, the **Comptroller and Auditor General (CAG)** of India has opined that the **off-budget borrowings** made by the **Kerala Infrastructure Investment Fund Board (KIIFB)** for critical infra projects have **bypassed the limits set on government borrowings under Article 293 (1) of the Constitution** and such borrowings do not have legislative approval.

Off-budget borrowings are a means by which the government keeps its fiscal deficit in check by making quasi-government entities borrow on its behalf, to partly fund its expenditure plan for the year.

Provisions of Borrowings under Constitution

- **Borrowing by Centre and the States:** Chapter II in Part XII of the Constitution of India deals with borrowing. Article 292 covers borrowing by the Central Government, and Article 293 covers borrowing by States.
- **Empowering State Legislatures:** Article 293(1) provides State legislatures the power by law to enable or limit the State's executive powers of borrowing and giving guarantees.
- **Consent of the Centre:** Under clauses (3) and (4) of Article 293, State Governments need to obtain the consent of the Centre for raising fresh loans in case they are indebted to the latter, and such consent may be granted subject to conditions.

Key Points

Issues:

- **Bypassed Constitutional Limit:** CAG reported that KIIFB has bypassed the limits set on government borrowings under Article 293 of the Constitution as these borrowings did not have legislative approval.
- **Encroachment on Powers of Centre:** The CAG said that **Entry 37 of the List 1 of the Seventh schedule of the Constitution** gives powers of raising foreign loans only to the Centre. Thus, KIIFB borrowings are in violation of the Constitution and encroachment on the powers of the Centre.
- **Lack of Transparency:** KIIFB borrowings have not been disclosed in the Budget documents or in the accounts.

It raises doubts on transparency, and of inter-generational equity of the borrowings, the State has to furnish to Centre all the financial statements showing the estimates of receipts and payments of all sources of borrowings, including Open Market borrowings.
- **Burdened State Finances:** KIIFB raised funds by issuance of bonds which were to be repaid from the petroleum cess and motor vehicle tax.

CAG reported that since the KIIFB has no source of income, the borrowings by the KIIFB for which the State stood as guarantor, may ultimately turn out to be a **direct liability of the State government**.
- **Risk of Mounting External Liabilities:** The RBI was criticised for granting approval to the state to float **masala bonds**. The CAG raised concerns that if this mode was followed by other States, the **external liabilities of the country** would rise substantially without the Centre's knowledge of such liabilities.

Kerala Infrastructure Investment Fund Board (KIIFB)

- **Establishment:** KIIFB came into existence in 1999 through the **Kerala Infrastructure Investment Fund Act**.
- **Aim:** To provide investment for critical and large infrastructure projects in the State of Kerala.
- **Features:**
 - KIIFB was the **first sub-sovereign entity in India to tap the offshore rupee international bond market**.
 - In 2019, KIIFB issued its **masala bond** of ₹2,150 crore on the **London Stock Exchange**. **Masala Bonds** are **rupee-denominated bonds** i.e. the funds would be raised from overseas market in Indian rupees.
 - **Attracted investments:** The bond issue helped Kerala government to get multinational corporations to invest in the state, which has traditionally been known for its unfriendly business policies, bureaucratic delays and recurrent industrial strikes.
- **Change in Role:** In 2016, the role of KIIFB was changed **from handler of investment bonds to an entity to mobilize the resources** for developmental projects over and beyond the budget.

Kerala Government's Concerns:

- **Detrimental to State development:** According to the government of Kerala, funds from KIIFB are being used to build public infrastructures such as schools, roads, hospitals etc. and such a move by CAG could hurt the interests of the State.
- **Unilateralism:** Kerala government raised concerns over not giving the State an opportunity to offer its comments, observations or explanation before publishing of the report by the CAG.
- **Already RBI Approved:** The Kerala government also highlighted the fact that the KIIFB Bonds were raised with the approval of RBI- which is a central body under Government of India, then how such borrowings can be unconstitutional.

Role of RBI:

- The **RBI** is authorised to act as **an agent of the Central and State Governments** for the issue and management of the latter's bonds and debentures.
- The **Internal Debt Management Department** of the RBI has the power to float State Government loans, facilitating investment of surplus cash balances of State Governments in dated securities under various funds.
- It is also authorised to make **Ways and Means Advances (WMAs)** to the Centre and States, and to fix the limits thereof.
- **Undermines Federalism:** For decentralisation of financial autonomy, it is necessary to provide a mechanism for regulation of state subnational debt. It could promote macroeconomic fiscal stability of the states. Hence, exercise of power conferred to the centre by the article 293 should be strictly confined to the purposes and circumstances.

Way Forward

- **Review of sub-national Fiscal Policy:** Since the state debt burdens have been rising because of recent fiscal shocks such as **demonetisation**, introduction of **GST** and **Covid 19 crisis**, sub-national fiscal policy of India needs to be reviewed to enable states for subnational borrowings. It shall provide them more opportunities to avail fiscal autonomy.
- **Validating State Fiscal Responsibility Laws:** Even the Kerala High Court in **Matthew vs Union of India** ruled that that Article 293 is an enabling provision authorising State borrowing and it empowers the states to pass their own **Fiscal Responsibility Laws (FRLs)**.
- **Cooperative Federalism:** There is a need to address the legislative concerns of KIIB raised by CAG, and the Centre and Kerala government should take out remedial measures in public interest.

Source: TH