

Part B: Institutional, Legislative and regulatory framework in Bihar

Bihar is one of the least urbanised states in India with only 11.29% State's population living in urban areas. For the State as a whole, sanitation infrastructure suffers serious inadequacies. According to the Census 2011, only 7.2% of urban households and only about 1.2% of rural households in the State are connected to piped sewer system. Premises which are not connected to the central sewage system depend on localised solutions such as usage of soak pits, septic tanks etc. About 52.7% of the urban population in Bihar depends on the septic tanks and 75.80% of the total households defecate in the open. About 60% of the total human excreta generated in urban areas of Bihar are unsafely disposed. Municipal services are practically non-existent in slum areas in the State. Sludge generated from all the households that are connected to septic tanks, and those connected to pit latrines (both sanitary and insanitary), finds its way to an open drain. This has resulted in poor sanitation conditions in Bihar resulting in unhygienic and unhealthy environment. Given this poor sanitary conditions, this part of the note briefly discusses about the institutional, legal and regulatory framework that exist in the State of Bihar with regard to sanitation sector and refers to the legal enablers for improvising the existing sanitary conditions of the State.

Institutional Framework

According to Constitution of India, water and sanitation are state subjects. Statutory powers are conferred to the state for making laws on water and sanitation. The 74th Constitutional Amendment Act of 1992 reformed the sector by transferring responsibility for domestic, industrial, and commercial water supply and sewerage (WSS) from state agencies, such as Departments of Public Health Engineering and State Water Boards, to Urban Local Bodies (ULBs). While the Central Government is responsible for developing policies, guidelines' and designing programmes/schemes, the planning and implementation is done by respective state governments. Management and delivery of urban basic services in Bihar is governed by various institutions. ULBs are responsible for implementation of projects. The table below sets out the institutional framework for the urban sanitation sector, which would also be applicable for faecal sludge management related aspects.

Table 1: Institutional Framework

Levels	Entity	Responsibilities
Government of India	Planning Commission	Planning and allocation of central Government funds through Five Year Plans
	Ministry of Urban Development	<ul style="list-style-type: none"> • Development of guidelines, schemes, national level policies, funding support, technical assistance • Designing and implementing national-level strategies on linkages between public health and sanitation, clarifying institutional roles, capacity-building and training support to States and ULBs, providing financial assistance for City Sanitation Plans (CSP), monitoring and evaluating projects, and mainstreaming sanitation into relevant programs on urban infrastructure and housing across various central ministries.

Levels	Entity	Responsibilities
Government of Bihar	Urban Development and Housing Department	<ul style="list-style-type: none"> • Control of Bihar State Water-Supply and Sewerage Board • Environmental planning and co-ordination • Control over regional development authorities • Slum Development scheme • Allocation of resources to the State Governments through various Centrally Sponsored schemes • Providing finances through national financial institutions and supports various external assistance programmes for housing and urban development
	Parastatal Agencies such as Bihar Jal Parshad and Jal Sansthan	<ul style="list-style-type: none"> • Promotion and operations of schemes for sewerage and sewage treatment and its disposal • Preparation and execution of schemes relating to sewerage services.
	Regulating agencies (Bihar Pollution Control Board)	<ul style="list-style-type: none"> • Responsible for prevention, control and regulation of pollution
Local Governments	Urban Local Bodies such as municipalities etc.	Planning, design, implementation, operation and maintenance of water supply and sanitation services in cities and towns
	Gram Panchayat	<ul style="list-style-type: none"> • Upgradation of environment and prevention of its degradation • Prevention of and taking remedial measures against epidemics

Apart from the Governmental institutional set-up, various educational institutions, corporate entities, NGO's, non-profit organisations, multi-lateral agencies such as ADB, WB and foundations such as USAID are actively involved at various levels to provide technical assistance, funding support, implementing various sanitation-based initiatives, training local communities and conducting awareness programmes. Another entity such as the Micro-Finance Institutions are involved in providing micro-finance for setting-up sanitation facilities.

Key Question

Which are the local Acts/Regulations applicable to FSM services?

a. Bihar Municipal Act, 2007

The Act provides enabling provisions empowering municipalities to develop infrastructure required for providing necessary sewerage facilities within its jurisdiction. It is an obligatory function of the municipality to provide services relating to drainage and sewerage and is responsible for the aesthetic environment. Municipality is required to plan, build, operate, maintain and manage the infrastructure required in this regard and may hire the services of any agency for the purpose. The

Act in this regard empowers the municipality to enter into contract with private parties under suitable public private partnership framework¹.

Municipality are obligated to receive, treat, store, disinfect, distribute or otherwise dispose of the sewage. In this regard the Municipality may take the service of any other agencies for construction, operation, maintenance, development and management of any works within or outside the municipal area².

Key definitions under the Act relevant to FSM

- **“Drain”** includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain –water or sub-soil water;
- **“House-drain”** means any drain of one or more premises used for the drainage of such premises;
- **“Sewage”** means night-soil and other contents of privies, urinals, cess-pools, or drains and includes trade effluents and discharges from manufactories of all kinds;

These provisions thus enable the municipality to undertake various services in connection with the decentralised management of faecal sludge or activities involved in the chain of FSM. The services of private truck operators may be hired for receiving and transportation of sewage (which as per the definition also includes night soil, other contents of privies, urinals and cess-polls) from the on-site facilities and through construction of suitable infrastructure like Faecal Sludge Treatment Plant can ensure proper treatment and disposal of the same.

To financial enable the municipalities in undertaking the above said services, the municipality may utilise the municipal fund available with them³ and may also impose sewerage charge and sewerage cess as provided under the Act⁴.

The Municipal Act however is focused towards provision of centralised sewerage networking (municipality drain) by the Municipality and many of the provisions relating to sanitation in the Act put emphasise on the function and duties of the Municipality to provide Municipal drains, drainage system and sewage disposal works. As such, the Act does not directly provide specific roles and responsibilities of Municipality in providing a decentralized sanitation services.

¹ Section 45 of the Act

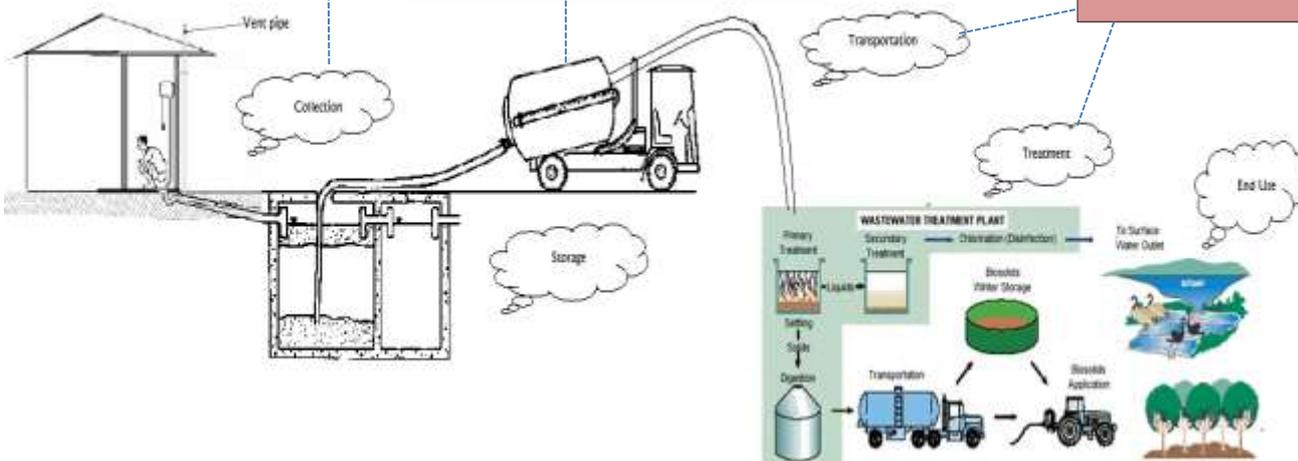
² Section 194 of the Act

³ Section 47 of the Act

⁴ Section 216 of the Act.

To receive, treat, store, disinfect, distribute or otherwise dispose of the sewage

Construction, operation, maintenance, development and management of any works within or outside the municipal area



b. Bihar Panchayat Raj Act, 2006

Gram Panchayats constituted under Bihar Panchayat Raj Act is responsible for maintenance of general sanitation within the Gram Panchayat Area. One of the key function of the Gram Panchayat with respect to Rural Sanitation and Environment includes upgradation of environment and prevention of its degradation. Act provides for constitution of separate committees viz. Committee on Public Health, Family Welfare and Rural Sanitation for performing the functions relating to public health, family welfare and rural sanitation.

c. Bihar State Jal Parshad Act, 1982

Jal Parshad is established under this Act for development, maintenance and regulation of the water supply, sewerage and sewage disposal works in the State. Key functions of Jal Parshad inter-alia includes promotion and operation of schemes relating to sewerage, sewage treatment and its disposal⁵.

Key definitions under the Act relevant to FSM

- “**Cesspool**” includes a settlement tank or other tank for the reception or disposal of fluid foul matter from any premises.
- “**Sewerage**” means any device for carrying off sewage , offensive matter, polluted water, waste water, rain water or sub-soil water;
- “**Sewage**” means night-soil and other contents of water-closets, latrines, privies, urinals, cesspool or drains and polluted/waste water from sinks, bath rooms, stables, cattle-sheds and other like places. And includes trade effluents and discharges from manufactures of all kinds;
- “**Sewer**” means a closed conduit for carrying sewage, offensive matter, polluted water, waste water or sub-soil water laid through, under or upon any street or land whether public or private;

⁵ Section 10 (1) of Bihar State Jal Parshad Act, 1982

Key Question

What are the powers of Jal Parshad relating to provision of sewerage services?

- a. Provide sewerage services in areas not covered by existing facilities
- b. Prepare and execute schemes for sewerage services in urban and rural areas
- c. Enter into contract or arrangement with any person for performing its functions
- d. Levy and collect fees and charges

The Act also provides for constitution of JalSansthan for the areas which in the opinion of the State Government requires improvement is water-supply and sewerage services. JalSansthan is required to provide feasible sewerage services to the people of the area within its jurisdiction and may with the approval of JalParshad, introduce or amend tariff for sewerage services.

d. Guidelines for siting of Sewage Treatment Plant

These guidelines were provided by Urban Development and Housing Department, Government of Bihar in order to (a) Provide the basis for siting, design and development of sewage treatment plants in the State of Bihar in an environmentally acceptable and sustainable manner; (b) Provide practical guidance to operators and regulatory authorities in the meeting their requirement to avoid, remedy or mitigate the adverse effects of sewage treatment and disposal in accordance with the existing environment laws, and (c) Reflect current recommended waste industry best practice for key aspects of sewage treatment plant.

The guidelines recognises provision of functional sewage and waste water system as a priority and lays down the site specific criteria's during selection of site for development of Sewage Treatment Plants.

Conclusion and Recommendations

As discussed in this note, there exist several policies and laws for regulating sewage management that are based on certain environmental laws, municipal laws, policies and legal provisions. But, FSM in specific is the missing and ignored component of the sanitation sector. On-site sanitation is not accorded priority. There is a preference for centralised advanced engineering solutions rather than septage management. There is a lack of explicit policies on sanitation, particularly on safe disposal of Faecal Sludge Management. The legal framework specifically empowering the concerned implementing officials to regulate construction, collection, transport and disposal of faecal sludge is not available. The existing legal provisions are also found to be poorly implemented. Although the municipal legislations of various states have provisions to regulate the unscientific practices relating to FSM, they are neither given due importance nor implemented in true spirit. Consequently, no ULB in the country has yet evolved its systems, let alone to a desirable level of sophistication. This can be attributed to, among others, lack of awareness, concern, or recognition of risks and lack of technical expertise.

In an ideal scenario it is expected to have a robust regulatory system for the safe removal/collection, transport, treatment, and disposal of faecal sludge. This would among others include,

- authorization and monitoring of individual household construction/installations on on-site facilities;
- authorization and training of service providers involved in construction of septic tanks;
- introducing systems and mechanisms for scientific emptying or de-sludging of tanks and transportation of septage;
- monitoring and supervision of activities like de-sludging, transportation and treatment;
- regulating desludging frequencies through introduction concept of scheduled de-sludging;
- designation of sites for safe treatment and disposal;
- regularisation and registration of septage transport operators;
- Standardised operating procedure for all components of septage management (i.e. desludging, transportation, treatment and disposal)
- occupational health and safety measures for workers; and
- prohibition against disposal in water bodies, open lands, and agriculture farms.

But, the existing policy framework with regard to septage management in India is not adequate and requires to be strengthened. Taking few of the steps recommended below is suggested in this regard.

- Similar to the laws available for regulating industrial effluents, regulation for septage should be enforced;
- Additional powers should be vested with local bodies for enforcing the existing policies and laws relating to eradication of manual scavenging, regulating disposal of domestic waste into open land or water bodies resulting in environmental hazards;
- Providing clear delineation of roles and responsibilities of multiple agencies involved in water, sanitation, and public health;
- Introducing clear legal framework for hiring services of private service providers under suitable PPP framework in connection collection, transportation, treatment and disposal of faecal sludge;
- Comprehensive rules to regulate different aspects of FSM like design of Septic tanks, pits etc. (adapted to local conditions), periodicity of de-sludging of septic tanks, O&M of installations, Operating procedures for de-sludging including safety procedures, Methods and locations of transport, treatment and disposal for septage management
- Bringing awareness amongst stakeholders including policymakers, government officials, civil society and the common man regarding importance of septage management from environment and health perspectives;
- Penalty clauses for untreated discharge shall be introduced under Polluter Pays principle for recovering the full cost of collection and treatment of septage from the beneficiaries
- Corporate Social Responsibility needs to be further strengthened for septage management.

LEGISLATIVE, INSTITUTIONAL AND REGULATORY FRAMEWORK IN BIHAR

