

CHAPTER-II

AUDIT PARAGRAPHS

2.1 Financial loss to Government due to misinterpretation of Government Rule.

Unauthorized decrease of prescribed rates of liquidated damages by the Bandhkam Samiti of the District Panchayat Junagadh resulting in loss of Rs. 32.94 lakh

Section 132 of the Gujarat Panchayat Act, 1961 empowers Panchayat to enter into agreement for work contract and cancellation of contracts in case of any default by the contractor in commencing works and for non completion of works within the prescribed time limit. The rule further provides for inclusion of Penalty clause in the agreements by the Panchayat for breach of conditions related to completion of works within the prescribed time limit. The clause 2 of B-1/B-2 agreements provides for recovery of liquidated damages @ 0.1% of the contract value per day, (Maximum 10% of the estimated value put to tender) if the contractor fails to complete the work within the stipulated period provided in the tender. Thus, section 132 insists for providing penalty clause in the work agreement by the Panchayat but it does not allow the Panchayat to reduce any rates of penalties.

A review of delegation of powers by District Panchayat Junagadh to the different committees, particularly a Bandhkam committee for the period 2001 to 2005 revealed that, contrary to above provisions, all powers had been delegated to the Bandhkam committee for fixing the rates of penalties in violation of section 132 of the said Act. Considering the ample powers with the committee, it enforced penalties at lower rates than the prescribed rates without assigning any reasons which resulted in short recovery of Rs.32.94 lakh as brought out in the nine numbers of illustrative cases in **Appendix-III**

The Executive Engineer, Panchayat R & B Division stated (February' 08) that in exercising powers delegated to the committee under Section 132 of Panchayat Act, time limits have been extended and penalties are imposed wherever necessary. The Executive Engineer also stated that the Audit observation would be placed before the next meeting of Bandhkam committee and added that from January 2006, provisions of clause 2 (C) of the contracts have been strictly implemented.

The reply was not acceptable as Section 132 of Panchayat Act 1961 does not permit the Panchayat to decrease/increase penalties under clause 2 of work contracts. Since action to follow the provisions of Clause 2 (C) from January 2006 has already been initiated, the short recoveries prior to January 2006 need justification.

2.2 Liquidated damages for delay in completion of work

Irregular extension of time for completion of work by the TPs resulted in undue benefits for the contractor in the form of non/short levy of liquidated damages

As per clause 2 of terms of contract of tender B1 liquidated damages @0.1% of contract value per day is recoverable if the contractor fails to complete the work within the stipulated date. The penalty under clause 2 (C) shall be maximum 10% of estimated cost. Further, as per clause 6 of the terms of contract, if the contractor desires an extension of time limit for completion of work, he shall apply in writing to the concerned Executive Engineer on or before the expiry of the period stipulated in the tender or before the expiry of 30 days from which he was hindered, whichever earlier.

A review of works for the year 2004-05 to 2006-07 revealed that though the works, mentioned in the **Appendix-IV** were not completed within the stipulated dates; the auditees did not recover liquidated damages aggregating Rs.43.78 lakh for the delayed periods ranging from 32 days to 1485 days without assigning any reasons. It was further noticed that the extension of time limit, were irregularly processed without any request from the contractors.

2.3 Non utilization of fund meant for upliftment of villages.

Non utilization of fund meant for upliftment of villages affected by polluted water of industrial units resulted in deprivation of envisaged benefits to the villagers

As per orders of Hon'ble High Court dated 5th August 1995, a sum equal to 1 percent of the turn over was recoverable from the industrial units of Ahmedabad City. The amount so collected was to be utilized for socio-economic development of the 15 Villages of Kheda District affected by the polluted water of industrial units of Ahmedabad City.

Department of Forest and Environment, Government of Gujarat also released Rs. 4.00 crore (Rs.1.50 crore in January 1996 and Rs.2.50 crore in February 2007) to the District Panchayat Kheda for the aforesaid purpose. As per instruction of the Government (January 1996), the funds were to be kept in separate Personal Ledger Account (PLA) of DDO so that the every transaction is routed through the Government treasury and detailed accounts for the project are readily available.

A review of files related to this project revealed the following:-

1. Instead of depositing funds in separate Personal Ledger Account (PLA) of DDO, the funds were invested in term deposits with banks violating the Government directions.
2. Though the first installment of Rs. 1.50 crore was received in January 1996, the DP Kheda could utilize only Rs. 0.34 crore (22.66 percent) during the period 1996-97 to 2003-04. Thus delay in utilization of funds of Rs. 1.16 crore (77.34 percent) deprived the pollution affected villages of the intended benefits.

3. As of 31st March 2008, 287 works were sanctioned under the project, of which 231 works have been completed leaving 56 works incomplete. In financial terms, out of the total available funds of Rs. 5.02 crore (including interest of Rs. 1.02 crore), Rs. 3.16 crore had been utilized up to March 2008.

The Dy. DDO, DP Kheda stated (August'09) that delay in completion of 56 works was due to price hike of materials. However, no reason for delayed/non utilization of available funds was given.

2.4 Utilization of Eleventh/Twelfth Finance Commission grant

Works not covered under the guidelines of Eleventh Finance Commission were executed by PRIs and irregularities in maintenance of accounts were also noticed.

2.4.1 Irregular expenditure of Rs. 10.24 lakh

As per the guidelines for release and utilization of Eleventh Finance Commission (EFC) grants, the grant was to be utilized for creating concrete and durable assets covering new items of work.

However, in violation of the guidelines, the District Panchayat, Porbandar had incurred expenditure to the extent of Rs. 10.24 lakh on items pertaining to additions and alterations in six works during the year 2004-05 defeating the objective of creating new and concrete assets.

2.4.2 Expenditure for Rs. 17.97 lakh was not accounted in the relevant accounts

The Taluka Panchayat, Lakhpat (Bhuj) received grants of Rs.35.30 lakh during the year 2006-07 and incurred expenditure of Rs.17.97 lakh against that amount during the same year. Although the entry was taken in Cash/Bank Book, the transactions were neither reflected in the monthly accounts nor in annual accounts. It was also noticed that Bank reconciliation was in arrears in this TP.

2.4.3 Accounting principles not followed.

Taluka Panchayat Kunkavav (Amreli) incurred expenditure of Rs.1.49 lakh during the year 2004-05. However, it was noticed that the expenditure had been booked in the accounts only in the year 2005-06. This indicates that the accounting principles were not strictly followed.

2.5 Excess expenditure over allotted grants.

Excess expenditure of Rs. 21.12 crore over allotted funds was incurred by six District Panchayats and three Taluka Panchayats without obtaining prior approval from competent authority.

As per Government Resolution No.-ANAD/1089/1432/93/J dated 19-04-1993, issued by the Government of Gujarat, the excess expenditure over grants allotted is not permissible.

However, if the excess expenditure is necessary, prior approval of the grant controlling authority must be obtained and arrangement for additional grants must be made during next year. In absence of this, the excess would be debitible to the own fund of the PRIs.

It was noticed that there were cases of excess expenditure of Rs.21.12 crore over allotted funds in six test checked District Panchayats (DPs) and three Taluka Panchayats (TPs) as on 31st March 2006 (**Appendix V**) without obtaining prior approval from the competent authority. The excess expenditure had been debited to Government Heads instead of debiting to the own fund of Panchayats. Further, no concrete action was taken by the DPs/TPs to arrange additional funds to the extent of excess expenditure to recoup the minus grant position in the particular Major Head. (**Appendix V-A**). The excess expenditure requires regularization by the competent authority.

Excess expenditure indicates that there is diversion of fund from one head/scheme to another. It was not possible in audit to ascertain the implementation of which scheme suffered due to such diversions since all the funds are kept in one Personal Ledger Account (PLA)

The DPs/TPs stated (December 2007) that the excess expenditure would be regularized and audit would be intimated accordingly. Further action is awaited (May 2009).

2.6 Accumulation of unspent balances

Accumulation of unspent balances of Rs. 14.80 crore was noticed in three District Panchayats and four Taluka Panchayats due to non adjustment from budgetary allocation

As per Rule 8 and 9 of resolution No-AND/1089/1432/93/J dated 19-04-1993 of Panchayat Rural housing and Rural Development Department, Government of Gujarat, the unspent grant other than grant for the purpose of Pay and Allowances should be adjusted during release of the last installment of the financial year. The department can retain up to 20 per cent of the grant of Pay and Allowance only for payment of Pay and Allowances for the month of March/April.

A review in this regard revealed that no action had been taken to adjust unspent balances from the last installment which resulted into accumulation of Rs.14.80 crore in PLA in three test checked District Panchayats and six Taluka Panchayats as detailed in **Appendix-VI**. Poor utilisation of Government grants indicated that the physical as well as financial targets fixed by the Government were not met and thus intended benefits were not passed on to beneficiaries.

Four auditees out of five stated (September'08) that the savings were utilized in the subsequent years without assigning any reason for unspent grant. One auditee (TDO Mandvi) stated that the savings were due to grant received at the fag end of the year which has been utilized during subsequent years.

2.7 Arrears in recovery of various taxes.

Inaction of TPs/VPs to recover various taxes in time resulted in accumulation of arrears of Rs. 4.58 crore.

As per Article 168 & 170 of Gujarat Panchayat Act 1993, the Panchayat Raj Institutions has been entrusted with function and duties relating to the collection of land revenue including cess. The Panchayats are further required to recover any tax or fees due on due dates as provided under Article 215(1) of Gujarat Panchayat Act, 1993.

During test check of four TPs and 16 VPs, it was noticed that as of March-2008, an amount Rs.4.58 crore was outstanding on account of various taxes for the period prior to 2004-05 and 2005-06. The outstanding amount included Rs.4.24 crore towards Land Revenue/ Education Cess and Rs.33.61 lakh against House Tax, Water Tax and Light Taxes as detailed in **Appendix VII**. As evident from the Appendix, as against the total demand of Rs.6.51 crore raised as Land Revenue & Education cess, recoveries were made only to the extent of Rs 2.27 crore (35 percent). It would be further observed, that the recoveries towards House Tax etc were effected only to the extent of Rs 19.28 lakh as against the total demand of Rs 52.90 lakh (36 percent).

Poor recoveries of the taxes indicate that proper internal control system was not developed for effecting prompt recoveries.

2.8 Non-adjustment of advances.

Advances amounting to Rs.59.19 lakh remained outstanding in seven PRIs for considerable period of time

Rule 21,22,206 and 207 of the Gujarat Panchayat Act, 1961 provide that each item of advance paid shall at once be entered in the Register of advances in Form 44 and its recovery shall be watched regularly. The advance paid shall be recouped by the end of the financial year.

Audit scrutiny revealed that in many cases, advance registers were not maintained properly in the prescribed formats. In many cases, advances remaining unadjusted during previous year were not brought forward in the accounts of the subsequent year. In one case, during cross verification, it was noticed from the Classified Register for the year 2004-05 that an advance of Rs.1.99 lakh paid to Public Health Centre (PHC) during the year 2004-05 had not been entered in the advance register. In many cases, advances paid had not been recouped within the financial year as stipulated in the relevant Rules. The total outstanding advances as of 31 March 2008 in seven test checked PRIs amounted to Rs. 59.19 lakh. The illustrative cases showing outstanding advances and deficiencies noticed in maintenance of advance registers were as mentioned below:

Sr. No.	Name of Unit	Deficiencies noticed	Outstanding advances (Rs. In lakh)
1	Taluka Panchayat Jasdan	Advance outstanding From 1974-75 onwards	Rs.30.96
2	Taluka Panchayat Bhachu	Improper maintenance of advance register	Rs.13.52
3	District Panchayat Mehsana	Advances paid to different branches during 2005-06 not recovered	Rs. 7.97
4	Taluka Panchayat Jafarabad	-	Rs. 2.17
5	Taluka Panchayat Mandvi	-	Rs. 1.64
6	Taluka Panchayat Lakhtar	Advance register not closed properly. Advance paid Rs.199500/- not taken in the advance registers	Rs. 0.67 + 1.99
7	Taluka Panchayat Nakhtrana	Advance paid to individuals not recouped.	Rs. 0.27
		Total:	Rs.59.19

The year-wise break up of the advances outstanding could not be verified as the Advance Registers were not maintained properly.

On this being pointed out, the PRIs agreed to recoup the outstanding advances at the earliest and also agreed to update the advance register. Further action is awaited (May 2009).

2.9 Non reconciliation of balances

Due to non reconciliation of balances between cash book and Pass Book an amount of Rs.12.08 crore remained unreconciled in 4 District Panchayats and 3 Taluka Panchayats

Rule 171 & 183 of the District Panchayat Finance Accounts and Budget Rule, 1993 provide that the balance of Treasury pass book shall be reconciled with reference to the balances of cash book at the close of every month and difference, if any, be reconciled. Test check of records of four District Panchayat and three Taluka Panchayat revealed that there was unreconciled difference of Rs.12.08 crore as on 31st March 2007 (**Appendix-VIII**). The unreconciled balances were lying in the books of account since April 2005. Unreconciled balances not only reflects weak internal control systems but are also fraught with the risk of fraud/misappropriation.

2.10 Irregular parking of funds

An amount of Rs.1.03 crore was irregularly parked in banks out of Government treasury

As per Rule 2B (i) of Gujarat Taluka/District Panchayat Investment of Funds and Security Rules, the Taluka Development Officers/District Development Officers were required to deposit funds/Government grant in PLA opened with Government treasuries or with branch banks serving Government treasury in the concerned Taluka/District. The intention behind the rule was that the every transaction should be routed through Government Treasury to avoid any indisciplined transaction.

Audit scrutiny of Taluka Panchayat, Talod for the period 2004-05 revealed that though Dena Bank Talod was linked with Sub Treasury, Talod for transacting Government business, a current account was operated with State Bank of Saurashtra (SBS) Talod without any approval from the competent authority. An amount of Rs.4.09 crore was received from the Government during the financial year 2004-05 and the same was deposited in the current account. The balance in the account as of 31 March 2005 stood at Rs.1.03 crore.

On pointing out, Under Secretary, Panchayat, Rural Housing Department accepted (August 2007) that Dena Bank, Talod has been nominated for Government transaction. However, he added that bank drafts of Government grants were drawn from SBS. Thus, to avoid differences in reconciliation and also to facilitate early credit, the bank drafts had been deposited in same bank (SBS) instead of Dena Bank, Talod. He further stated that monetary transaction with SBS has been stopped now (August 2007).

The reply is not tenable as the operation of an account with a bank other than nominated for Government transactions has defeated the intention behind the rule as the money was withdrawn without any intervention of Government Treasury. In absence of any control of Government Treasury genuineness of all the transactions made during the year also could not be ascertained.

2.11 Purchases of materials without inviting tender/quotations

Twelve Village Panchayats procured material worth Rs.11.13 lakh without inviting tenders as stipulated in the Rules.

Rule 171 (Appendix-6) of Mumbai Contingency Expenditure Rules, as read with Resolution No.SSP/1053/1037/z dated 6th May 1994 provides that any purchase exceeding Rs.500 on behalf of the Government should be made by inviting quotations from suppliers. However the purchases exceeding Rs.20,000 shall be made by inviting public tenders through public notice in the daily news paper.

A review of records of test checked 12 village Panchayats as shown in the **Appendix-IX** revealed that in violation of the Rules, purchases of Rs.11.13 lakh (each purchase exceeding Rs.20000) had been made during 2004-05 without inviting tenders. Due to non-compliance of

the aforesaid orders, benefits of comparative and competitive rates could not be availed by the VPs. Further, possibilities of procurement of material of substandard quality can not be ruled out.

On this being pointing out, it was stated (June 2007) by the VPs that the purchases would be made in future keeping in view the provisions of the rule.

2.12 Non maintenance of basic records

Basic records were not maintained properly by 11 test checked PRI units.

Rule 167, of the Gujarat Taluka/District Panchayat Financial Account and Budget Rules, 1963 provides for maintenance of various registers in the prescribed forms to record transactions of receipt and payment in the Panchayat offices. Proper maintenance of these registers would facilitate preparing true and fair accounts smoothly and efficiently.

However, it was noticed in 11 test checked PRI units (**Appendix-X**) that important registers like grant, deposit and advance register were either not maintained at all or were not properly maintained.

Non maintenance of important basic records/registers has violated provisions of the Rule besides adversely affecting the accountability mechanism in PRIs.