CHAPTER VI: MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

Food Corporation of India

6.1.1 Irregular payment of bonus

Incentive bonus was released to millers/State Agencies for paddy procured by them during Kharif Marketing Season 2007-08 without ensuring the actual payment of bonus to the farmers which resulted in irregular reimbursement of bonus amounting to Rs.786.59 crore to millers/State agencies.

Government of India (GOI) vide letter dated 15 October 2007 announced an incentive bonus of Rs.50 per quintal for paddy procured by the millers during Kharif Marketing Season (KMS) 2007-08. Further, on 21 November 2007, additional incentive bonus at the rate of Rs.50 per quintal was announced by the GOI. In the orders, it was specified that the bonus would be paid to the millers/State Agencies by the Food Corporation of India (FCI) only on production of proof of payment to the farmers. Since the procurement season[1] was near over by then, the FCI issued instructions (November 2007) to all its Zonal Offices to ensure payment of bonus to the farmers whose paddy had already been procured by FCI/State Agencies.

In Punjab Region 76.95 lakh MT rice was procured under levy and custom milled rice category during KMS 2007-08. The bonus for the paddy purchased was released to millers/State Agencies without ensuring proof of actual payment of bonus to the farmers, on the basis of blanket certificates provided by the millers/State Agencies and District Food Supply Controller (DFSC) for levy rice. An amount of Rs.786.59 crore was reimbursed as bonus to the millers/State Agencies in Punjab Region[2] without any documentary evidence for the same. Though the Zonal Office, North Zone, FCI instructed (September 2008) the concerned Area Managers to collect the actual proof of payment of bonus to the farmers from the concerned millers/State Agencies within 15 days or recover the bonus already reimbursed, no action was taken by the District Offices. The release of incentive bonus to millers/State Agencies without ensuring the actual payment of bonus to the farmers, resulted in irregular reimbursement of bonus amounting to Rs.786.59 crore for paddy procured during KMS 2007-08.

The Management stated (November 2009) that:

- The instructions were circulated to ensure release of payment as per directions of the GOI.

[1] ***Procurement season – September to November***

[2] ***Excluding Jalandhar District where the bonus paid was recovered from State Agencies due to non-production of evidence of payment of bonus to farmers.***

- In compliance with the instructions most payments were made on the basis of a certificate from the millers/State Agencies stating that the bonus had been passed on to the farmers.

The reply of the Management is not acceptable. Despite GOI instructions, the payments were released to the millers/State Agencies on the basis of blanket certificate submitted by them without any document evidencing actual payment of bonus to the farmers.

Thus, non-compliance with the instructions issued by GOI regarding release of incentive bonus resulted in irregular reimbursement of bonus amounting to Rs.786.59 crore for paddy procured during KMS 2007-08 to millers/State Agencies.

It is recommended that to avoid such irregular reimbursement, the incentives/bonus should be announced sufficiently before the start of the procurement season.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

6.1.2 Accounting of rice storage loss in excess

Storage loss in rice observed during the period 2003-04 to 2007-08 in Punjab region as compared to Haryana region was excess by 3.23 lakh MT valuing Rs.450.65 crore.

Food Corporation of India (FCI) procures rice through levy and custom milling for the Central pool. During storage rice loses weight due to loss of moisture. The Government of India (GOI) issued instructions (April 1980) that FCI should prescribe by 30 September 1980, the limits of storage loss on account of loss in weight and deterioration of stock. Further, the Storage and Contract Manual* of FCI lays down that the Area Manager should fix the norms of storage shortages reasonable for each depot according to the local conditions.

Emphasizing the need to control such losses FCI stated (June 2002) that the norms for losses cannot be fixed and reiterated that the existing system of investigations into each and every case of loss be continued considering various factors responsible for losses including the dereliction of duties by officials. The write off of the losses were to continue without prejudice to the pending/contemplated disciplinary action for fixing responsibility and recovery of the losses.

No norms for storage loss have been fixed by FCI till date and the storage loss was being accounted for on actual basis as the difference between the receipt weight and the issue weight. A review of storage loss account in Punjab region had revealed that the average storage loss in rice during the period 2003-04 to 2007-08 was 1.02 *per cent* whereas in Haryana region where climatic condition was similar the average storage loss in rice was observed as 0.33 *per cent* only. When compared to Haryana region excess storage losses

* ***Para 13.3.2***

of 3.23 lakh MT valuing Rs.450.65 crore was observed during the period 2003-04 to 2007-08 in Punjab region. No reasons were available on record for this wide variation in percentage of storage loss in the two neighbouring regions. Misappropriation of stocks cannot be ruled out in high percentage of storage loss.

The Management stated (September 2009) that:

- Investigations were conducted and disciplinary action initiated wherever abnormal storage losses were noticed.
- In Punjab there was more procurement, longer storage period and different storage conditions, its comparison with Haryana region cannot be made.
- Due to different environmental and storage conditions in the Regions/different parts of the country the storage norms could not be fixed.

The Ministry endorsed (September 2009) the reply of the Management.

The reply is not acceptable. Higher procurement does not imply higher percentage of storage loss. Further, though the climatic conditions in both the regions were similar, there was difference of nearly 200 *per cent* in the storage loss in these regions.

It is recommended that the norms for storage shortages reasonable for each depot according to the local conditions be fixed.

6.1.3 Unjustified payment of incentive to departmental labour

Not considering 'Mandal' as handling labour for payment of incentive resulted in unjustified payment of incentive amounting to Rs.16.59 crore to departmental labour during the five years period 2004-05 to 2008-09 in Haryana region.

In the Food Corporation of India (FCI), the handling operations[1] at various depots and railheads are carried out by labour grouped into gangs. A standard gang has one Sardar, one Mandal and 12 handling labour. As per the description of duties prescribed by the FCI, the Sardar has to function as the leader of handling labour and supervise various operations for speedy working of the gang. The Mandal is responsible for weighment of bags of food grains and when there is no weighment, he has to work as a part of the gang and perform duties of a labour.

In Haryana region, departmental labour are in existence in 22 depots. The departmental labour are full time employees of the FCI who are paid incentive as per piece rate incentive scheme, in addition to their wages, in case the work rendered by labour on a given day exceeds the general norms of output[2] fixed by the FCI. The incentive scheme also provides that the Sardar and the Mandal should be paid incentive equal to the

[1] ***Loading, unloading, stacking, de-stacking etc.***
[2] ***Handling 105 bags weighing less than 66 kg per day***

average incentive earnings of the handling labour of the gang provided the Sardar and the Mandal attend to the work on the given day.

With the introduction of weighment of bags through weighbridges in the depots, there was no need of the Mandal during weighment and as per description of duties prescribed by the FCI, he had to work as a handling labour. However, it was observed in Audit that, while working out the incentive payment for work done in excess of the general norms of output, the Mandal was not treated as a part of handling labour. This resulted in unjustified payment of incentive for 105 bags per gang per day which could have been handled without payment of incentive, if the Mandal was treated as a part of handling labour. Further, incentive earnings to the Sardar and the Mandal were calculated without including Mandal as handling labour which led to excess contribution of the FCI towards their incentive earnings due to unjustified apportionment of total incentive earnings of a gang amongst the handling labourers only instead of apportioning them amongst handling labour and the Mandal. This resulted in unjustified payment of incentive of Rs.16.59 crore to the departmental labour during the five years period 2004-05 to 2008-09 in Haryana region.

The Management stated (July 2009) that:

- The incentive scheme for departmental labour was framed based on an arbitration award of 1970 which provided for incentive wages to the Sardar and the Mandal based on the output of an individual worker in the gang.

- In the arbitration award, it was not mentioned that when the Mandal performs the duty of handling labour in the absence of manual weighment, he had to give output as handling labour.

- The duties of the Mandal were identical to that of the Sardar in the absence of manual weighment and he worked as a stacker and assisted handling labour in placing bags on their back.

The reply is not acceptable as:

- The incentive scheme based on arbitration award provided that the per *capita* output was to be determined by dividing the total number of bags handled by the gang by the number of handling labour present in the gang.

- The Mandal had to perform as handling labour in the absence of manual weighment, the total earning should have been apportioned inclusive of the Mandal.

- The work relating to stacking and placing bags on the back *etc.*, was a part of overall duties of handling labour and not distinctly assigned to the Mandal anywhere.

Thus, by not considering the Mandal for apportionment of total incentives of a gang amongst the handling labour, unjustified payment of incentive of Rs.16.59 crore was

made to departmental labour during five years period 2004-05 to 2008-09 in Haryana region.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

6.1.4 Non-recovery of revised sugar price

Non-recovery of amount due to downward revision of levy sugar price from the sugar mills resulted in undue benefit to the sugar mills to the extent of Rs.6.89 crore and loss of interest to the tune of Rs.2.33 crore.

The Government of India (GOI) follows a policy of partial control and dual pricing for sugar. Under this policy, a certain percentage of sugar produced by sugar mills is requisitioned by the GOI as compulsory levy at a price fixed by GOI in every sugar season[1] for distribution in the Public Distribution System. The non-levy sugar is allowed to be sold as per the quantity released by the GOI under the free sale release mechanism.

The GOI decided (April 2000) to revise the price of levy sugar for the production year 1999-00. The price was revised to Rs.1091.51 per quintal from Rs.1460.58 per quintal (a reduction of Rs.369.07 per quintal). A writ petition against the order was filed by some sugar millers in the Orissa High Court. On the basis of interim orders (June 2000) of the Orissa High Court, the mills charged pre-revised price of Rs.1460.58 per quintal for the levy sugar for sugar seasons 1999-00 to 2001-02.

Subsequently, the Orissa High Court dismissed (January 2001) the writ petition of the sugar mills. The sugar mills thus, became liable to refund the excess amount charged with interest thereon. The GOI while intimating the decision (April 2002) to the mills, directed to remit the excess realisation through demand draft and also advised FCI, Regional Office Orissa (RO Orissa) to submit details of such excess payments made. However, the modalities of recovery to be effected from the sugar mills, in case of non remittance by them, were not specified. Since the GOI and the FCI had no direct contact with the sugar mills, it was imperative that the recoveries be effected by the FCI from the Orissa State Civil Supply Corporation Limited (OSCSC)[2] which prefers differential sugar bills on FCI and makes payments to the sugar millers. The OSCSC in turn recovers the amount from the sugar mills.

RO Orissa calculated Rs.6.89 crore as recoverable from the sugar mills. It recovered the excess payment of Rs.6.31 crore till May 2005 from pending monthly claims of OSCSC and instructed OSCSC to realize the excess payment from concerned sugar mills on account of downward revision of levy sugar price.

In the meantime OSCSC represented (February 2004) to the GOI that they had no scope to recover the amount from sugar mills as the levy sugar was supplied by the mills against advance payment. The GOI intimated (June 2004) the FCI that the recoveries from the OSCSC were not justified. The recoveries were to be made either by the

[1] ***Means production year - October to September every year.***
[2] ***A State Government Agency***

Department[1] or by the FCI from the concerned sugar mills. Consequently, the FCI Headquarters directed (June 2005) RO Orissa to refund the amount recovered to OSCSC under intimation to the GOI with the request to recover the amount directly from the sugar mills. RO Orissa refunded the amount recovered to OSCSC.

The observation of the GOI that the recoveries from OSCSC were not justified was not prudent as neither the GOI nor the FCI had direct contact with the sugar mills to enforce recovery of excess payment. Instead the action of FCI to recover the excess payment from OSCSC should have been ratified. The amount still stands unrecovered from the sugar mills. This has resulted in undue benefit of Rs.6.89 crore to the sugar mills and loss of interest to the tune of Rs.2.33 crore up to December 2008 on the amount not recovered.

The Ministry stated (September 2009) that:

- No orders were issued by them to refund the amount recovered from OSCSC.
- No such amount was received by the GOI.

The reply is not acceptable as the amount recovered from OSCSC was refunded only after recovery was declared as unjustified by the GOI. As such, excess amount paid could not be recovered from the sugar mills and in the absence of any direct contact of the FCI or the GOI with the mills the chances of recovery of excess payment are remote.

Thus, by not recovering excess amount paid to sugar mills, undue benefit of Rs.6.89 crore was passed to sugar mills along with loss of interest of Rs.2.33 crore.

6.1.5 Irregular release of security deposits

Security deposit was released to tenderers without ensuring fulfillment of the terms and conditions of tender resulting in undue favour of Rs.7.01 crore to tenderers.

Food Corporation of India (FCI), Regional Office Punjab invited three tenders during the period June to October 2008 for sale of damaged rice fit for animal feed only belonging to crop year 2004-05 lying in five district offices[2]. The quantity offered in three tenders was 160,433.506 MT[3].

The terms and conditions of the tenders stipulate that:

- "Clause E (ii) - the earnest money of successful tenderers would be retained as security deposit for due performance of the contract and it would be adjusted against all losses incurred by the FCI, in case the tenderers violate the terms of the contract.

- Clause E (iii) (a) and E (iii) (c) - If the tenderer fails or neglects to perform any of his obligations under the contract, it shall be lawful for the FCI to adjust either in

[1] ***Department of Food & Public Distribution, Ministry of Consumer Affairs, Food & Public Distribution, Government of India***
[2] ***Bhatinda, Faridkot, Ferozepur, Moga and Sangrur***
[3] ***50930.915 MT, 66920.824 MT and 42581.767 MT***

whole or in its absolute discretion, the security deposit furnished by the tenderer or any part thereof.

- Clause L - Particular category of rice should be used only for the purpose indicated and no attempt should be made for adulteration or misuse of the stocks."

Accordingly, the damaged rice so lifted was to be processed for animal feed in the buyer's premises/factory/plant and the buyer was to furnish full account of utilisation/processing of the stock to the FCI. Failure on the part of the buyer to render full and satisfactory accounts of utilisation of the damaged stock would have constituted a breach of contract making the buyer liable to pay to the FCI all the damages to be decided by the Area Manager.

It was observed in Audit that against the quantities covered in the three tenders, the parties lifted 66,980.782 MT♦ by January 2009. The earnest money retained as security deposits against this quantity, amounting to Rs.7.01 crore, was released by the FCI on the basis of actual lifting by parties without ensuring its ultimate utilisation whereas the terms of the tender clearly provided that rice lifted by the parties should have been used only for processing for animal feed and complete account/record of the same should have been verified by the FCI before releasing the security deposit of the parties to ensure that the stock was not used for adulteration or recycled as Custom Milled Rice or levy rice. Thus, the release of security deposits of Rs.7.01 crore to tenderers was irregular and against the terms and conditions of the tenders.

The Management stated (September 2009) that:

- No adverse report had been received regarding misuse of stock by any party.

- All Area Managers were being asked to explain the reasons for release of security deposits without obtaining/verifying full account of utilisation and processing of damaged rice.

The reply is not convincing as:

After being pointed out by Audit, few firms were blacklisted by the FCI and barred from purchase of damaged foodgrain in future due to their failure in performance of the requirements of tender terms and conditions.

Thus, release of security deposit amounting to Rs.7.01 crore to tenderers without ensuring the utilisation of damaged stock was irregular and against the terms and conditions of the tenders.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

♦ ***29067.990 MT, 24389.409 MT and 13523.383 MT.***

6.1.6 Avoidable payment of siding charges

Failure to get the railway sidings notified as independent stations resulted in avoidable payment of siding charges of Rs.5.19 crore to railways during the period 2003-04 to 2008-09.

According to Indian Railways Commercial Manual (Vol.–II)*, "If a siding has been provided with complete facilities for direct reception and dispatch of trains and such trains do not require to be dealt with at the station from which the siding takes off/serving station, but run through to or from the siding with railway locomotive or originate from or terminate in the peripheral yard provided by the siding holder, the railway administration will have the powers for levying freight charges on through distance basis up to the buffer end of the siding or the farthest point of the exchange yard instead of levying freight charges up to the serving station and siding charges for haulage of wagons over the siding." In order to avail the facility, it was required to get the siding notified as an independent station by the concerned Zonal Railways.

The Food Corporation of India (FCI) had own railway sidings at Food Storage Depot (FSD), Kalyani and Orient Jute Mill (OJM), Budge Budge under District Office, Non Port Depot (West Bengal Region). As per 'Northern Railways Through Rates Circular No. 7 of 2002', both these sidings could handle train load traffic. Consignment of foodgrains could be booked directly to both the sidings on through basis up to the ultimate point, i.e., buffer point at siding and payment of siding charges could be avoided by getting the sidings notified as independent stations.

It was observed in Audit that:

- The FCI had not initiated any action to get these sidings notified as independent station.
- Paid siding charges for the rakes booked up to the buffer point at these sidings and even up to serving railway station of these sidings.

An amount of Rs.5.19 crore was paid as siding charges during the period from 2003-04 to 2008-09 (up to September 2008) for the rakes booked up to the buffer point or serving railway station of these sidings. The payment of siding charges could have been avoided had the FCI initiated action and got the sidings notified as independent stations and ensured that the rakes were booked by the consignor up to the buffer point of the FCI sidings.

The Management in reply contended (December 2009):

- FSD Kalyani and OJM Budge Budge had not been notified for charging freight on through distance basis.
- The FCI was logically and legally bound to make payment of siding charges and shunting charges as per existing rules.

* ***Para 2517***

The reply is not acceptable. Though these sidings could handle train load traffic as per Railways, the FCI had not initiated any action to get the sidings notified as independent stations to avoid payment of siding charges.

Thus, failure of the FCI to get the sidings notified as independent stations resulted in avoidable payment of Rs.5.19 crore as siding charges during the period from 2003-04 to 2008-09 (up to September 2008) to Railways.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).