

CHAPTER-II

AUDIT OF TRANSACTIONS

2.1 Fraudulent payment/misappropriation/losses

WATER RESOURCES DEPARTMENT

2.1.1 Misappropriation of temporary advances

Temporary advance availed of by Irrigation subdivision, Jamalpur for restoration of Satgharwa Dam for Rs 14.07 lakh was misappropriated.

Rule 100 of the Bihar Public Works Accounts (BPWA) Code, read with the instructions (December 1983) of the State Vigilance Department, envisaged that temporary advances could be granted to subordinate officers for making petty payments on muster rolls and vouchers which had already been passed for payment. The officers, who availed of the advances, were required to submit expenditure statements of the advances within a month of receipt to the Executive Engineer (EE). The EEs in turn were to inform the officers, to whom advances had been granted within 15 days, regarding their adjustment or any action to be taken thereon. No subsequent advances were to be granted without adjustment of previous/earlier advances.

Scrutiny of the records of the Irrigation Division, Tarapur, Munger disclosed (June 2008) that advances of Rs 1.73 lakh were outstanding against Sub-divisional officer (SDO), Irrigation Sub-division, Jamalpur as of March 2005. The EE had granted temporary advances amounting to Rs 12.90 lakh on four occasions¹ during 2005-06 for restoration of the Satgharwa Dam. Thus, an amount of Rs 14.63 lakh pertaining to restoration, repairs and maintenance work of Satgharwa dam remained unadjusted against the SDO, Irrigation subdivision, Jamalpur as of March 2008.

Scrutiny of the summary of the imprest cashbook of the Irrigation Sub-division, Jamalpur revealed that out of Rs 14.63 lakh, the SDO had granted Rs 14.23 lakh to four Junior Engineers (JEs) of the Sub-division and depicted Rs 0.40 lakh as advance as detailed below:

(Amount in Rupees)

| Sl. No. | Name and Designation of official as per SDO record | | Amount shown in the SDO record | Amount accepted by JE | Difference |
|---------|--|-----|--------------------------------|-----------------------|--------------|
| 1 | Sri Najrul Hasan Ansari | JE | 8,75,975.83 | NIL | 8,75,975.83 |
| 2 | Sri Kailash Sah | JE | 5,00,000.00 | 13,000.00 | 4,87,000.00 |
| 3 | Sri Vishnudeo Yadav | JE | 45,000.00 | 1,000.00 | 44,000.00 |
| 4 | Sri Harihar Shah | JE | 2,000.00 | -- | -- |
| 5 | Sri Sachidanand Singh | SDO | 40,000.00 | -- | -- |
| | Total | | 14,62,975.83 | 14,000.00 | 14,06,975.83 |

¹ 11.6.2005: Rs 0.40 lakh, 19.10.2005: Rs 0.90 lakh, 28.12.2005: Rs 1.60 lakh and 30.3.2006: Rs 10 lakh = Total Rs 12.90 lakh.

It was also observed that one JE denied receipt of any advance against Rs 8.76 lakh shown against him while two JEs intimated (May 2008) receipt of only Rs 0.14 lakh against total advances of Rs 5.45 lakh shown against them. Hand receipts in respect of acceptance of advances by these JEs were also not available with the SDO. Hence, it was likely that advances totalling Rs 14.07 lakh had been misappropriated by the SDO, Jamalpur.

Thus, the failure of the EE in adhering to the provisions of the BPWA Code and the instructions (December 1983) of the Vigilance Department regarding ensuring the adjustment of outstanding temporary advance prior to granting subsequent advances led to misappropriation of Rs 14.07 lakh.

The EE intimated (January 2010) to Audit that an FIR had been lodged (September 2009) against the SDO for misappropriation of Rs 14.62 lakh. However, no report of any recovery/adjustment had been received as of December 2009.

The matter was referred to the Government (March 2009). Their reply had not been received despite reminders (July 2009 and January 2010).

2.1.2 Loss due to excess payment on royalty

Payment of royalty at higher rate by the Flood Control Division to the contractors without ascertaining the actual royalty levied against boulders resulted in loss of Rs 22.54 lakh to the Government.

The Flood Control Division, Buxar entered into three agreements² amounting to Rs 6.09 crore during 2005-07 for execution of anti-erosion works on the right bank of the Buxar-Koilwar embankment on River Ganga³. The stone boulders required to be used in the works were to be obtained from the Udhiram mines of Mirzapur in Uttar Pradesh. The rate provided in the estimate for procurement, loading, unloading and carriage of the boulders from the mines to the work sites were inclusive of royalty at the rate of Rs 100 per cum. However, as per Bihar State Minor Mineral (Concession) Rules 1972 royalty at the rate of Rs 50 per cum for boulders, to be used in anti-erosion works, was payable. Thus the estimates were faulty and the rate analysis adopted in the agreement for procurement of boulders was not correct.

The division made a total payment of Rs 6.12 crore to the contractor during February 2007 to January 2008 against the aforesaid agreements which also included Rs 3.48 crore towards supply of 0.32 lakh cum boulders from Mirzapur to the work-sites.

Scrutiny of the records for procurement of boulders disclosed (December 2007 and November 2008) that the contractors paid royalty at the rate of Rs 30 per cum to Mining Officer, Mirzapur against the purchase of boulders. However, without ascertaining the actual amount of royalty paid by the contractors, the division paid the contractors at an inflated rate as provided in the estimate, i.e.

² Agreement No— 2F2/2005-06: M/s Arjun Engicom (P) Ltd, Patna for Rs 2.29 crore; 3F2/2005-06: M/s Mother India Construction, Patna for Rs 1.07 crore and 1F2/2006-07: B.N.Enterprises, Gopalganj for Rs 2.73 crore.
³ Near chain nos. 140 to 177.50, 415 to 450 and 450 to 505.

Rs 100 per cum. This resulted in excess payment of Rs 22.54 lakh to the contractors towards royalty for boulders.

The division stated (December 2007) that there were no excess payments as the payments were made as per the estimated rate. The reply of the division is not acceptable as the estimates were faulty and the payment for the boulders was required to be made after ascertaining the actual payment of royalty by the contractors.

Thus, inflated payment of royalty to the contractors without ascertaining the actual royalty levied against the boulders resulted in a loss of Rs 22.54 lakh to Government.

The matter was referred to the Government (March 2009). Their reply had not been received (December 2009).

HUMAN RESOURCES DEVELOPMENT DEPARTMENT (PRIMARY, SECONDARY AND ADULT EDUCATION DEPARTMENT)

2.1.3 Misappropriation of SSA funds

Funds under Sarva Shiksha Abhiyan amounting to Rs 1.60 crore released for construction of school buildings, boundary walls and other purposes were misappropriated.

(A) The guidelines of the Sarva Shiksha Abhiyan (SSA) envisaged that funds provided for implementation of the programme to the Vidyalaya Shiksha Samittees (VSS) were to be kept in nationalised or scheduled banks at the district level and in any nationalised or scheduled bank or post office at the block and village level. The accounts of the VSS were to be operated with the joint signature of the Secretary, VSS and Head Master of the school.

Scrutiny of records of the District Superintendent of Education-Cum-District Programme Co-ordinator (DSE-cum-DPC), SSA, Araria disclosed (January 2009) that the DSE-cum-DPC had released Rs 2.02 crore to 41⁴ new primary schools through cheques during March 2007 to February 2008 for construction of school buildings, boundary walls and other purposes⁵. However, instead of crediting the cheques to the accounts of the VSS as per the procedure, the cheques were collected personally by the DSE-cum-DPC, the Junior Engineer and the Assistant Executive Officer of the scheme. The cheques were not deposited in the accounts of the concerned VSSs in nationalised or scheduled banks. The entire amount was debited from the bank account of the DSE-cum-DPC, Araria and transferred to the Primary Agriculture Credit Co-operative Society (PACCS), Dehati during November 2007 to June 2008 by opening new accounts in the names of the said schools. Out of Rs 2.02 crore, the PACCS, Dehati made part payment of Rs 52.74 lakh to 20 schools. When

⁴ 22 under Palasi, 18 under Sikti and one under Jokihat blocks of Araria district.

⁵ Development grant, Mid-day meals, teaching and learning equipment, teaching material etc.

the issue was observed by Audit, an FIR was lodged (February 2009) against the Chairman, Secretary and staff of the PACCS and a departmental enquiry was initiated by the State level office of the SSA, i.e. Bihar Education Project, Patna.

Thus, an amount of Rs 1.49 crore⁶ was misappropriated by the DSE-cum-DPC, SSA Araria and other officials in connivance with PACCS, Dehati, defeating the objective of providing infrastructural and other facilities to newly established primary schools as envisaged under SSA.

The facts revealed by Audit were accepted and acknowledged (March 2009) by the present DSE-cum-DPC, SSA, Araria and Director, Primary Education, Bihar, Patna. Subsequent to the report of the departmental enquiry (April 2009), the Director, Primary Education, Bihar directed (May 2009) the Director (Administration)-Cum-Joint Secretary, Human Resources Development Department, Bihar and District Magistrate of Araria to initiate departmental proceedings against the then DSE-cum-DPC. Meanwhile the case was referred (May 2009) to the Vigilance Department, Government of Bihar.

The Secretary of the Department accepted (July 2009) the facts revealed in the audit and initiated interim action. Final action for recovery was still awaited (December 2009).

(B) Similarly, the DSE-cum-DPC, Araria released Rs 84.60 lakh to headmasters of 12 schools⁷ for the construction of additional classrooms in the schools under Sarva Siksha Abhiyan (SSA) during the years 2006-07.

Scrutiny of the records disclosed (January 2009) that the headmasters withdrew the entire amount of Rs 84.60 lakh earmarked against their schools. An expenditure of Rs 66.43 lakh was incurred on construction of classrooms upto December 2009. However, except for one, all the others were not complete as of January 2010. Out of 12 headmasters, two had retired (July and September 2008), three had been transferred (December 2007 to July 2008) and one had resigned from the service (April 2008). At the instance of Audit two retired teachers deposited part amounts of Rs 5.75 lakh against the total outstanding balance of Rs 8.28 lakh and one transferred teacher deposited Rs 1.34 lakh against the outstanding balance of Rs 2.09 lakh in the accounts of VSS as intimated (January 2010) by DSE-cum-DPC. However, Rs 11.08 lakh was outstanding against 11 headmasters as of January 2010.

No action had so far been taken (January 2010) by the DSE-cum-DPC either to recover the outstanding balances or to initiate departmental proceedings against the erring headmasters. However, an FIR had been lodged (January 2010) against one headmaster.

⁶ Rs 2.02 crore – Rs 0.53 crore = Rs 1.49 crore.

⁷ Primary Schools (PSs)- Barmasia: Rs Nine lakh, Bengwahi west: Rs Nine lakh, Dimhia: Rs Six lakh, Gachh Mian pur: Rs 10.80 lakh, Gilahbari: Rs Six lakh, Jamun Ghat: Rs Six lakh, Jhirua west: Six lakh, Kujari Kanya: Rs six lakh, Parihari: Rs Six lakh, Rahikpur: Rs Six lakh, Saidpur: Rs Six lakh and Middle School, Dewaria: Rs 10.80 lakh,

Thus, the failure of the DSE-cum-DPC, Araria to initiate action for refund of the amounts released during 2006-07 under SSA from the headmasters and in lodging FIRs against the defaulting headmasters/officials resulted in misappropriation of Rs 11.08 lakh.

The matter was reported to the Government (May 2009). Their reply had not been received (December 2009).

ENVIRONMENT AND FOREST DEPARTMENT

2.1.4 Loss due to low survival of plants

Low survival of plants under the National Afforestation Programme during 2003-07 resulted in loss of Rs 25.34 lakh.

As per a norm fixed (December 2003) by the Principal Chief Conservator of Forests, the survival percentage of plants under the afforestation programme was to be 80 *per cent* for the first two years and 60 *per cent* thereafter. This norm was also applicable for afforestation programme/scheme under the National Afforestation Programme (NAP). The Government of India provided grants-in-aid of Rs 1.60 crore during 2003-07 to the Gaya Forest Development Agency (FDA) for afforestation under NAP. The scheme was to be implemented by the Gaya Forest Development Agency, under the Gaya Forest Division with the assistance of Village Forest Committees (VFCs) which was required to ensure forest management by involving people's participation in conservation and management of forests.

Scrutiny of the records of the Forest Division, Gaya disclosed (March 2009) that 6.37 lakh saplings were planted during 2004 and 2006 under NAP at 13 sites in 589 hectares area at an expenditure of Rs 59.68 lakh. Out of these plantations, the survival of plants was only 1.10 lakh (17 *per cent*) in October 2008 against the minimum requirement of 3.82 lakh (60 *per cent*). Scrutiny further disclosed that the survival rate of plants was zero at six sites, two to three *per cent* at three sites and 23 to 44 *per cent* at four sites as shown in the table as under:

| Sl. No. | Plantation site | No. of saplings planted | Survival of plant in October 2008 | |
|--------------|----------------------------|-------------------------|-----------------------------------|----------|
| | | | No. | Per cent |
| 1 | Ajnawa/Jarlahi/Bela | 139305 | 31874 | 23 |
| 2 | Alakhdiha | 29375 | 882 | 3 |
| 3 | Bagula | 30472 | 0 | Nil |
| 4 | Dhanawan | 28812 | 0 | Nil |
| 5 | Dundu | 30000 | 0 | Nil |
| 6 | Kahudag | 37552 | 16500 | 44 |
| 7 | Kathotia Kewal | 29375 | 0 | Nil |
| 8 | Kushabija | 83275 | 26315 | 32 |
| 9 | Lodhawe (Telani) | 29375 | 588 | 2 |
| 10 | Lodhwe, Mahavari | 29375 | 881 | 3 |
| 11 | Patwas | 30000 | 0 | Nil |
| 12 | Sawkala, Daudpur & Mahapur | 110000 | 32945 | 30 |
| 13 | Taro | 30000 | 0 | Nil |
| Total | | 636916 | 109985 | |

Besides, important records for monitoring survival of the plantation such as plantation journal and pit counting register were not maintained by the division.

The division replied (March 2009) that the plantations had failed due to non-availability of funds in time, non-fencing of plantation sites and non-co-operation of VFCs. The reply of the division is not acceptable as funds of Rs 1.60 crore were provided during 2003-07 at regular intervals and only Rs 6.98 lakh⁸ was spent on fencing and protection works, though 10 per cent of the total sum (Rs 16 lakh) was stipulated for the same. Moreover, as the Forester and Forest Guard of the Division were the ex-officio Member Secretary and ex-officio Member and Deputy Secretary respectively of the VFC, they themselves are responsible for co-operation from other members of the VFC. Further, non-maintenance of essential records like plantation journal, pit counting register etc. pointed towards lack of experience of the committee. The reply is misleading as it tantamount to shifting of responsibility upon the VFC. Instead, the division should have ensured that VFC took active part in the protection of plantation and survival of the plants.

Thus, due to improper maintenance and protection of plants by VFC coupled with lack of regular monitoring by the Division resulted in low survival of plants, which led to a loss of Rs 25.34 lakh on the plantations (**Appendix 2.1**).

The Additional Principal Chief Conservator of Forest (Development) stated (August 2009) that details of follow-up action taken on low survival of plants by the Regional Chief Conservators of Forest, Patna and Gaya had been called for.

RURAL DEVELOPMENT DEPARTMENT

2.1.5 Misappropriation of rice

Rice valuing Rs 86.53 lakh under the Sampoorna Grameen Rojgar Yojana and the National Food for Work Programme for distribution to daily wage earners was misappropriated and rice valuing Rs 11.51 crore meant for the Sampoorna Grameen Rojgar Yojana was not utilised.

The Government of India provided rice under the Sampoorna Grameen Rojgar Yojana (SGRY) and the National Food for Work Programme (NFFWP) to District Rural Development Agencies (DRDAs) for distribution as wages to daily wage earners at a minimum of five kilograms per day. The State Food Corporation (SFC) lifted the rice from the nearest depots of the Food Corporation of India (FCI) and issued the same to Public Distribution System (PDS) dealers as per the allotments made by the DRDAs to scheme implementing agencies. The PDS dealers issued the rice to implementing agencies as per permit issued by the Block Development Officers for distribution among the wage earners. After introduction (February 2006) of the National Rural Employment Guarantee Scheme (NREGS), the balance rice available under SGRY and NFFWP programmes was to be utilised by June

⁸ *Fencing: Rs 5,12,440 + Protection: Rs 1,85,195 = Rs 6,97,635 .*

2006 and all works taken up under these schemes were to be closed by August 2007.

(A) Scrutiny of the records of the DRDA, Jamui disclosed (July 2008) that a PDS dealer at Laxmipur Block, Jamui lifted 852.22 MT⁹ rice under SGRY and NFFWP schemes during January 2002 to June 2006. Out of this, the dealer issued 196.70 MT¹⁰ rice to the scheme implementing agencies upto August 2006. The balance amount of 655.52 MT rice was in his stock. The Block Development Officer (BDO), Laxmipur reported (August/September 2006) the matter to the Deputy Development Commissioner (DDC) and District Magistrate (DM), Jamui that the said dealer was neither releasing rice to the executing agents of the scheme despite issuing permits nor co-operating in the physical verification of his stock. In response, the DDC directed (September 2006) the BDO to lodge an FIR against the dealer and to file a certificate case¹¹ for recovery of 655.52 MT of rice. However, no action was initiated against the dealer till July 2008.

On this being pointed out (July 2008) by Audit, the BDO, Laxmipur lodged an FIR (August 2008) and filed a certificate case (May 2009) against the dealer for Rs 41.66 lakh. Further, on an audit query (August 2009) regarding filing of the certificate case for Rs 41.66 lakh only, the BDO, Laxmipur intimated (August 2009) that the amount of certificate case had been revised to Rs 83.32 lakh based on the value of rice at the above poverty line (APL) rate. The outcome of the certificate case, however, had not yet been furnished to Audit (October 2009).

Thus, 655.52 MT¹² rice valuing Rs 86.53 lakh (at the rate of Rs 13200 per MT) was misappropriated by the PDS dealer.

(B) Scrutiny (November 2008) of the records of the DRDA, Nawada disclosed that 13973.99 MT of rice was received under SGRY during 2003-06, of which, only 5609.24 MT was utilised. The balance quantity of 8364.75 MT valuing Rs 11.51 crore, at the rate of Rs 13755/MT including four *per cent* VAT and one *per cent* marketing fee, could not be utilised as of November 2008 and was available with PDS dealers.

The DDC, DRDA, Nawada replied (November 2008) that the rice would be transferred to NREGS and subsequently, the DDC instructed (June 2009) all BDOs/Zila Parishads to sell the balance quantity of rice and deposit the sale proceeds with the DRDA. Later, the DDC directed (August 2009) the BDOs/Zila Parishads to lodge FIRs against the erring persons. In the meantime, the District Magistrate of Nawada appointed (July 2009) a chartered accountant (CA) to ascertain the status of rice with reference to allotment, lifting, utilisation and residual balance of rice (Panchayat/ Panchayat samittee/ Zila Parishad wise) and to recover the value of the unutilised grain from the concerned dealer. Though, the final report of the CA

⁹ NFFWP: 258.16 MT and SGRY: 594.06 MT.

¹⁰ NFFWP: 54 MT (July 2005) and SGRY: 142.70 MT (February 2002 to June 2006).

¹¹ Certificate case: It is filed in the court of District Certificate Officer for recovery involving government money or assets

¹² NFFWP: 204.16 MT and SGRY: 451.36 MT.

had not been submitted (December 2009) but, CA had recommended (October 2009) recovery of Rs 61.91 lakh against the residual balance of 450.11 MT rice from 10 PDS dealers.

Thus, due to non-transfer of the balance rice under the SGRY scheme within the due date (June 2006) and prior to closure of work (August 2007), the same remained unutilised.

The matters were reported to the Government (April and June 2009) followed by a reminder (August 2009). Their replies had not been received (December 2009).

2.1.6 Fraudulent payment on muster rolls

Lack of supervision by Executive Engineers and non-observance of an order of the Vigilance Department resulted in fraudulent payment of Rs 2.68 lakh.

As per an order (December 1980) of the Vigilance Department, Government of Bihar, details of labourers such as names, father's/husband's names, village and complete addresses were to be recorded on muster rolls to ensure genuineness of payment. Besides, as per Rule 227 of Bihar Public Works Accounts Code, muster rolls should be prepared in Form 21 and dealt with in accordance with the following rules:

One or more muster rolls should be kept for each work but muster rolls should not be prepared in duplicate.

The attendance of labours should be recorded daily in the muster rolls.

Further, as per Rule 213 read with Rule 305 of the Bihar Treasury Code, every voucher is required to bear a pay order signed by the concerned drawing and disbursing officer. The drawing and disbursing officer is to ensure that the vouchers are prepared according to rules and exercise the same vigilance in spending the Government money as a person of ordinary prudence would exercise in spending his own money.

Scrutiny of 70 muster rolls for 29 departmental works¹³, executed on the recommendation of Member of Legislative Assembly/Member of Legislative Council during 2004-07 under six divisions¹⁴ disclosed (June 2007 to January 2009) the following irregularities:

There were no details of labourers such as addresses and villages on the muster rolls. The same labourers were shown working two to three times during the same period on the same work. Payment of such nature for an amount of Rs 0.07 lakh was noticed in audit and linked with vouchers and measurement books. Although, other cases of such nature were noticed involving payment of Rs 2.12 lakh, but the payments could not be linked

¹³ Construction of PCC roads, drainage, RCC culvert Renovation of dam, Brick soling, Earth filling etc

¹⁴ Division:-Rural Development Special Division I & II, Bettiah, Rural Works Division-II, Biharsharif Nalanda, M.I. Division, Bhagalpur, RD Special Division-II, Gaya and NREP, Nalanda

to the cashbook as voucher numbers were not mentioned on the muster rolls.

The inspection to check the attendance of the labour engaged in the work at site was also not carried out.

There was no signature or thumb impression of 92 labourers on a muster roll for a work¹⁵ under the RD Special Division No.-II, Gaya for which payment of Rs 0.49 lakh was made.

Voucher numbers and pay orders were not recorded on the muster rolls.

However, payment was being made to the labourers through muster rolls for departmental works. Thus due to lack of supervision and non-adherence to codal provisions, there was fraudulent payment of Rs 2.68 lakh on muster rolls (*Appendix 2.2*).

The Executive Engineers of Rural Works Division-II, Biharsharif (Nalanda), RD Special Division-II, Gaya and NREP, Nalanda replied (June 2007 to January 2009) that action would be taken after investigation. The Executive Engineers of Minor Irrigation Division, Bhagalpur (June 2007) and Rural Development Special Division I & II, Bettiah (June 2008) replied that the details of addresses would be recorded on muster rolls in future. However, they did not furnish specific replies on the audit observation regarding fraudulent payment.

The matter was reported to the Government (June 2009). Their reply had not been received (December 2009).

2.2 Excess payment/Infructuous expenditure

ROAD CONSTRUCTION DEPARTMENT RURAL WORKS DEPARTMENT

2.2.1 Excess payment on fake invoices

Failure in verifying the actual quantity of bitumen used for the works and obtaining confirmation from oil companies about genuineness of the invoices led to excess payment of Rs 77.13 lakh.

For execution of all types of bituminous works under Road Construction Department (RCD), the Executive Engineer (EE) of the concerned division issues a supply order of bitumen in favour of the awardee contractor as quantified in the sanctioned estimate for procurement from the nearest depot of the Government Oil Company. The contractor, after procurement of bitumen submits the proof of purchase of bitumen or copy of its delivery order to the division within 24 or 48 hours as per the terms of contract. After that, payment is to be made to the contractor for execution of bituminous works. It was, however, found that the Executive Engineers of five¹⁶ Road Construction

¹⁵ Scheme no. 63/06-07 (MLA).

¹⁶ Road Construction Divisions Jamui, Nawada, Sitamarhi, Gaya-I and Aurangabad.

Divisions made payments to contractors without verifying the veracity of bitumen invoices. This led to excess payment of Rs 77.13 lakh to the contractors and resultant loss to the Government as detailed below:

Case-(a) Special repairs and ordinary repair work of three roads¹⁷ under the Road Construction Division (RCD), Jamui was awarded (November 2006) to an agency for Rs 50.28 lakh. However, the work was closed (March 2008) midway due to transfer of these roads to the Central Public Works Department. An amount of Rs 36.57 lakh including cost of bitumen was paid (March 2008) to the contractor against partially executed work.

Audit analysis of the records disclosed (August 2008) that 71.860 MT bitumen was required against the executed volume of work. The contractor had submitted eight invoices in support of the procurement of 72.558 MT bitumen of which, two invoices had the same document number. On verification, the Indian Oil Corporation (IOC) confirmed (September 2008) that the contractor had lifted only 63.532 MT of bitumen from their depot against the aforesaid work. This confirmed that the contractor had actually used 63.532 MT of bitumen but received payment for 71.860 MT by submitting fake invoices to the EE. Thus an excess payment of Rs 1.56 lakh for 8.328 MT bitumen (at the rate of Rs 18698 per MT) was made to the contractor.

Case-(b) The widening and strengthening work of Pakribarawan - Kauakole road in kms 1-3 and 7-10 under RCD, Nawadah was awarded (October 2006) to a contractor at cost Rs 1.44 crore. The contractor received (May 2008) payment of Rs 1.33 crore, including cost of bitumen upto 11 running account bill. The actual consumption of bitumen against the executed volume of work as worked out (August 2008) by Audit was 197.346 MT. However, the Division furnished 19 invoices to Audit for 168.969 MT in support of procurement of bitumen by the contractor, of which, five invoices pertaining to 45.385 MT of bitumen had the same invoice number. On verification, IOC confirmed (September 2008) that the contractor lifted only 104.775 MT of bitumen from them. Thus, the EE made an excess payment of Rs 17.31 lakh (at the rate of Rs 18698 per MT) to the contractor for 92.571 MT of bitumen without verifying the correctness and genuineness of bitumen invoices submitted by contractor.

Case-(c) The work of strengthening and widening in Sonbarsa-Rajwara-Parihar Road (7.75 KM) under the Rural Works Division, Sitamarhi was awarded (March 2007) to a contractor at Rs 2.43 crore. An amount of Rs 2.42 crore was paid to the contractor (December 2009) till the eighth and final bill which included the cost of bitumen.

Audit analysis (March 2008) of the work disclosed that as against the executed volume of work, the requirement of bitumen would be 123.023 MT. However the contractor lifted only 71.747 MT of bitumen as confirmed by IOC, but the contractor was paid for 123.023 MT of bitumen. In this case also, the genuineness and correctness of bitumen invoices vis-à-vis volume of work

¹⁷ *Lachhwar-Dhadhour road (KM- 1-7 and 8P), Sikandra-Lachhwar road (KM-1, 3P, 4 and 5) and Sikandra-Lakhisarai road (KM-25P and 26).*

executed was not verified by the EE and an excess payment of Rs 9.59 lakh (at the rate of Rs 18698 per MT) was made to the contractor.

Case-(d) The work of maintenance and repair of an approach road to Bodh Gaya in km 1 to 4 (200 m in km 4) for the year 2006-07 under Road Construction Division No.-1, Gaya was awarded (November 2006) to a contractor at Rs 27.22 lakh. The work was completed within the stipulated period and Rs 27.22 lakh was paid (February 2007) to the contractor.

Audit analysis (December 2007) of the work disclosed that consumption of bitumen as worked out by Audit was 70.831 MT¹⁸ against the executed volume of work. However, the contractor lifted only 40.7736 MT of bitumen as confirmed (April 2009) by Hindustan Petroleum Corporation Limited (HPCL). This resulted in excess payment of Rs 7.68 lakh against 30.0574 MT of bitumen (at the rate of Rs 24552.59 per MT + four *per cent* VAT). Further scrutiny revealed that few invoices submitted by the contractor did not have details of work being executed or purchase orders issued by the Division. These invoices were not authenticated by HPCL.

Case-(e) The work of widening and strengthening of Baroon-Daudnagar Road (0 - 30.5 km) under RCD, Aurangabad was awarded (March 2007) to a contractor at Rs 9.17 crore for completion by March 2008. An amount of Rs 7.55 crore was paid (June 2008) to the contractor for work done upto the 28 running account bill.

Audit analysis (September 2008) of the work revealed that as against the actual requirement of 984.10 MT bitumen for the executed volume of work, the agency had lifted 809.645 MT bitumen from HPCL, Patna as of June 2008. Therefore, 174.455¹⁹ MT less bitumen was used in the works executed upto 28 running account bill by June 2008. However, without verifying the genuineness and the correctness of bitumen invoices, the EE made excess payment for 174.455 MT bitumen, amounting to Rs 40.99 lakh (at the rate of Rs 23500 per MT).

In the three²⁰ cases stated above, the EEs replied (December 2007 to August 2008) that the matter would be investigated. However, no investigation report had been furnished (December 2009). In the last case, the EE, RCD Aurangabad replied that the contractor had lifted 1018.37 MT bitumen as of January 2009 against the supply order of 1497.37 MT bitumen. The reply of the EE was not acceptable as out of the total invoices for 1018.37 MT bitumen submitted by the contractor, only 817.57 MT bitumen pertained to the period upto June 2008 and the contractor had lifted only 809.645 MT bitumen upto June 2008 as confirmed by HPCL Patna.

In respect of RCD Jamui, the Deputy Secretary, Road Construction Department, Patna contended (08.01.2009) that the contractor had lifted

¹⁸ Consumption of bitumen: - BuSG: 211 Sqm x 2 Kg/Sqm = 0.422 MT, SDBC: 570.62 Cum x 115.4 kg/Cum = 65.849 MT, Tack Coat: 22825 Sqm x 0.2 kg/Sqm = 4.56 MT = Total 70.831 MT.

¹⁹ 984.10 MT – 809.645 MT = 174.455 MT

²⁰ RCD, Nawadah; RWD, Sitamarhi and RCD, No.-1 Gaya

bitumen from a Government oil company as per the supply orders. However, this fact was refuted by the oil company itself. As regards RCD, Nawada, the Deputy Secretary, Road Construction Department, accepted the audit observation. Government's replies in respect of RCD Sitamarhi, Gaya-I and Aurangabad had not been received (December 2009).

Thus, the failure of the above divisions in ascertaining the genuineness of invoices and finalising payments to contractors without confirming the actual quantity of bitumen lifted from the oil companies led to excess payment of Rs 77.13 lakh and subsequent loss to Government to that extent.

Recommendations:

(i) A work-wise separate bitumen register should be maintained in the division. Proper accounting of bitumen lifted, used and claimed by contractor should be ensured before making payment to the contractor.

(ii) Executive Engineers should conduct periodical sample checks of bitumen invoices produced by contractors and verify their genuineness from the concerned Government oil companies.

WATER RESOURCES DEPARTMENT

2.2.2 *Infructuous expenditure*

Delay in awarding a work resulted in infructuous expenditure of Rs 61.83 lakh.

The Water Resources Department, while issuing detailed instructions regarding execution of pre-flood protection works and flood combating measures, stipulated a flood calendar for ensuring timely execution of work. The flood calendar prescribed the period and duration for all stages of work from inspection of sites to completion of work and making of recommendations by various committees²¹. It also included a provision of *suo-moto* seizure of work order issuing powers of Regional Officers in the event of non-issuance of work orders as per the flood calendar. Under such conditions, the Chief Engineers (CEs) were required to submit documentary facts before the Engineer-in-Chief (EIC) who, in turn, was to recommend departmental action to the Government, after fixing responsibility against the erring officers/officials. The erring officers were to be held responsible for any type of liability arising due to non-adherence to the flood calendar.

Scrutiny (November 2008) of records of the Waterways Division, Muzaffarpur revealed that the time schedule as stipulated in the flood calendar was not adhered to or complied with in the case of anti-erosion work to protect the Left Burhi Gandak Embankment at Kakrachak in between 9-10 km in downstream of Akharaghat, Muzaffarpur during the year 2007. The delays ranged from four to 92 days in various stages of execution (**Appendix 2.3**). However,

²¹ These include High level Committee (HLC), Technical Advisory Committee (TAC), State Review Committee (SRC), Bihar State Flood Control Board (BSFCB), etc.

neither were reasons for the same available on record nor was any responsibility fixed by the EIC for the delays.

Scrutiny of records also revealed that the anti-erosion work approved by the Scheme Review Committee (SRC)²² to protect the Left Burhi Gandak Embankment included the construction of a pilot channel of eight m bed width in 750 m length with bamboo deflector; construction of revetment in 200 m length and trimming of earth slope in 3:1 from Section B-B to the old cut end. The work was technically sanctioned (February 2007) for Rs 88.31 lakh by the CE, Water Resources Department (WRD), Muzaffarpur. The work was awarded (19 April 2007) to an agency at a cost of Rs 76.01 lakh with the stipulated date of completion being 30 April 2007. It was observed that there was a delay of 72 days in approval of the work as the work which should have been approved by 10 December as per the flood calendar was actually approved on 20 February 2007. Further, against the 41 days allotted between date of approval to date of allotment of work, the division took 58 days in awarding the work.

It was observed that the land required for construction of the pilot channel could not be acquired due to public protests. As a result, the work of construction of the pilot channel was abandoned. Thereafter, the CE, WRD, Muzaffarpur visited (May 2007) the site and directed that alternative measures such as removal of shoal (sand bar) formed in the up-stream of the river; erection of bamboo deflectors in the erosion affected areas, extension of brick crating and construction of revetment upto 250 m length in the down-stream where the distance of embankment and river bank was minimum should be taken. The shoal removal work was to be executed within the provision made for the pilot channel without any actual assessment of work. However, the alternative works of erection of bamboo deflectors, brick crating and revetment executed, as suggested by the CE did not prove adequate and were severely damaged in the flood of July-August 2007. Also, the expenditure of Rs 61.83 lakh incurred (November 2007) on execution of the work was rendered infructuous.

Subsequently, the work of restoration/re-construction of the revetment at the same location (in 595 m length) was proposed (December 2007) by the Division and approved by the SRC with back-shifting²³ of embankment. The said works were executed (April 2008) at a cost of Rs 1.59 crore.

The Executive Engineer replied (November 2008) that the erosion occurred due to unprecedented floods. The reply is not acceptable, as the flood level in 2007 (53.55 m) was below the flood level of 2004 (53.60 m) and despite the past experience, adequate measures were not adopted.

²² *The committee reviews the financial aspects for finalisation of anti-erosion works to be executed every year.*

²³ *Back-shifting of embankment is done to allow unhindered flow and to ease out the pressure generated by rampaging flood water.*

Thus, non-adherence to the flood calendar, failure of the department to acquire land for construction of the pilot channel and delay in awarding the work resulted in infructuous expenditure of Rs 61.83 lakh.

The matter was referred to Government (June 2009). Their reply had not been received (December 2009).

HUMAN RESOURCES DEVELOPMENT DEPARTMENT (HIGHER EDUCATION DEPARTMENT)

2.2.3 Excess payment

Excess payment of pay and allowances amounting to Rs 44.65 lakh was made to lecturers due to irregular counting of services contrary to the decision of the court.

For absorption and regularisation of temporary lecturers in University services, three statutes were approved by the Chancellor of Veer Kunwar Singh University at Ara. The absorption of lecturers was to be effected from the date of issuance of statutes as per following criteria:

- (a) Lecturers who had completed 18 months of actual service on sanctioned posts as on 30.6.1977 were to be absorbed under the first statute with effect from 30.6.1977, being the date of issuance of the statute.
- (b) Lecturers who had completed 24 months of actual service as lecturer on 31.12.1980 were to be absorbed with effect from 1.1.1981 under the second statute.
- (c) Under the third statute dated 28.2.1982, lecturers were to be absorbed on the basis of (i) appointment before 28.2.1982 and (ii) appointment to sanctioned post or to a post proposed for creation awaiting Government approval.

However, on the issue of determination of the date for computation of continuous service of a lecturer for entitlement of the benefit of past services, for granting annual increments and computation of qualifying service for promotion, the High Court in its judgment ordered (21.02.2000) that lecturers who had not been holding any regular post on the dates of their absorption but had actually been absorbed under one of the above three statutes would be entitled to include their past services for the purpose of calculation of their entitlement and promotions from the dates of issuance of the notifications under which they were absorbed.

Scrutiny of the records of the University disclosed (May 2005) that 127 lecturers, appointed under Section 35 (2)²⁴ of Bihar State Universities Act,

²⁴ Section 35 (2) of Bihar State University Act, 1976 reads:- “Notwithstanding anything contained in this Act, no college, other than one mentioned in clause (a) and (b) of sub section (1), shall, after commencement of this Act, appoint any person on any post without the prior approval of the State Government; provided that the approval of the State Government shall not be necessary for filling up a sanctioned post of a teacher for a period not exceeding six months, by a candidate possessing the prescribed qualification.”

1976 on temporary basis during 1976-1980 against sanctioned posts for periods not exceeding six months were regularised/ absorbed under the second statute. However, contrary to the decision of the High Court, they were irregularly allowed to include their services from the dates of initial appointments instead of from the date of issuance of the notification i.e. 01.01.1981 for the purpose of timebound promotions to the posts of Reader and Professor. Consequently, the matter was reported to the Chancellor in November 2008 and a committee of five Vice-Chancellors was constituted to look into the matter. In accordance with the recommendations (March 2009) of the Committee also the Readers who had received undue advantage both in terms of fixation of pay and promotion as Professors were to be reverted back to the post of Reader and differential payments were to be recovered from them. Out of 127 cases, eight cases were checked in detail by audit which revealed an excess payment to the tune of Rs 44.65 lakh (*Appendix 2.4*) but no recovery had been reported as of December 2009.

The matter was reported to the Government (September 2009). Their reply had not been received (December 2009).

2.3 Avoidable/unfruitful expenditure

URBAN DEVELOPMENT AND HOUSING DEPARTMENT

2.3.1 Avoidable payment

Avoidable payment of income tax amounting to Rs 2.15 crore was made by the Patna Regional Development Authority on accumulated unspent grants.

The Patna Regional Development Authority (PRDA) was exempted from income tax prior to Assessment Year (A.Y.) 2003-04 under Section 10 (20A)²⁵ of the Income Tax Act, 1961. However, as the Finance Bill, 2002 omitted Section 10 (20A), PRDA came under tax purview from A.Y. 2003-04. PRDA decided to register itself with the Income Tax (IT) Department under Section 12A²⁶ of the Act *ibid*, so as to avail of the benefit of non-liability of tax by way of provision of accumulation of income and spill over for five years. It applied for registration under Section 12A in January 2004, which was granted (March 2006) by the Commissioner of Income Tax (CIT), Patna with effect from April 2003.

Section 11 (2) of the Act allowed any Trust/Authority to accumulate excess of income over expenditure above the limit of 15 *per cent*. Under the above Section, the Trust/Authority had to specify the purpose and period (in no case exceeding five years) for which the income was to be set apart and intimate to

²⁵ Any income of an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both

²⁶ It deals with conditions for applicability under sections 11 (Income from property held for charitable or religious purposes) and 12 (Income of trusts or institutions from contributions).

the Assessing Officer in Form 10²⁷ (read with Rule 17 of the Income Tax Rules).

PRDA failed to submit any resolution passed by the Board along with Form 10 and also failed to mention the specific purposes for which the amount was accumulated. However, it quoted the objectives (development works in the region) of the Authority which were quite general. Later on, the Authority submitted a resolution passed in February 2006 along with a new Form 10. As per Form 10, an amount of Rs 15.21 crore was shown as the accumulated amount (unspent grants) till 31 March 2004 on the basis of a balance sheet without mentioning the specific purpose. Hence, the Income Tax authorities assessed and levied Rs 2.15 crore as income tax on the excess accumulation of income over expenditure beyond the specified 15 *per cent* limit.

PRDA went for appeal (April 2007) against the order for levy of income tax. The CIT (Appeals)-II, Patna observed (October 2007) that 'Accumulation of income is a conscious act and therefore, the specification of purpose as required by Section 11(2) admits no amount of vagueness about the purpose for which it has been accumulated'. Considering the above facts, the CIT (Appeal)-II, Patna concluded that the assessee had failed to fulfill the prescribed conditions as laid down in Section 11(2) for availing of benefit of accumulation of income in excess of 15 *per cent* of the income over expenditure and justified disallowance of the exemption in respect of the accumulated amount of Rs 15.21 crore. Accordingly, PRDA paid Rs 2.15 crore as income tax between May 2006 and July 2008.

The PRDA replied (August 2009) that Income Tax department levied income tax due to non-passage of any resolution prior to the accumulation and also prior to filing Form No. 10 as passing a resolution takes time due to several formalities. The reply was not acceptable as PRDA had submitted a new Form No. 10 on 06.02.2006 in which a copy of the resolution was not attached and the purpose mentioned therein was not specific.

Thus, due to failure of PRDA to furnish the resolution mentioning specific purposes of accumulated unspent grants for availing of the benefit of non-liability of tax, the Authority had to pay Rs 2.15 crore as income-tax, which was avoidable.

The matter was referred to the Government (April 2009). Their reply had not been received (December 2009).

²⁷ Form 10 with a resolution passed for accumulation of such amount (accumulated excess of income over expenditure above the limit of 15 *per cent*) for the decided number of years.

MINORITIES WELFARE DEPARTMENT

2.3.2 Unfruitful expenditure and parking of funds

Expenditure of Rs 95.02 lakh on construction of minority hostels proved unfruitful and Rs 84.98 lakh was parked in civil deposits/banks etc.

The Minorities Welfare Department (MWD) released Rs 2.40 crore (Rs 80 lakh each) to the District Magistrates (DM) of Bettiah, Saran (Chapra) and Muzaffarpur districts during the years 1998-2001 for construction of 100-bedded minority hostels. The hostels were to be constructed on Government land. In case of non-availability of government land, the land for construction was to be selected from University/educational institution/ minority welfare institutions or private land proposed to be registered in the name of the Government.

Scrutiny of the records of District Welfare Officers (DWOs) of Bettiah and Muzaffarpur and information collected (February 2009 to April 2009) from the Dy. Development Commissioner, Saran disclosed the following:

- Three alternative sites were identified in Bettiah for construction of the hostel during the period 2001-04. However, no construction work was carried out on any of the sites due to public protest. The District Welfare Officer requested (October 2003 and July 2004) the Circle Officer²⁸ (CO), Bettiah for providing an alternative site but the CO failed to provide the same as of April 2009. As such, the hostel was not constructed and an amount of Rs 20 lakh drawn in 1999-2000 was not utilised and kept in a current account in a bank. Later, an alternative site was identified and selected in May 2009 but activities for taking up works like inviting tenders had not started as of January 2010. Thus, the delay in selection of an alternative site deprived the minority communities of the intended benefits of the scheme.
- The minority hostel was partially completed (August 2008) in Saran (Chapra) at a cost of Rs 75.52 lakh. Further, an amount of Rs 8.65 lakh (Rs 4.17 lakh over and above Rs 80 lakh) was required for completion of the hostel. The balance amount of Rs 8.65 lakh was not made available by the DM, Saran to the Building Construction Division (BCD), Saran. The Government replied (January 2010) that Rs 80 lakh was made available to BCD, Chapra out of which Rs 78.99 lakh had been spent. However, Rs 17 lakh was still required for electrification and construction of boundary wall. The demand for Rs 17 lakh was made from DM, Saran by the EE, BCD, Chapra in December 2009. Thus, inflation in cost of construction coupled with non-release of additional funds by the Government and non-transfer of the same to BCD Chapra resulted in non-completion of minority hostel (December 2009).

²⁸ Circle Officer is a block level officer of Land Revenue Department in charge of records of possession of land and revenue therefrom. He is also responsible for mutation of land.

- In Muzaffarpur, the hostel was completed (2003-04) up to the lintel level at an expenditure of Rs 19.50 lakh. Thereafter, it was stopped due to a stay order of the High Court passed on a writ petition filed by an NGO. The stay was vacated in November 2005 but the contractor did not take up the work as his agreement had expired in December 2005. The BCD, Muzaffarpur resubmitted (September 2008) a revised estimate for Rs 1.24 crore to the Chief Engineer, Building Construction Department which was pending for sanction (December 2009). The balance amount of Rs 60.50 lakh was parked in a civil deposit (Rs 40 lakh) and with the DRDA (Rs 20.50 lakh) since 2001. Thus, delay in submission of the revised estimate affected the completion of the hostel.

The Principal Secretary, Minority Welfare Department, while elaborating (June 2009) the position in respect of construction of minority hostels at the above stated places mentioned that DM, West Champaran (Bettiah) and Saran had been asked to send a proposal for demand for extra funds for completion of the works. The DM, Muzaffarpur was asked to submit a revised estimate of the balance work to the department after obtaining a revised technical sanction of the same.

Further, Secretary, MWD, Bihar and the DWO Bettiah intimated (January 2010) that fresh tenders were being called for in respect of the construction of a minority hostel. In respect of the construction of a hostel at Saran, the Dy. Secretary, MWD replied (January 2010) that Rs 17 lakh was still required for completion of work. In respect of construction of hostel at Muzaffarpur, the Dy. Development Commissioner stated (January 2010) that the revised estimate of Rs 1.24 crore was neither technically sanctioned by Chief Engineer, BCD nor administratively approved by the Minority Welfare Department as of January 2010.

Thus, the delay in providing alternative site by CO, Bettiah and subsequent delay in identification of new site, omission to send a proposal of additional demand by DM, Saran and inordinate delay in according administrative approval and technical sanction of revised estimate resulted in non-completion of the minority hostels in the districts mentioned above despite availability of funds. As a result, 300 students belonging to minority communities were deprived of hostel facilities for eight to 10 years, and Rs 84.98 lakh²⁹ for the said purpose remained parked in civil deposits/banks etc. Meanwhile, the expenditure of Rs 95.02 lakh³⁰ on incomplete constructions proved unfruitful.

²⁹ Rs 20 lakh in Bettiah + Rs 4.48 lakh in Saran + Rs 60.50 lakh in Muzaffarpur.

³⁰ Rs 75.52 lakh in Saran + Rs 19.50 lakh in Muzaffarpur.

**HUMAN RESOURCES DEVELOPMENT DEPARTMENT
(HIGHER EDUCATION DEPARTMENT)**

2.3.3 Unfruitful expenditure on idle staff

Delay by the Government in finalising a proposal for utilisation of the services of idle staff of defunct Service Commissions and Boards resulted in unfruitful expenditure of Rs 1.32 crore on account of payments towards pay and allowances.

The Bihar State University (Affiliated College) Service Commission (BSUSC), the Bihar College Service Commission (BCSC) and the Bihar State Inter University Board (BSIUB) were declared (April 2007) defunct vide a Human Resources Development Department, Government of Bihar Gazette notification with the condition that the staff of these Commissions and Board would be provided pay and allowances as admissible to them prior to the date of notification till the final decision of State Government. It was further notified that a Committee comprising three Secretaries would be constituted by the Government within three months from 19.04.2007 to finalise adjustment, retirement, service conditions and regulations of the affected staff.

Scrutiny of the records of the Principal Secretary, Human Resources Development Department, Patna further revealed (May 2009) that a three-member committee of Secretaries had been constituted in May 2007. However, the committee could not finalise its report even after two years. Meanwhile pay and allowances of the 81³¹ staff of the two defunct Service Commissions and the Board were being drawn regularly and Rs 1.68 crore was paid to the staff up to March 2009.

The Principal Secretary of the department stated (July 2009) that the services of the staff of the defunct Commissions and the Board were being utilized after their deployment on equivalent posts in accordance with their posts and qualifications. He further informed (September 2009) that the constituted committee had objected to the initial appointments of these staff and termed them as irregular due to non-adherence of rules and provisions of their very initial appointments, viz. non-observation of roster reservation, non-publication of advertisement dates for appointment, sanctioning of posts etc. after the initial appointment by Commissions and Board. When documentary evidence in support of reply (July 2009) of Principal Secretary was called for, only 41 staff members out of 81 staff were found deployed through various orders on different dates involving pay and allowances of Rs 0.36 crore for the said duration.

Thus, there was unfruitful expenditure of Rs 1.32 crore on idle establishment of the defunct Service Commission and Board.

³¹ BSUSC: 23; BCSC: 29; BSIUB: 29; Total: 81 No

2.4 Idle expenditure/ blocking of funds

HEALTH DEPARTMENT

2.4.1 Underutilisation of machine

Failure of Nalanda Medical College and Hospital in ensuring the basic infrastructure required for installation of a Computed Tomography Scan machine, lack of trained staff and improper maintenance by the supplier rendered the expenditure of Rs 1.20 crore largely unfruitful.

The Nalanda Medical College and Hospital (NMCH) invited (December 2005) tenders for procurement of a Computed Tomography (CT) Scan machine and entered into an agreement (March 2006) with M/s Siemens Ltd, Kolkata for purchase of the same at a value of Rs 1.50 crore. The terms and conditions of the agreement *inter alia* included a one-year standard warranty and additional warranties for the second and third years, besides providing of free services and supply of spares as and when required and attending to complaints within 72 hours on its receipt. The seepage-free site required for installation of machine was to be provided by NMCH. The machine was to run eight hours a day and 12 hours in case of emergency. Any uptime³² less than that specified was to be compensated at the rate of Rs 200 per day by the company. The payment conditions included payment of 80 *per cent* of the amount after arrival of the machine at site, and the balance 20 *per cent* after successful installation and commissioning of the machine.

The company supplied the machine in June 2006. However, the same could be installed only in September 2006, due to lack of basic infrastructure³³ and power supply needed for the same. However, an amount of Rs 1.20 crore (80 *per cent*) was paid to the company during June to October 2006.

Scrutiny of records of NMCH disclosed (April 2008) that the machine was operative for only 216 days³⁴ (18.65 *per cent*) out of 1158 days (July 2006 to August 2009) and remained intermittently out of order due to improper functioning of camera, microprocessor and computer, UPS and voltage stabilizer as well as damage caused due to seepage in the room. Based on the report and deficiencies pointed out by the Head of Department of Radiology, the Superintendent, NMCH reported (November 2007) the break-down of machine to the company. Even his report was not attended to by the company on the pretext of non-payment of balance amounts of Rs 30 lakh by the NMCH authorities. Subsequently, authorities of NMCH and company agreed (February 2008) to remove the defects within a month.

³² Uptime implies normally running/operation hour of a machine in a day.

³³ Two seepage free rooms along with an air-conditioning unit for CT gantry installation and operating consoles.

³⁴ 11.6.2007 to 31.10.2007 (143 days) + 2.4.2008 to 17.4.2008 (16 days) + 13.5.2008 to 8.7.2008 (57 days) = 216 days.

Scrutiny of records also revealed the following:

A seepage-free site was not provided for installation of the machine.

The dry chemistry laser camera of the machine was malfunctioning from the day of installation (September 2006).

The 100 KVA generator set supplied (October 2006) by the company for running the machine during power shortage was not put to use at all.

On an average of one patient per day, 1158 patients should have been examined by the CT scan machine since installation but only 250³⁵ patients (22 per cent) were examined during nine operational months from June 2007 to July 2008.

The CT scan machine was operated by untrained staff of Department of Radiology, NMCH.

The Superintendent of NMCH replied (May 2008) that the company had sorted out all deficiencies pointed out in the system by the Radiology Department and as such, no action was required to be taken against them. The seepage of the machine rooms had also been rectified. He further stated (January 2010) that efforts were on to make the machine operational.

The reply is not acceptable as the machine was partially functional during April to July 2008 and thereafter, patients were referred to other hospitals for CT scans as the machine remained non-functional as of December 2009.

Thus, the failure of the NMCH authorities in providing basic infrastructure required for installation of the CT scan machine, non-deployment of trained technical staff for operating the machine and failure in rectifying the defects of the machine by the company resulted in under-utilisation of the machine. The machine worked for only 216 days since its installation which led to denial of intended benefits to the patients. Thus, the expenditure of Rs 1.20 crore became largely unfruitful.

The matter was reported to the Government (April 2009). Their reply has not been received (December 2009).

2.4.2 Expenditure on idle establishment

Delay in allocation of funds to the Government Pharmacy Institute for infrastructural development resulted in expenditure of Rs 1.36 crore on idle establishment.

The Pharmacy Council of India³⁶ (PCI) withdrew (December 2002) approval of the Government Pharmacy Institute, Agamkuan, Patna and imposed a ban

³⁵ Patients checked: June 2007 to October 2007 – 164 Nos and April 2008 to July 2008- 86 Nos = 250 Nos. in nine months.

³⁶ Pharmacy Council of India (PCI) is a statutory body working under the Ministry of Health and Family Welfare, Government of India, New Delhi. It is constituted under Pharmacy Act, 1948 and regulates pharmacy education for the purpose of registration as a pharmacist to practise under Pharmacy Act, 1948

on admission of students in the Diploma in Pharmacy (D Pharma) after the academic session 2001 due to various deficiencies such as old and damaged buildings, shortage of machines and equipment in the laboratory etc noticed during inspection (October 2002) by PCI's team. The ban was however, lifted (July 2007) and the academic session of the institute was restarted from 2007-08.

Scrutiny of records of the Pharmacy Institute disclosed (October 2007) that the institute remained closed during the period 2002-03 to 2006-07 due to de-recognition and the ban imposed on admission by PCI for the same period. As such, 300 students (60 students per year) of the State were deprived of education in pharmacy for five years. Also, an amount of Rs 1.36 crore was paid to the teaching/non-teaching staff of the institute who remained idle during the aforesaid period.

It was further noticed (May 2009) that PCI provisionally lifted (June 2007 and September 2008) the ban on admission for Ist and IInd year sessions (2007-09) and the fresh Ist year session of 2008-09 but the same was not finally approved (May 2009) by PCI.

The Principal of the institute stated (October 2007) that delay in lifting the ban was due to late allocation of funds by the Government for infrastructure development as required by PCI despite constant pursuance by the institute. The Principal Secretary, Department of Health, Government of Bihar attributed (July 2009) the delay in allocation of funds for infrastructural development to considerable time consumed in various stages right from date of approval of technically sanctioned estimate by Internal Financial Advisor/Finance Department by way of Government order to issue of notification regarding allotment of fund. The delay in purchase of the machine and equipment was also attributed to the procedural delays. The funds for infrastructure were made available belatedly in the year 2006-07.

The reply of the Government is not acceptable as a delay of three years in allocation of funds for infrastructural development cannot be attributed to procedural delays. Instead, this is an example of glaring apathy and indifference on part of the Government towards its Pharmacy Institute *vis-a-vis* its non-responsiveness towards the deficiencies pointed out by PCI. Thus, inordinate delay in allocation of fund for infrastructure development not only deprived 300 students of Bihar of Pharmacy education for five consecutive years (2002-07) but also resulted in expenditure of Rs 1.36 crore on idle establishment.

**HUMAN RESOURCES DEVELOPMENT DEPARTMENT
(HIGHER EDUCATION DEPARTMENT)**

2.4.3 Expenditure on idle equipment and ambulance

Purchase of equipment and an ambulance without assessing actual requirements and ensuring the availability of technical staff resulted in idle expenditure of Rs 30.59 lakh.

The University Grants Commission sanctioned (May 2003) Rs 1.60 crore under the head 'Central facilities' to the Kameshwar Singh Darbhanga Sanskrit University (KSDSU), Darbhanga during the Tenth Plan period (2002-07). Out of the total grant, Rs 35 lakh was allocated for equipment for the Health Centre of the University, which comprised a small dispensary with one doctor, one compounder and one dresser.

Scrutiny of the records of the University disclosed (December 2008) that the Vice-Chancellor of the University had recommended (January 2004) procurement of sophisticated medical equipment and an ambulance in order to upgrade the dispensary. The University spent Rs 33.23 lakh during 2004-05 and 2006-07 on purchase of the equipment and an ambulance (**Appendix 2.5**). Scrutiny further revealed that of the above, equipment valuing Rs 28.17 lakh (**Appendix 2.6**) were not utilised either due to non-availability of technical staff or due to incomplete installation. A Sonoline G-50 Color Doppler unit valuing Rs 17.98 lakh had not been installed as of August 2009. It was also noticed that prior to purchase of the equipment, the Health Committee of the University decided (May 2004) to outsource the operation of the pieces of equipment, which was pending as of May 2009. The ambulance valuing Rs 2.99 lakh was lying idle since February 2007 for want of maintenance and renewal of road tax.

Thus, unfruitful expenditure of Rs 30.59 lakh³⁷ was incurred on purchase of equipment and ambulance without assessing the actual requirement and ensuring the availability of technical staff.

The University replied (August 2009) that the equipment were purchased after assessing their actual requirement and the Sonoline Color Doppler had been partially installed (March 2009) but the application and multi-camera formatting were still to be done by the primary supplier (M/s Siemens). It was also stated that not even a single patient had undergone USG because the machine had not been fully installed. As regards the ambulance, the University intimated that the driver had been running the ambulance since April 2005 but the vehicle remained inoperative since February 2007 for want of maintenance and renewal of road tax. The reply of the University is not acceptable as equipment especially Color Doppler was not put to use since its procurement and the ambulance was also not in operation since February 2007.

³⁷ *Equipment: Rs 28.17 lakh + Ambulance: Rs 2.99 lakh - Rs 0.57 lakh (Depreciation) = Rs 30.59 lakh.*

The matter was reported to the Government (June 2009). Their reply had not been received (December 2009).

RURAL WORKS DEPARTMENT

2.4.4 *Blocking of funds on incomplete works*

Faulty estimates coupled with non-sanctioning of revised estimates forced contractors to stop their works resulting in blocking of funds amounting to Rs 5.80 crore on incomplete high level bridges.

(A) Administrative approval (September 2003) of Rs 5.89 crore and technical sanction of Rs 5.90 crore were accorded (December 2004) for construction of a high level bridge (HLB) on Falgu River in Shirpur-Keni-Khijarsarai road to provide direct connectivity to Shirpur with Keni and Khijarsarai under the Rural Works Department (RWD), Works Division, Gaya. The work was allotted (May 2005) to an agency at an agreement value of Rs 6.25 crore (seven *per cent* above the Bill of Quantities) and was to be completed by February 2008. However, it could not be completed as of March 2009. A total amount of Rs 2.59 crore was paid to the agency through 11 running account bills (September 2007).

Scrutiny (March 2009) of the records of RWD Works Division, Gaya disclosed that against an estimated quantity of 115.66 MT steel valuing Rs 51.09 lakh stipulated for providing steel liners³⁸ for curbs and steining³⁹ of wells including fabricating and setting, the contractor utilised 312.699 MT steel. The enhancement in consumption of material caused enhancement in the claim of the contractor on the above item to the extent of Rs 1.38 crore. However, against the estimated amount of Rs 51.09 lakh and actual execution for Rs 1.38 crore, Rs 73.70 lakh (Rs 22.61 lakh in excess than the approved estimate) was paid (September 2007) to the contractor without revision of the enhanced amount by the competent authority which was unauthorized and irregular. However, the contractor stopped (May 2007) the work due to non-payment of the claim in full as per the actual work done. Thus, due to the faulty estimate, the bridge remained incomplete since May 2007 and no connectivity could be provided to the inhabitants of Sripur with Keni and Khijarasarai despite expenditure of Rs 2.59 crore.

The Division replied (April 2009) that action would be taken for preparation of the revised estimates and the balance work would be taken up after approval of the revised estimate. The reply was an acceptance of the fact that the Division had failed to take effective action for completion of the HLB

³⁸ *Steel liner: It is steel pipe which is immersed in water and concrete cement is later poured into it. Normally used in underwater piling.*

³⁹ *Steining: Steining of well is concreting of well built in one straight line from bottom to top.*

within the scheduled time as the revised estimates had not been framed even after the lapse of 32 months (May 2007 to December 2009).

(B) Similarly, to provide river crossing facilities over Morhar and Bhutahi rivers in Tikari-Law-Guljana road, the works for construction of two HLBs were administratively approved (September 2003) for Rs 2.13 crore each and technically sanctioned (December 2004) for Rs 2.43 and Rs 2.13 crore respectively. The works were allotted (May 2005) to two different agencies at agreement values of Rs 2.45 crore and Rs 2.23 crore respectively. The construction of HLB on Bhutahi river was to be completed by September 2007 whereas the HLB on Morhar was to be completed by November 2007.

Scrutiny (March 2009) of the records and information obtained (August 2009) from the division disclosed that the contractor had executed 7981.96 cum of earth work (119 *per cent* in excess) as per the requirement of work in the HLB on Morhar but payment was made as per the agreement for 3645.12 cum. In respect of the HLB on Bhutahi also, the contractor had utilised 142.2204 MT steel liner against the requirement of 149.877 MT of steel liner but payment was made as per the agreement for 37.40 MT only.

In both the cases, the contractors were pressing hard for revision of the estimates and payments as per the actual works done. The Executive Engineer had also requested (December 2006) for sanction of the excess quantities of work executed by the contractors from the Chief Engineer-I, Gaya apprehending that the contractors might stop the work. Ultimately, both the contractors stopped the works (Morhar: November 2007 and Bhutahi: March 2008) after getting payment of Rs 1.52 crore and Rs 1.69 crore respectively, due to non-payment of their claims as per the works executed and construction of both HLBs remained incomplete. Hence, river crossing facilities could not be provided on both the rivers.

The Division replied (April 2009) that the contractors stopped the works due to increase in the quantities of certain items of work over the sanctioned estimates and non-payment thereof, owing to non-sanction of revised estimates. Submission of revised estimates to the competent authority in both the cases was under process. The reply was an admission of the fact that Division/department had failed to take proper action for completion of the HLBs.

Thus, faulty estimates coupled with inordinate delays in sanctioning of revised estimates *vis-à-vis* non-payment for excess quantities of work executed by the contractors led to stoppage of works. This resulted in blocking of Rs 5.80 crore⁴⁰ on incomplete HLBs which also included unauthorised payment of Rs 22.61 lakh. Besides, the intended benefits of HLBs could not be achieved.

The matter was reported to the Government (April 2009). Their reply had not been received (December 2009).

⁴⁰ Case A:- Rs 2.59 crore; Case B:- Rs 1.69 crore; Case C:- Rs 1.52 crore;
Total:- Rs 5.80 crore

2.5 General

2.5.1 Lack of response of Government to Audit

The Principal Accountant General (Audit) (PAG) conducts periodical inspections of Government departments as per his audit plans to check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedure. These inspections are followed by issuance of Inspection Reports (IRs). The Heads of the offices and the next higher authorities are required to comply with the observations contained in the IRs and rectify the defects promptly and report their compliance to the PAG.

As per instructions in the manual of instructions, settlement of audit objection/IRs, received from Audit Office is to be recorded in personal register and audit objection book. The Head of the office is required to review these books once in a month and the concerned official is required to review these books fortnightly to ensure compliance of audit objection within a fortnight.

However, IRs issued during the years 2003-04 to 2008-09 relating to 26 departments disclosed that 29667 paragraphs relating to 5561 IRs remained outstanding at the end of March 2009 as shown in the table below:

| Number | Pending at the end of 2008-09 | | | | | |
|------------|-------------------------------|---------|---------|---------|---------|---------|
| | 1 year | 2 years | 3 years | 4 years | 5 years | 6 years |
| IRs | 5561 | 4463 | 3493 | 2505 | 1723 | 887 |
| Paragraphs | 29667 | 24304 | 19489 | 14033 | 10004 | 5078 |

The year-wise and department-wise breakup of outstanding IRs and paragraphs is mentioned in *Appendix-2.7*.

The large number of outstanding IRs/ paragraphs indicate lack of responsiveness of the Government towards audit observation which may lead to serious financial irregularities and losses.

It is recommended that the Government should ensure that a proper procedure is in place to ensure recovery of losses/outstanding advances/overpayments in a time-bound manner.

2.5.2 Non-submission of Explanatory (Action taken) Notes

The manual of instructions (1998) of the Finance Department, Government of Bihar envisaged that the Secretaries to Government of the concerned departments were required to submit the explanatory notes to the Assembly Secretariat on paras and reviews included in Audit Report (AR) duly vetted by audit within two months from the date of presentation of the ARs before the legislature without waiting for any notice or call from the Public Account Committee (PAC) and indicate therein, the circumstances and reasons for

occurrence of such irregularities and deviations from prescribed norms and the action proposed to be taken or taken thereagainst.

Further, Regulation 213 of the Regulations on Audit and Accounts (November 2007) envisaged that the Union, the States and the Union Territories having legislative assemblies where legislative committees were functioning or where the Government desires the Comptroller and Auditor General to vet the Action Taken Notes (ATN), the Secretaries to Government of the concerned departments should send two copies of draft self-explanatory Action Taken Notes to the Principal Accountant General (Audit) for vetting along with the relevant files and documents for which the explanatory notes have been formulated, properly referenced and linked. This was to be done within such period of time as may be decided for submission of self-explanatory Action Taken Notes prescribed by the PAC.

It was noticed that as of December 2009, 24 departments had not submitted the explanatory (ATN) notes in respect of 44 reviews and 214 paragraphs pertaining to the years 1999-2000 to 2007-08 (*Appendix-2.8*).

2.5.3 Follow up action on earlier Audit Reports

As per Manual of Instructions for settlement of paragraphs featured in the Audit Reports of the Comptroller and Auditor General of India, departments are required to furnish the Action Taken Notes (ATNs) to the PAC within two months from the date of recommendations made by the PAC in their report.

Review of the outstanding ATNs on paragraphs included in the earlier ARs of the Comptroller and Auditor General of India, for the Government of Bihar revealed that ATNs in respect of PAC reports pertaining to the period from November 2000 to November 2009, in respect of 368 paragraphs involving 30 Departments remained outstanding as of December 2009 (*Appendix-2.9*).