

Chapter III

Audit of Transactions

Audit of transactions of the Government Departments, their field formations as well as that of the autonomous bodies brought out several instances of frauds/misappropriations, lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs under broad objective heads.

3.1 Fraudulent drawal/misappropriation/embezzlement/losses

Agriculture, Animal Husbandry, Dairy Development and Fisheries Department

3.1.1 Misappropriation of Government money

Non-adherence to the codal provision for verification of cash remittances into treasury by the District Soil Survey and Soil Testing officer, Nanded facilitated misappropriation of Government money of ₹ 10 lakh.

Rule 98 (v) of Maharashtra Treasury Rules 1968 (MTR) stipulates that when Government moneys in the custody of a Government officer are paid into the treasury or the bank, the head of office making such payments should compare the treasury receipt or the bank receipt on the challan or his pass-book with the entries made in the cash book before attesting it in order to satisfy himself that the amounts have been actually credited into the treasury or the bank. When the number of payments made in a month is more than 10 and the total amount involved therein exceeds ₹ 1,000 the head of the office should, as soon as possible after the end of the month, obtain from the treasury a consolidated receipt for all remittances made during the month, which should be compared with the postings in the cash book.

Scrutiny (June 2009) of the cash book of the District Soil Survey and Soil Testing Officer, Nanded and further information collected (December 2009) revealed that the fees for testing of soil and water amounting to ₹ 12.72 lakh received between May 2007 and July 2009 were shown as remitted through eight challans into the Nanded Treasury. During verification of remittances by Audit with the treasury records, it was noticed (June and December 2009) that the actual amount remitted into the Treasury was ₹ 2.72 lakh only, instead of ₹ 12.72 lakh as shown in Appendix 3.1. The *modus operandi* was that after remitting the amount into the Treasury, the cashier tampered with the amounts written in the office copy of challans to increase and tally the amounts shown in the cash book as amounts remitted.

Out of eight cases, in four cases though amount recorded in figures by the bank authority was tampered with by the cashier, the amounts recorded in words remained the same as the amounts actually remitted by the cashier. The Drawing and Disbursing Officers¹ (DDOs) did not compare the treasury or the bank receipts on the challans, with the entries in the cash book before attesting it and satisfying themselves that the amounts have been actually credited into the treasury or the bank. Monthly reconciliation with treasury was also not done. Six out of eight challans were not signed by the DDO.

Thus, failure on the part of the DDOs in not exercising their responsibility according to the Rule 98 (v) of MTR facilitated misappropriation of Government money of ₹ 10 lakh, which continued for 27 months.

District Soil Survey and Soil Testing Officer confirmed (December 2009) that the then DDOs had not verified the remittances into the treasury before attesting the cash book. Further, according to the primary investigation, the cashier was found guilty and a departmental enquiry against the then DDOs and the cashier was proposed. The cashier was suspended in August 2009 and ₹ 9 lakh was recovered (August 2009) from him.

The matter was referred to the Government (February 2010). Reply has not been received (January 2011).

3.2 Non-compliance with rules and regulations

For sound financial administration and financial control, it is essential that expenditure conforms to the financial rules, regulations and orders issued by the competent authority. This not only prevents irregularities, misappropriations and frauds, but also helps in maintaining good financial discipline. Some of the audit findings on non-compliance with rules and regulations are as under:

Higher and Technical Education Department

3.2.1 E-service fee forgone

Failure to comply with the Government directives by a University resulted in non-recovery of e-service fee of ₹ 1.87 crore from students during 2008-09 and 2009-10. It also resulted in diversion of Distance Education Council grants of ₹ 1.10 crore and creation of liability of ₹ 1.35 crore for subsequent years.

Government of Maharashtra, Higher and Technical Education Department directed (June 2006) all the Universities in the State to provide e-services through the Maharashtra Knowledge Corporation Limited (MKCL), a

¹ There were four DDOs during the period of remittances (i) Shri S M Mugave, (ii) Shri A D Khan, (iii) Shri M Z Husain and (iv) Shri H B Kadam

Corporation under Government of Maharashtra established to provide such facilities. A nominal amount of ₹ 50 per student per annum was to be recovered as e-service fee from the students and remitted to the MKCL towards software and maintenance charges and the scheme was to be implemented from 15 August 2006.

Scrutiny of records (April 2010) of the Vice Chancellor, Yashwantrao Chavan Maharashtra Open University, Nashik (University) revealed that the University executed (September 2007) a Memorandum of Understanding with the MKCL for implementation of e-service by using Digital University Software Framework (DUSF) developed by the MKCL. The University negotiated with the MKCL and paid ₹ 50 lakh (October 2007) for installation, customisation, commissioning, pilot run and release of the DUSF out of the development grants received from Distance Education Council (DEC) for incorporation of technology to deliver academic programmes under National Technology Support System (NTSS). As the MKCL successfully commissioned the DUSF during the academic year 2008-09, the University decided (September 2009) to pay ₹ 1.95 crore to the MKCL for the years 2009-10 to 2011-12 out of the DEC grants. Accordingly, ₹ 60 lakh for the year 2009-10 was paid to the MKCL in April 2010. However, the University ignored the Government directives and did not recover the e-service fee of ₹ 1.87 crore from students during 2008-09 and 2009-10.

Thus, failure to comply with the government directives resulted in e-service fee of ₹ 1.87 crore not being recovered from students and DEC grants of ₹ 1.10 crore were utilised for provision of e-services by the MKCL during the years 2008-09 and 2009-10, which could have been utilised for other purposes as contemplated in DEC grants. A liability of ₹ 1.35 crore for payment towards DUSF to MKCL for the years 2010-11 to 2011-12 was also created.

The Pro Vice Chancellor, University replied (October 2010) that the DEC grants were used to pay to the MKCL as it would reduce the burden of students who were already disadvantaged being distance learners.

The reply of the University was not acceptable as the non-recovery of e-service fee from students was in contravention of government directives.

The matter was referred to the Government (July 2010). Reply has not been received (January 2011).

PUBLIC HEALTH DEPARTMENT

3.2.2 Unfruitful expenditure on construction of rural hospitals

Commencement of works by the Public Works Department without ensuring provision of adequate funds by the Government (Public Health Department) resulted in unfruitful expenditure of ₹ 52.82 lakh incurred on incomplete works of two rural hospitals in Nashik District.

As per Para 255 of the Maharashtra Public Works Manual, no work shall be undertaken, except under special orders of the Government, unless detailed design and estimates have been sanctioned, allotment of funds made, and orders of its commencement issued by competent authority.

The Public Health Department, Government of Maharashtra (GoM) issued (March 2007) administrative approval for the construction of two Rural Hospitals (RHs) at village Barhe, and village Girnare in Nashik District at an estimated cost of ₹ 1.73 crore and ₹ 1.65 crore respectively by the Public Works Department (PWD). The work order for construction of RH, Barhe was issued in March 2007 at a tendered cost of ₹ 90.57 lakh and for RH, Girnare in March 2007 at a tendered cost of ₹ 91.97 lakh.

Scrutiny (September 2009) of records of the Executive Engineer, Public Works Division (North), Nashik and information collected from the Director of Health Services (DHS), Mumbai revealed that though proposal for making budget provision for construction of two RHs was submitted by the DHS to GoM for three consecutive years since February 2007, no fund provision was made in any of the years. However, the DHS instructed (March 2007) the Superintending Engineer, Public Works Circle, Nashik to commence the works as funds would be made available from the savings arising out of construction of two other RHs at Nampur and Yeola in Nashik District. Accordingly, the PWD commenced the works before allotment of any funds by the DHS. An expenditure of ₹ 52.82 lakh (₹ 32.53 lakh at RH, Barhe and ₹ 20.29 lakh at RH, Girnare) was incurred by the PWD by diverting funds from other sources². But the works remained incomplete as the required expenditure could not be met from savings of the grants as the savings were only short term and hence were surrendered while submitting the revised budget estimates. The works were finally withdrawn under Clause 15 (1)³ in March 2008 (RH, Barhe) and December 2007 (RH, Girnare) due to non-availability of funds.

² 4225 Welfare of SC/ST/OBC Ashram Schools, 4210 Medical and Public Health and 2059 Public Works, Maintenance and Repairs of Buildings

³ Clause 15 (1) - If any time after the execution of the contract documents, the Engineer-in-charge shall for any reason (other than default on the part of the Contractor) desire that the whole or part of the work shall not be carried out at all, he shall give to the Contractor a notice in writing of such desire and upon the receipt, the Contractor shall stop the work as required.

Thus, commencement of works by the PWD without ensuring adequate provision of funds for the RHs, resulted in the works remaining incomplete and rendered the expenditure of ₹ 52.82 lakh unfruitful.

The matter was referred to the Government (June 2010). Reply has not been received (January 2011).

Public Works Department

3.2.3 Unfruitful expenditure on construction of road and bridge

Commencement of road work without ensuring clear possession of land resulted in unfruitful expenditure of ₹ 8.87 crore. Destruction of mangroves for construction of road had resulted in violation of the provisions of Coastal Regulation Zone Notification.

Para 251 of the Maharashtra Public Works (MPW) Manual prohibits commencement of work without requisite land acquisition. Coastal Regulation Zone (CRZ) Notification, 1991 as amended in July 1993 categorised mangroves as ecologically sensitive falling under CRZ I where new constructions should not be permitted. Further, Hon'ble High Court, Mumbai prohibited (October 2005) destruction of mangroves for carrying out any kind of developmental activities.

Government of Maharashtra (GoM) in Public Works Department (PWD) accorded (March 1996) administrative approval (AA) for construction of Dadar-Vaisheni Road at KM 5/770 to 11/300⁴ for ₹ 6.50 crore. The road was to connect Pen and Uran Talukas through National Highway 17 and State Highway 85.

Scrutiny of records (July 2009) of the Executive Engineer, Alibag Division, PWD (EE) revealed that though technical sanction (TS) for the first part of the work *i.e.*, pilot road of 1.40 KM meant for transportation of material for construction of Vasheni bridge was accorded in April 1997, land acquisition process was started by the District Collector, Raigad only in December 1998. Though KM 5/770 to 11/300 fell under the coastal/green zone, No Objection Certificates (NOCs) from concerned department/agencies⁵ were not obtained by the EE for executing the work. The pilot road was completed in December 2001 at a cost of ₹ 1.10 crore. The CE, accorded TS for the second part of the road (July 2004) without clear possession of land. The work was awarded (March 2005) to a contractor at an estimated cost of ₹ 4.06 crore and was to be completed in September 2006. Meanwhile, the Range Forest Officer, Pen, District Raigad observed that the construction was unauthorised as mangroves were being destroyed in the CRZ, in violation of the Hon'ble High Court, Mumbai order (October 2005) and should be stopped. However, 95 per cent of

⁴ Work portion from KM 6/00 to 10/500 was revised to KM 5/770 to 11/300 with the approval of the Chief Engineer, PW Circle, Mumbai (CE)

⁵ For Green Zone - Mumbai Metropolitan Region Development Authority, Airport Authority of India and for Coastal Zone - Environment Department, GoM

the earthwork and cross drainage work were completed at a cost of ₹ 2.99 crore till the work was finally stopped by the contractor in May 2008 as one of the land owners obtained a stay order from the Sessions Court for delay in settlement of the claims. Meanwhile, the work of Vasheni bridge was also completed (October 2008) at a cost of ₹ 4.78 crore, but it could not be put to use as the second part of the road was not complete.



Kutchu Road (30 June 2010)

Thus, the objective of meeting the traffic requirements and joining the Pen and Uran Talukas with the adjacent National and State Highways could not be achieved, rendering the expenditure unfruitful.

The EE replied (December 2009) that the work was started after obtaining written consents from land owners. The CE replied (March 2010) that surrounding villages are using the pilot road of 1.40 KM and second part of the road is also being used partially. The work was taken up in order to utilise the budget provisions and the land acquisition process was also initiated simultaneously.

The reply did not mention why the PWD failed to obtain NOCs from the concerned authorities before going ahead with the work. The usage of facilities built at a cost of ₹ 8.87 crore as a *kutchu* village road was not an appropriate justification. Moreover, the earthwork was executed at the expense of mangroves, which protect the seacoast and environment, in violation of CRZ norms leading to ecological damage, the cost of which could not be assessed. The expenditure would probably prove wasteful since the *kutchu* road is likely to be washed away during monsoon.

The matter was referred to the Government (July 2010). Reply has not been received (January 2011).

Social Justice and Special Assistance Department

3.2.4 Irregular sanction of financial assistance

Irregular release of financial assistance without ensuring the fulfillment of stipulated conditions resulted in undue benefit of ₹ 4.80 crore to a Society on conversion and modernisation of a Khandasari factory.

The Bombay Financial Rules (BFRs), 1959 stipulate that the authority sanctioning financial assistance to a society shall specifically consider the

feasibility of giving financial assistance by way of loan and examine the experience and capacity of the society to undertake the task.

Government of Maharashtra (GoM), Social Justice and Special Assistance Department (Department) launched (February 2004) a scheme of long term financial assistance⁶ to Scheduled Caste Co-operative Societies (SCCS) engaged in manufacturing activities including conversion and modernisation of Khandasari (brown coarse sugar) factory under Special Component Plan. The scheme was meant to provide employment opportunities to Scheduled Caste (SC) youth to bring them to the mainstream of development. The conditions stipulated for release of financial assistance were that the land should be in the name of the applicant; the first charge on plant and machinery would be with the Government and 70 *per cent* of the workforce should be from the SC youth.

Scrutiny of records (July 2009) of the Director, Social Welfare, Pune (Director) revealed that Shri Ambai Magasvargiya Shetimal Prakriya Sahakari Society Maryadit⁷ (Society), a Khandasari factory at Jaysingpur, Taluka Shirol, District Kolhapur submitted a proposal (June 2004) to the Director for financial assistance. The project cost of the proposal for conversion and modernisation was ₹ 7 crore. The Director, Social Welfare observed (June 2004) that the proposal had shortcomings such as non-availability of land in the name of the Society, weak financial position and no undertaking from financial institutions for loan component. The Commissioner, Sugar, Maharashtra, Pune (Commissioner) evaluated the proposal and intimated (July 2004) the Director that the financial position of the Society was not sound⁸ and there were restrictions imposed by the Government on increasing the capacity of sugar factories due to non-availability of sufficient sugar cane in the area. Scrutiny also revealed that the Society had already mortgaged the plant, machinery, dead stock, license and goodwill of the existing factory to Kolhapur District Central Co-operative Bank Ltd., Kolhapur during February

⁶ Financial assistance would be in the form of share capital (35 *per cent*) and long term loan (35 *per cent*), subject to payment of 5 *per cent* share by SCCS and arranging 25 *per cent* loan from financial institutions.

⁷ Shri Ambai Backward Class Agricultural Produce Processing Co-operative Society Ltd.

⁸ Balance sheet: Accumulated loss of ₹ 4.07 crore (2003-04) and ₹ 8.09 crore (2008-09)

1999 for availing a loan of ₹ 3 crore⁹. However, the Department sanctioned (July 2004) and released (April 2005) financial assistance of ₹ 4.80 crore (share capital ₹ 2.40 crore and long term loan ₹ 2.40 crore).

The Society purchased the machinery for conversion and modernisation of the factory between January 2005 and January 2006. However, the term loan of ₹ 1.75 crore (May 2010) was not released by any financial institutions as the first charge on assets was not vested with them. Besides, out of the total 110 employees/workers engaged by the Society, only 65 (59 *per cent*) were from the SC. Recovery of the Government loan, which was to commence from April 2007, was also not started as of June 2010.

After the trial run in November 2006, the factory was not made operational during 2007-08 and 2008-09 due to paucity of working capital and the decision of the management to stop production to avoid losses. During 2009-10, the factory worked for 133 days and achieved only 61 *per cent* of the targeted crushing capacity (500 MT per day).

Thus, grant of Government assistance despite adverse comments in the evaluation reports of the Commissioner and the Director was in contravention of the provisions of the BFRs. Release of funds to the Society without ensuring the fulfillment of the preconditions was irregular and resulted in undue benefit of ₹ 4.80 crore to the Society.

The Director stated (June 2010) that recovery of the loan component was not started as 70 *per cent* of the project cost of ₹ 7 crore *i.e.*, ₹ 4.80 crore was only released.

As the maximum Government assistance of ₹ 4.80 crore due had already been released in April 2005, recovery of the same should have been initiated with effect from April 2007. As the Society was not operational during 2006-07 to 2008-09 and had not employed 70 *per cent* of the workforce from SC, the objective of providing employment to SC youth was also not achieved.

The matter was referred to the Government (June 2010). Reply has not been received (January 2011).

⁹ Out of ₹ 5.43 crore outstanding up to May 2010, the Society repaid an amount of ₹ 3.18 crore on 10 May 2010 and ₹ 2.25 crore was outstanding.

Urban Development Department

Mumbai Metropolitan Region Development Authority

3.2.5 Excess payment to contractors

Incorrect method adopted for calculating payments for quantities executed in excess of the estimated quantities for culvert contracts resulted in excess payment of ₹ 3.59 crore.

Mumbai Urban Infrastructure Project (MUIP) is implemented by the Metropolitan Region Development Authority (MMRDA) for improving the traffic facilities in Mumbai. The MMRDA prepared the estimates for the work on the basis of Schedule of Rates (SoR) for the year 2003-04. Tenders for construction/remodelling/extension of 11 cross culverts on Lal Bahadur Shastri Marg and Swami Vivekananda Road, taken up under the MUIP were called for in 2006-07 and awarded (November 2006) to 11¹⁰ different agencies. The Executive Committee, MMRDA during acceptance of the tenders for the works (November 2006), evaluated the rates offered by the contractors and found that the rates were between 9.66 *per cent* below and 5.93 *per cent* above the Current Schedule of Rates (CSR) 2006-07.

Scrutiny of records (December 2009 and January 2010) of the Chief Engineer MMRDA revealed that the executed quantities of various items pertaining to all the 11 works were exceeded by more than 25 *per cent* of the respective estimated quantities. This attracted the provision of Clause 38¹¹ of the contract executed between the MMRDA and the contractors. Accordingly, the payments for the quantities beyond 125 *per cent* of the tendered quantity should have been regulated by the percentages by which the tendered costs were at variance with the estimated costs put to tender based on the schedule of rates applicable to the year of awarding the tenders *i.e.*, 2006-07. Payments for such excess quantities, however, were made to the contractors at current rates *i.e.*, CSR 2006-07 increased by the percentages by which the tenders were accepted (ranging from 19.8 *per cent* to 25 *per cent* over the estimates prepared based on SoR 2003-04). Thus, adoption of incorrect method for calculating the payments to be made for the quantities executed beyond 125 *per cent* resulted in excess payment of ₹ 3.59 crore (**Appendix 3.2**).

¹⁰ **LBS Marg:** Part I- M/s Infrastructure Ltd., Part II-M/s R K Madhani., Part III- M/s Eagle Constructions, Part IV- M/s Rachana Constructions, Part V -Rohit Enterprises and **SV Road:** Part I-M/s R K Madhani, Part II- R K Madhani, Part- III- M/s S V Jivani, Part IV- R K Madhani, Part V- M/s Prime Engineers, Part VI- M/s Prime Engineers

¹¹ Clause 38 of the contracts provides that if the quantities actually executed exceed the quantities specified in the tender by more than 25 *per cent*, payment for such excess quantities will be made at the rates derived from the current schedule of rates (CSR) and in the absence of such rates, at the prevailing market rates, the said rates being increased/decreased, as the case may be, by the percentage by which the total tender amount bears to the estimated cost of the work as put to tender based upon the schedule of rates applicable to the year in which the tenders were invited.

In reply the Chief Engineer, MMRDA stated (June 2010) that the excess quantities beyond 125 *per cent* of the estimated quantities were executed after expiry of the operative date of the then schedule of rates. Hence, the rates payable were derived with reference to the prevailing schedule of rates when the excess quantities were executed. The rates paid for such excess quantities were added with the contract percentage.

The reply was not acceptable as the payments for items of work executed in excess of 125 *per cent* of the estimated quantities should be regulated by the provisions of Clause 38 and not on the basis of the operative date of the schedule of rates. Hence, payments for excess quantities on the basis of prevailing CSR increased by the contractors' percentages were not justifiable.

The matter was referred to the Government (June 2010). Reply has not been received (January 2011).

Urban Development Department

Mumbai Metropolitan Region Development Authority

3.2.6 Undue benefit to a contractor

Removal of milestones stipulated in the contract, after delayed completion of work, on unreasonable grounds which had been rejected earlier resulted in violation of the contract conditions and extending undue benefit of ₹ 1.05 crore to a contractor.

Executive Committee (EC), Mumbai Metropolitan Region Development Authority (MMRDA) awarded (March 2004) a lump sum contract for construction of 1200 tenements required for rehabilitation of project affected households (PAHs)¹² under Mumbai Urban Transport Project (MUTP) to M/s Patel Engineering Ltd (contractor) for ₹ 40.34 crore. The work order was issued on 15 March 2004 for completion by 14 March 2005. According to the contract, the contractor shall pay the liquidated damages (LD) for each day of delay in adhering to the two milestones¹³ specified in the contract.

Scrutiny of records (November 2007) of the MMRDA revealed that the project management consultant (PMC) appointed by the MMRDA had reviewed the progress of work and issued 12 notices to the contractor during April 2004 to September 2004 pointing out slow progress of work due to non-deployment of sufficient manpower. Again during two joint site visits held (October-November 2004) by the Chief Engineer MMRDA (CE), the PMC and the contractor, the progress of the work was found unsatisfactory. The CE also noted that LD would be deducted if the contractor fails to complete the

¹² At the junction of Jogeshwari -Vikhroli Link Road and Western Express Highway

¹³ First: completion of 816 tenements within 9 months, failing which LD at ₹ 10,300 per day would be charged. Second: completion of all the tenements within 12 months failing which ₹ 49,000 per day would be charged.

work within the stipulated period. However, after expiry of the stipulated date of completion, the contractor requested (11 July 2005) the MMRDA to grant extension up to 31 July 2005 attributing change in design of buildings, delay in according approval for sewer line by the Brihanmumbai Municipal Corporation (BMC), and increase in the depth of the sewer line *etc.*, as the reasons for the delay. The PMC recommended (July 2005) the MMRDA to reject the contractor's request, giving detailed justifications. Accordingly, LD of ₹ 1.15 crore were deducted for a delay of 305 days¹⁴ from the payments made to the contractor during the period from January 2005 to December 2005 as shown in Annexure. The contractor completed the work on 26 September 2005.

In September 2006, the contractor again requested the MMRDA for grant of extension of completion schedule, attributing more reasons for the delay and payment of the final bill without imposing LD. At this stage, the PMC recommended (September 2006) to accept the contractor's request and release the LD on the plea that the circumstances which led to delay were beyond the control of the contractor. While the PMC accepted some grounds which he had earlier rejected, he attributed some other reasons not pointed out by the contractor. Some fresh grounds attributed by the contractor were not justifiable as discussed in Annexure. The recommendation of the PMC to remove both the milestones and release of entire LD was thus unreasonable. The MMRDA accepted (January 2007) the recommendation of the PMC, which was in contravention of his earlier recommendation, without getting the case reviewed by any independent authority. The MMRDA granted *ex-post-facto* extension of time schedule up to 25 October 2005 and released LD of ₹ 1.15 crore to the contractor in May 2007, without analysing the PMC's justification for grant of extension.

Thus, removal of milestones after delayed completion of work on unjustifiable grounds resulted in undue favour to the contractor to the extent of ₹ 1.05 crore¹⁵.

In reply, the Metropolitan Commissioner, MMRDA stated (July 2010) that the PMC had initially rejected the contractor's request for grant of extension. But the reasons were subsequently reviewed and found to be tenable. The action was felt necessary to put pressure on the contractor to speed up the work.

The reply was not acceptable as the MMRDA removed the milestones, in violation of the contract conditions and after delayed completion of the work and that too on grounds which had been rejected earlier.

The matter was referred to the Government (June 2010). Reply has not been received (January 2011).

¹⁴ Actual delay was 285 days and actual LD works out to ₹ 1.05 crore

¹⁵ As the work was completed on 26 September 2005, the amount of LD was (₹ 10,000 X 90 days + ₹ 49,000 X 195 days up to 25 September 2005) = ₹ 1.05 crore

Annexure		
Analysis of the PMC's recommendations for granting extension of time		
Sr. No.	Grounds on which the PMC recommended (September 2006) for extension of time	Remarks
1	Change in design of buildings	This reason cited by contractor in his first request for extension was not accepted by the PMC. The contractor did not cite this reason in his second request.
2	Additional time taken due to revision of drawings of sewerage system	This justification was rejected by the PMC in response to contractor's first request for extension stating that the contractor had not submitted the drawings in time and the PMC pursued the matter with the BMC in December 2004. Therefore, the PMC's justification was not acceptable.
3	Non-availability of front off-site sewer line due to delay in obtaining permission from the Regional Transport Officer	This justification was rejected by the PMC in response to contractor's first request for extension as the MMRDA obtained the permission from the Regional Transport Officer. Therefore, the PMC's justification was not acceptable.
4	Additional time in execution of work due to hard strata	The PMC's justification was not acceptable as lump sum contract includes all such contingencies. Further, notices were issued to the contractor for not deploying sufficient manpower.
5	Other contractors working in the same stretch	The PMC's justification is not acceptable as the contractor did not seek extension on these grounds.
6	Delay on account of foundation work carried out during monsoon; additional time taken at Majas Nalla due to monsoon; unprecedented rainfall in July-August 2005	PMC's justification is not acceptable as the due date for completion of the entire work was 15 March 2005.
7	Truckers' strike in April 2004 and August 2004 and sand suppliers' strike in May 2004	The PMC's justification is not acceptable as the contractor did not seek extension on these grounds.

Water Resources Department

3.2.7 Idle investment on slab drains

Delay in settlement of compensation claims by the Special Land Acquisition Officer, Sangli resulted in idle investment of ₹ 1.51 crore on slab drains and non-achievement of envisaged objectives of the scheme.

According to the provisions contained in Para 200 of the Maharashtra Public Works (MPW) Manual, tenders were to be invariably invited publicly for awarding any work above ₹ 1 lakh. Further, Para 251 of the MPW Manual provides that work should not commence on land which has not been duly made over by a responsible civil officer.

Executive Engineer, Takari Pump House No. 2, Sangli, Maharashtra Krishna Valley Development Corporation (MKVDC) awarded (November 1997) the work of construction of earthwork and structures at KM 68 of Takari Canal, Taluka Khanapur, District Sangli to a contractor at an estimated cost of ₹ 1.07 crore. The work was to be completed by November 1998.

Scrutiny of records (September 2007) and further information collected¹⁶ (June 2010) revealed that the Executive Director, MKVDC decided (August 2004) to award an independent work of construction of slab drains¹⁷ as an addition to the work of construction of earthwork and structures at KM 68. The additional work was awarded (December 2004) without inviting tenders to the same contractor as a special case at an estimated cost of ₹ 2.11 crore so as to save time involved in tendering process. It was envisaged that on completion, the slab drains would enable water supply for irrigation up to a distance of 100 KM. The work was to be completed before 31 March 2005. The MKVDC released ₹ 2.12 crore during June 2005 to May 2006. The EE stated (August 2010) that though the land acquisition process was completed (April 2004) and the MKVDC handed over the amount payable towards compensation to the Special Land Acquisition Officer (SLAO), there were delays in settlement of compensation claims¹⁸ by the SLAO. As a result, agitated farmers obstructed the work and the same remained incomplete (June 2010) even after incurring an expenditure of ₹ 1.51 crore. The contractor expressed (April 2010) his inability to complete the work due to increase in the prices of material and labour. The work of construction of earthwork and structures at KM 68 was nearing completion (June 2010) after incurring an expenditure of ₹ 1.24 crore.

¹⁶ From the Executive Engineer, Takari Pump House No. 1, Islampur (EE).

¹⁷ At KM 86, chainage 85/725 and KM 92, chainage 91/135

¹⁸ KM 92: Out of 62 claims for ₹ 5.64 lakh, 16 claims for ₹ 0.44 lakh were still unresolved; KM 86: Out of 39 claims for ₹ 3.88 lakh, 13 claims for ₹ 0.25 lakh were still unresolved.

Thus, commencement of work by the MKVDC without ensuring clear possession of land and delay in settlement of compensation claims by the SLAO, resulted in the work remaining incomplete and consequent idle investment of ₹ 1.51 crore. Besides, the objective of supplying water for irrigation up to a distance of 100 KM could not be achieved. The awarding of work without inviting tenders was also in contravention of the provisions of the MPW Manual.

The EE stated (June-August 2010) that the slab drain work at 85/725 and 91/135 was executed up to 80 *per cent* and 70 *per cent* respectively. Action would be initiated against the contractor and balance work would be got done at the earliest.

The Department which awarded the additional work of ₹ 2.11 crore to the contractor violating financial procedures should have ensured disbursal of compensation for land acquired so as to ensure timely completion of work at economical rates.

The matter was referred to the Government (July 2010). Reply has not been received (January 2011).

3.3 Audit against propriety/Expenditure without justification

Authorisation of expenditure from public funds has to be guided by the principles of propriety and efficiency of public expenditure. Authorities empowered to incur expenditure are expected to enforce the same vigilance as a person of ordinary prudence would exercise in respect of his own money and should enforce financial order and strict economy at every step. Audit has detected instances of impropriety and extra expenditure, some of which are hereunder.

Rural Development Department

3.3.1 Unfruitful expenditure

Lack of monitoring by District Rural Development Agency and the Rural Development Department resulted in a Cattle Breeding Dairy Farm Project implemented by a non-government organisation remaining incomplete. Investment of ₹ 4.93 crore was rendered unfruitful for want of sufficient cows. The objective of developing income source for poor villagers was also not achieved.

Government of India (GoI), Ministry of Rural Development, New Delhi accorded (December 2003) administrative approval of ₹ 14.45 crore for sanction of a special project under Swarnajayanti Gram Swarozgar Yojana (SGSY) for establishment of a Cattle Breeding Dairy Farm (Lok-Uddhar) in rural areas of Buldhana District. The project was to be implemented by Late Madanlalji Kisanlalji Sancheti Seva Samitee, Malkapur, a non-government organisation (NGO) selected by the Project Director, District Rural Development Agency, (DRDA) Buldhana and monitored by two committees

i.e., State Level Committee headed by the Secretary, Rural Development Department and the District Level Committee headed by the Project Director, DRDA. The project was to be completed in five years and extension was granted by GOI upto 31 December 2009. The cost of the project was to be shared by Central Government (₹ 7.16 crore), State Government (₹ 2.39 crore) and Bank (by credit of ₹ 4.90 crore). The project aimed to motivate, train and counsel the poor villagers to organise themselves in Self Help Groups (SHGs) and take up collective and individual economic activities for developing a diversified income resource base.

The project envisaged purchase of 550 indigenous cows for cross cattle breeding and artificial insemination, formation of 600 SHGs consisting of 10 Below Poverty Line (BPL) families in each SHG and purchase of 6000 good quality and high milk yielding cows for distribution to 6000 BPL families by 2006-07. The purchase of these cows was to be made through Government grant of ₹ 10,000, bank credit of ₹ 4,000 and beneficiary's contribution of ₹ 3,800 per cow. Besides, ₹ 3.54 crore was earmarked for construction and establishment of a dairy complex which included construction of a milk processing plant with a capacity of handling 50,000 liters per day and 10 Multi Activity Centres (MACs) for collection of milk from the 6,000 beneficiaries.

Scrutiny of records (January 2010) of the Project Director, DRDA, Buldhana (PD) revealed that out of the Central and State share, an amount of ₹ 7.63 crore was released to DRDA Buldhana. Of this ₹ 5.70 crore was paid between January 2004 and August 2009 to the NGO. The amount included ₹ 1.90 crore specifically paid (between March 2008 and August 2009) for purchase of cows

While the PD, DRDA did not stipulate any work programme or milestone for completion of the work, there were also no records to show that monitoring was done by the Monitoring Committees. The NGO incurred an expenditure of ₹ 4.78 crore for construction of cattle shed, milk processing plant, farmer training center, staff quarter, MACs, consultancy charges and purchase of machinery and equipments (between April 2005 and November 2008) for the dairy. Only ₹ 0.15 crore were spent (April 2007 to March 2010) on purchase of 140 cows of which 120 cows were distributed to 120 BPL families as of March 2010. The milk processing plant could not be made operational due to insufficient supply of milk although the unit built at a cost of ₹ 4.78 crore was ready since November 2008.

Thus, due to lack of monitoring by the District Level Committee of the DRDA and the Secretary, Rural Development Department, the NGO concentrated only on construction and purchase of machineries instead of purchase of indigenous cows for cross cattle breeding and artificial insemination and sufficient number of good quality and high milk yielding cows for distribution to 6,000 BPL families. This resulted in unfruitful investment of ₹ 4.93 crore. A good scheme framed by the Government did not yield the intended benefit to the targeted group of poor despite huge investment and a lapse of six years.

The matter was referred (May 2010) to the Government. The reply has not been received (January 2011).

Water Resources Department

3.3.2 Undue benefit to a contractor

Sanction of secondary blasting in wet condition in the extra item rate list resulted in undue benefit of ₹ 90.49 lakh to a contractor

Construction of earth work, lining and structures in Km. 116 to 119 of Isapur Right Bank Canal was awarded (January 2007) by the Executive Engineer, Upper Penganga Project Division No. VIII, Nanded (EE) to a contractor at an agreed cost of ₹ 17.09 crore for completion in 24 months. The extension for completion of work was granted upto January 2011. The contract specified that different types of geological formation requiring increased drilling efforts, consumption of explosives, labour and use of machinery shall not be considered as reason for claim/increase in contract rates. Also, no distinction would be made due to reasons such as the material being excavated is dry, moist or in wet condition. The contract provided for excavation in hard strata by controlled blasting for 42.047 cum at the Schedule B rate of ₹ 240.65 per cubic metre (cum) based on the Irrigation Schedule of Rate (ISR) for the year 2005-06.

Scrutiny (March 2008 and March 2009) of records of the EE revealed that in two chainages, the contractor requested (July 2007) for excavation of hard strata by controlled blasting instead of ordinary blasting provided in the contract, due to presence of road and high tension electric line on either side of the canal alignment. During site inspection (September 2007), the Chief Engineer and Administrator, Water Resources Department, Aurangabad (CE) accepted the contractor's request and directed the Division to submit a proposal for controlled blasting. The EE proposed (November 2007) an extra item rate list (EIRL) for excavation in hard strata by controlled blasting at the rate of ₹ 383.65 per cum (2005-06) and ₹ 440.70 per cum (2007-08) for 42,381.56 cum and 26,302.35 cum respectively which included 42,047 cum i.e. tendered quantity. However, the proposed controlled blasting rate included additional rate of ₹ 141.21 per cum for secondary blasting with wet condition not included in CE's inspection note. The Superintending Engineer, Upper Penganga Project Circle, Nanded (SE) sanctioned (December 2007) the EIRL without considering the contract conditions. Up to June 2010, payment of ₹ 2.65 crore has been made to the contractor for a quantity of 69,006.75 cum.

Thus, irregular inclusion of rates for the secondary blasting with wet condition resulted in undue benefit of ₹ 90.49 lakh to the contractor as shown in the **Appendix 3.3**. Besides, a liability for payment of quantities to be executed at higher rate of ₹ 440.70 per cum was also created.

The EE replied (October 2008 and April 2009) that after blasting, large size lumps were excavated which could not be removed by labour/machine and extracted from canal without secondary blasting. Further, due to percolation of water from Gortha Minor Irrigation canal and nearby wells, secondary blasting in wet condition was sanctioned.

The reply was not acceptable in view of contract specifications and provision that no distinction was to be made for excavation in dry, moist and in wet condition and no additional claim was admissible for secondary blasting as per the agreement.

The matter was referred to the Government (February 2010). Reply has not been received (January 2011).

3.4 Persistent and pervasive irregularities

An irregularity is considered persistent if it occurs frequently. It becomes pervasive when it is prevailing in the entire system. Recurrence of irregularities, despite being pointed out in earlier audits, is not only indicative of non-seriousness of the Executive but is also an indication of lack of effective monitoring. Some of the cases reported in Audit about persistent irregularities have been discussed below:

Home Department

3.4.1 Inordinate delay in procurement of patrolling boats

Inordinate delay in procurement of patrolling boats defeated the Government's objective of strengthening the police force in the aftermath of "26/11 Mumbai attacks". While ₹ 34.02 crore drawn (March 2009) on abstract contingent bills remained unutilised for 21 months, expenditure of ₹ 26.48 crore rendered unfruitful, leaving the Maharashtra coast vulnerable to sea based threats.

Mention was made in Paragraph 3.4.3 of the Audit Report (Civil), 2008-09 regarding idling of patrolling boats from the year 2006 defeating the objective of the Government to strengthen coastal security of the State.

After the terrorist attack in Mumbai on 26 November 2008, the Group of Ministers¹⁹ decided (December 2008) to purchase equipment worth ₹ 127 crore during 2008-09 for strengthening and modernising the police force in the State. Accordingly, the Government in Home Department (Department) decided (January and March 2009) to procure 29²⁰ patrolling boats to strengthen coastal security along the Maharashtra coast.

Audit scrutiny (March-June 2010) revealed that the State Intelligence Department (SID) invited tenders (January and February 2009) for purchase of patrolling boats viz., interceptor boats (IBs) and patrol boats (PBs). Out of the 11 offers received, six were rejected due to non-fulfillment of the required specifications. Of the balance five firms, only one firm viz., M/s Marine Frontiers could give demonstration for IBs and none of the firms could give demonstration for PBs. However, instead of cancelling the tenders, it was decided to give extension of two weeks to the tenders for PBs after

¹⁹ Headed by the Deputy Chief Minister, Maharashtra

²⁰ 17 interceptor boats and six patrol boats for SID, Mumbai and five interceptor boats and one patrol boat for CP, Mumbai

modification of requirements. Out of the three bids received during the extended period, two firms were disqualified for non-fulfillment of the conditions. Hence, the bid of M/s Marine Frontiers (supplier), the third firm, was accepted. Accordingly, the SID negotiated the offer price with the supplier and sought (March 2009) the Department's permission to purchase the boats. Though the Department initially cancelled (March 2009) the tendering process as there was only one valid tender, it was accepted later (June 2009) on the request of the SID without giving any justification.

Meanwhile, the Department issued a Resolution on 31 March 2009 to draw ₹ 63.30 crore for procurement of 22 IBs and seven PBs. The Resolution also stated that the funds could be drawn on abstract contingent (AC) bills and as a special case; the amount drawn was to be deposited with Maharashtra Police Housing and Welfare Corporation (PHC). The drawing and disbursing officers (DDOs) were to ensure submission of the detailed contingent (DC) bills for the same within one month. A total of ₹ 60.50 crore was drawn on AC bills on 31 March 2009, out of which the DDO, SID drew ₹ 49 crore and deposited with the PHC in April 2009 and the DDO, Commissioner of Police (CP), Mumbai drew ₹ 11.50 crore and deposited in current account with a private bank.

Subsequently, the Department negotiated (June 2009) the rates with the supplier and decided to procure the IBs and the PBs through the SID. The SID awarded (18 August 2009) the contract to the supplier for supplying 29 boats at a cost of ₹ 54.20 crore including annual maintenance charges of ₹ 1.58 crore for the first three years. As per the contract, advance payment of 40 *per cent* i.e., ₹ 21.05 crore was to be made within one month of signing the contract on obtaining a bank guarantee (BG) for an equal amount, 30 *per cent* was to be paid on receipt of engines and the balance was to be paid on successful completion of final trials. The boats were to be supplied during the period from November 2009 to June 2010. Accordingly, advance payment of ₹ 26.48 crore²¹ was made (August-September 2009) after obtaining the BG for ₹ 21.05 crore.

Audit observed that only five boats were supplied as of September 2010 and there was no trained manpower to operate the boats. However, the SID had not enforced the contract condition of invoking the BG submitted by the supplier though there was a delay of 13 months in supplying the boats.

Thus, the deficiencies in tendering procedure and inordinate delay in procurement of patrolling boats defeated the Government's objective of strengthening the police force in the aftermath of "26/11 Mumbai attacks". Further, out of ₹ 60.50 crore drawn in March 2009 for the purpose, ₹ 34.02 crore remained unutilised for over 21 months and expenditure of ₹ 26.48 crore was rendered unfruitful.

²¹ Paid by the PHC on behalf of SID, Mumbai: ₹ 17 crore (August 2009), ₹ 4.76 crore (April 2010) and ₹ 0.67 crore (June 2010);
Paid by the CP, Mumbai ₹ 4.05 crore (September 2009)

In reply, the Government accepted (October 2010) that the manufacturer had delivered only five boats in September 2010 and stated that the balance boats would be delivered before April 2011. The process of recruitment of staff required for operating the speedboats would also be completed by the end of February 2011. The SID stated (January 2011) that five boats delivered were returned as these were not of the required bullet proofing level as specified in the contract.

The replies were silent about why such large amount was drawn on AC bills on the last day of the financial year while the orders for the boats were placed only five months later and not a single boat of the required specification had been delivered even after 22 months. The Government also did not explain in September 2010 bills of contractor were kept outside the MHADA for grant of Extension of Government schedule of police establishment could not provide trained manpower to handle the boats. Moreover, the objective of the Government to strengthen the coastal security on immediate basis in the aftermath of “26/11 Mumbai attacks” remained unachieved jeopardising public security.

Housing Department

Maharashtra Housing and Area Development Authority

3.4.2 Avoidable expenditure on delayed payment charges

Delay in payment of water charges resulted in avoidable expenditure of ₹ 8.63 crore towards delayed payment charges and financial liability of ₹ 48.55 crore.

Mention was made in paragraph 4.4.5 of Audit Report 2004-05 regarding avoidable expenditure on delayed payment charges of ₹ 92.53 lakh by Maharashtra Housing and Area Development Authority (MHADA) due to belated collection or non-collection of service charges in respect of tenements.

Out of 3,701 apartment buildings pertaining to Mumbai Board (a unit of MHADA) colonies at Mumbai²², 1,737 buildings were conveyed individually to co- id not take over the liability of common water and electricity charges, the MHADA continued to be responsible for payment of water charges to the Municipal Corporation of Greater Mumbai (MCGM). The MHADA, in turn, recovered water charges from all the tenants in the form of service charges, but the amount of recovery did not match the payments made by it.

As per Rule 4.7 of MCGM's Water Charges Rules, delay in payment of water charges entailed penalty at two *per cent* per month on the unpaid dues.

²² Andheri, Bandra, Chembur, Goregaon, Kandivali, Kurla, Oshivara and Sion

Scrutiny of records²³ (April 2010) revealed that the MHADA paid water charges to the MCGM in the form of penalty for an amount of ₹ 8.63 crore pertaining to tenements at Vikhroli for the period November 2002 to March 2009 and the balance liability towards additional charges for delayed payment of water charges as on January 2010 was ₹ 48.55 crore.

Thus, the delay in making timely payment of water charges resulted in avoidable extra expenditure of ₹ 8.63 crore.

The Department stated (October 2010) that the delay in payment was unavoidable due to the time required for verification of bills and arrangement of funds.

The reply was not tenable as the problem was persistent as delays ranged up to 44 months. The existing practice and procedure could, therefore, be reviewed and a better procedure evolved to prevent such avoidable extra expenditure.

Water Resources Department

3.4.3 Undue benefit to contractors

Incorrect inclusion of Central Excise duty on cost of steel for fabrication at work site resulted in undue benefit of ₹ 15.18 crore to contractors.

As per Central Excise Tariff 2005-06 (CET) read with general exemption notification number: 51 (with effect from 28 February 2005), the structures or parts involving iron gates or steel plates fabricated at work site for use in construction work attracts no Central Excise duty.

The work of manufacturing and erection of radial gates, hoist, goliath crane and river sluice of Lower Wardha Irrigation Project was awarded (November 2006) by the Executive Engineer, Lower Wardha Project Division, Wardha²⁴ to a contractor at ₹ 24.95 crore. Though schedule for completion of the work was extended from November 2008 to December 2009, it has not been completed as of November 2010.

Scrutiny (January 2009) of detailed estimate and contract documents of the work revealed that Central Excise duty at 16.32 *per cent* on the fabrication cost of the different components of steel gate was included in the rate analysis of items of Schedule 'B' of the contract. As the contractor fabricated the components of the gates from the steel plates and accessories brought to work site, he was eligible for exemption from Central Excise duty on fabrication work.

²³ Deputy Chief Officer (Estate Management 2), Mumbai Board
²⁴ Under the Chief Engineer (CE), Goshikhurd Project, Nagpur

Similarly, in respect of nine works executed by other four²⁵ divisions it was noticed (December 2008, March, July and August 2009) that Central Excise duty at 16 to 16.32 *per cent* on fabrication cost of the different components of gates were included in the rate analysis of items in Schedule 'B' of the contracts.

Thus, inclusion of the Central Excise duty on the cost of fabrication of the steel gate components without taking cognizance of the Central Excise duty exemption notification resulted in undue benefit of ₹ 15.18 crore to the contractors as shown in the **Appendix 3.4**.

The Executive Engineer, Lower Wardha Project Division, Wardha replied (January 2009) that the estimates were framed on the basis of rate analysis of the mechanical wing and after technical scrutiny by the Chief Engineer (Mechanical), Water Resources Department, Nasik and the same was sanctioned by the Chief Engineer, Gosikhurd Project (CE,GP), Nagpur. The reply was not acceptable as the Chief Engineer, (Mechanical) Nasik confirmed (March 2010) that the element of Central Excise duty as well as other taxes was shown separately in the district schedule of rates (Mechanical) and were to be included only when these were applicable. As the fabrication was proposed to be done in worksite, Central Excise duty should not have been included.

Chief Engineer, Amravati replied (February 2010) that as the rates quoted in the tender was inclusive of everything, payments of all taxes were the responsibility of the contractor. The reply was not acceptable as he was required to take cognizance of the CET while framing the estimate.

The CE, GP, Nagpur stated (November 2010) that the estimate was prepared, considering manufacturing of the gates at contractor's workshop. He also added that the Department was aware of the contractor's plan to manufacture the gates at work site for which the contractor was to incur some expenditure. The reply was not tenable as the tender condition provided fabrication at work site, as confirmed from the delivery challans indicating transportation of raw material at work site.

The Chief Engineer, Aurangabad ordered (January 2010) all EEs to get challans from the contractors in support of payment of Central Excise duty, else to recover the amount from them. The fact remains that necessary action at the time of framing the estimates was not taken.

The matter was referred to the Government (February 2010). Reply has not been received (January 2011).

²⁵ (i) Khadakpurna Project Division, Deulgaonraja, District Buldhana under the CE, Amravati, (ii) Medium Project Division, Latur; Minor Irrigation Division, Latur; and Nandur Madhmeshwar Canal Division No 2, Wadigodri, District Jalna, under the CE, Aurangabad

3.4.4 Extra payment to a contractor

Irregular sanction of extra item rate list for the quantities executed within 125 per cent of tendered quantities led to extra payment of ₹ 1.38 crore.

An extra item is a new item of work required to be executed during execution but not included within the scope of work (Schedule B) and is payable at the prevailing Current Schedule of Rates (CSR) which is termed as Extra Item Rate List (EIRL). Further, quantity of a tendered item executed in excess of 125 *per cent* of the tendered quantity would be paid at the prevailing CSR or prevailing market rate as per clause 38 of tender.

The construction of earthen dam, head regulator, spillway and allied work of Kawara Nalla Minor Irrigation Tank, District Amravati was awarded (March 2006) to a contractor at an agreed cost of ₹ 13.17 crore for completion in 24 months. The specification for construction of embankment work stipulated that the material required for construction but not available from compulsory excavation shall be obtained from prescribed borrow areas and the tender rates were inclusive of all leads and lifts and no extra payment was to be made to the contractor.

Scrutiny (January 2009) of the records of the Executive Engineer, Amravati Irrigation Division, Amravati (EE) revealed that the Schedule B of the contract provided for construction of embankment for hearting zone of 1,78,659 cubic metre (cum) and casing zone 3,30,396 cum quantity at the weighted average rate²⁶ of ₹ 69.26 per cum and ₹ 69.58 per cum respectively, with approved quality material available from compulsory excavation, borrow area and contractor's own material. However, during execution, the contractor had demanded (March 2006, July and November 2007) the payments of earthwork for bringing the entire material from borrow area as the excavated quantity was unsuitable for hearting and casing embankment. Accordingly, the EE proposed (April 2008) EIRL based on current schedule of rates for a quantity of 1,05,456 cum at the rate of ₹ 109.80 per cum for hearting zone and a quantity of 1,83,412 cum at the rate of ₹ 136.32 per cum for casing zone, with selected material from borrow area. The Superintending Engineer Akola Irrigation Circle, Akola accorded sanction (July 2008) to the EIRL for bringing the material from borrow area. Till February 2010, the hearting zone quantity of 1,76,631.08 cum and casing zone quantity of 3,87,096.61 cum were executed, of which 1,05,456 cum and 183,413 cum respectively were paid at EIRL rate. As the item executed was a tendered item and not a new item, sanction of extra item was irregular. Moreover, the quantities executed were within 125 *per cent* of tendered quantities. Thus, an extra payment of ₹ 1.38 crore was made to the contractor in violation of the contractual condition and tendered rates as detailed in **Appendix 3.5**.

²⁶ The weighted average rate is the average of the rate of compulsory excavated material *plus* rate of material from borrow area/ contractors own material use in the embankment work

The EE stated (October 2009) that the material obtained from cut off trench, approach and tail channel was found to be unsuitable for construction of hearing and casing embankment and that scope of work under EIRL for hearing and casing was different and hence EIRL was sanctioned. The reply was not acceptable as the contractor was bound by tender conditions and specifications and therefore the payment was beyond the contractual terms resulting in extra payment to contractor.

The matter was referred to the Government (March 2010). Reply has not been received (January 2011).

3.5 Failure of oversight/Governance

The Government has an obligation of improving the quality of life of the people for which it works by fulfilling certain goals in the area of health, education, development and upgradation of infrastructure and public services *etc.* However, Audit noticed instances where funds released by Government for creating certain public assets for the benefit of the community remained unutilised/ blocked and/or proved unfruitful/ unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. A few such cases have been discussed below:

Agriculture Department

3.5.1 Idle investment

Supply of Urea Briquette Machines without ensuring availability of raw material and electricity connection resulted in idle investment of ₹ 1.61 crore on 115 machines.

With a view to increase food production by 15 to 20 *per cent* and reduce expenditure on chemical fertilizers by 20 to 25 *per cent*, the Commissioner of Agriculture, Pune (CoA) decided (March 2007) to supply Urea Briquette Machines costing ₹ 1.40 lakh each to Agriculture Polyclinics for production of fertiliser tablets. The machines were to run from February to May every year with a minimum production of 100 MT per season for use of these tablets during cropping season²⁷ of rice.

Scrutiny of records of Taluka Fruit Nursery and Agriculture Polyclinic, Paratwada, District Amravati (July 2009) and Agriculture Polyclinic, Selsura, District Wardha (November 2009) and further information collected during February and April 2010, revealed that out of 117 machines supplied (during 2006-08) by the CoA to Agriculture Polyclinics and Seed Testing Laboratories located at various tehsils/villages in four²⁸ out of eight divisions in the State, 115²⁹ machines costing ₹ 1.61 crore were not put to use since the date of their

²⁷ June to September

²⁸ Amravati, Aurangabad, Latur and Nagpur

²⁹ One machine each was used by Latur and Nagpur

receipt (2006-08) by the respective Agriculture Polyclinics and Seed Testing Laboratories.

The reasons for non-utilisation of machines were stated by the Divisional Joint Directors of Agriculture, Amravati, Aurangabad, Latur and Nagpur (February and April 2010) as non-availability of funds for purchase of raw material *i.e.* Urea and Di-ammonium Phosphate and three phase electricity connection. Thus, supply of machines without ensuring availability of raw material and electricity connection resulted in idle investment of ₹ 1.61 crore over a period of two years. Besides, the objective of increasing food production was not achieved.

The matter was referred to the Government (May 2010). Reply has not been received (January 2011).

Co-operation, Marketing and Textiles Department

3.5.2 Injudicious financial assistance to a Co-operative bank

Sanction of loan to a Co-operative Bank at Nanded, despite its poor financial condition and subsequent conversion of the loan and Government share capital into grant resulted in extending injudicious financial assistance of ₹ 118.50 crore to the Co-operative bank.

The Nanded District Central Co-operative Bank Limited (NDCCB) is engaged in disbursement of short and medium term crop loans to farmers. National Bank for Agriculture and Rural Development (NABARD), during inspection in March 2000, noticed that the NDCCB had negative net worth and was not complying with the minimum capital requirement specified under Clause 11(1) of Banking Regulation Act, 1949 (Act). On account of its poor financial condition, the Reserve Bank of India (RBI) also imposed (October 2005) restrictions on acceptance and refund of deposits by it.

As the NDCCB was not in a position to provide crop loans to farmers, the Maharashtra Cabinet Committee decided (December 2005) to provide loan of ₹ 200 crore (₹ 100 crore for crop loan and ₹ 100 crore for ways and means) and ₹ 20 crore as share capital to NDCCB through Maharashtra State Co-operative Bank Limited (MSCB). Despite the Government guarantee (January 2006) for ₹ 100 crore, the MSCB declined (March 2006) to disburse the loan, on the ground of unsound financial position of the NDCCB.

Scrutiny of records (April 2010) of the Principal Secretary, Co-operation, Marketing and Textiles Department (Department) revealed that the Department sanctioned (March 2007) ₹ 20 crore to the NDCCB as share capital. In order to restore normalcy in banking operations and to lift the restrictions imposed by the RBI under the Act, the Maharashtra Cabinet

Committee decided (October 2007) to further sanction a loan of ₹ 100 crore³⁰ at an interest of six *per cent per annum* to the NDCCB so that its functioning could start and the negative net worth could turn positive. The loan was sanctioned in March 2008. The Administrator of the NDCCB proposed (June 2009) conversion of loan of ₹ 100 crore and share capital of ₹ 10 crore into grant. The proposal was turned down by the Finance Department, Government of Maharashtra (FD) in July 2009, as the NDCCB failed to improve its financial position. But, the Maharashtra Cabinet Committee approved (August 2009) the proposal with retrospective effect from March 2008.

However, inspection report of the NABARD (September 2009) revealed that:

- the net worth of the NDCCB remained negative at the end of the year 2008-09;
- the NDCCB's crop loan disbursements were on decline during 2004-09;
- the NDCCB had not complied with the directions issued by the RBI regarding acceptance and payment of deposits; and had defaulted on repayments to the MSCB.
- the borrowing power of the NDCCB under the Act remained 'Nil'; and
- the non-performing assets as a percentage to loans outstanding increased from 58.5 *per cent* as on 31 March 2008 to 70.7 *per cent* as on 31 March 2009

Further, inspection report of the NABARD for the year 2009-10 also revealed that the disbursement of loans and advances of the NDCCB had decreased from ₹ 710.94 crore to ₹ 442.07 crore during 2008-10. The liabilities of the NDCCB also declined by ₹ 310.67 crore³¹ during the period 2007-10. Deposits with NDCCB reduced from ₹ 571.68 crore to ₹ 484.12 crore. The net worth remained negative during 2009-10.

Thus, the Government assistance of ₹ 118.50 crore³² came in useful to the NDCCB only to discharge its liabilities, but the real objectives for sanctioning of the grant *i.e.*, improvement of net worth and increasing crop loan disbursements, were not achieved.

The Government replied (August 2010) that the financial position of the NDCCB had improved after conversion of loan and share capital into grant. As a result, the RBI had given relaxation in certain conditions and now bank is in a position to refund and accept deposits up to ₹ 25,000.

The reply was not acceptable as the objective of improving the financial status of the NDCCB was not achieved as discussed above and the RBI intimated

³⁰ Loan repayable as ₹ 25 crore in March 2009, ₹ 25 crore in March 2010 and ₹ 50 crore in March 2011 which was further extended up to March 2010, March 2011 and March 2012 respectively.

³¹ Other liabilities: ₹ 870.25 crore (2007-08); ₹ 841.75 crore (2008-09) and ₹ 559.58 crore (2009-10)

³² Converted into grant= ₹ 110 crore and interest waived ₹ 8.50 crore

(December 2010) that the restrictions imposed on the NDCCB are still in force.

Higher and Technical Education Department and Social Justice, Cultural Affairs and Special Assistance Department

3.5.3 Idle Investment

Buildings for a new Industrial Training Institute at Rahatgaon, District Amravati for Scheduled caste students, staff quarters and hostels were not used for want of necessary staff and due to unsuitable location. This resulted in idle investment of ₹ 3.57 crore.

Social Justice, Cultural Affairs and Special Assistance Department of the Government of Maharashtra accorded administrative approval (April 2004 and January 2006) for construction of buildings for a new Industrial Training Institute (ITI) for scheduled caste boys and girls (₹ 2 crore), staff quarters and hostel buildings (₹ 2.18 crore) at Rahatgaon, District Amravati. This was in addition to an existing ITI. Twelve trades were to be started in the new ITI and 32 posts were to be created. The Director (Training), Vocational Education and Training, Mumbai was responsible for recruitment of staff.

Scrutiny of records of the Principal, ITI, Amravati (Principal) and the District Social Welfare Officer, Amravati (DSWO) revealed (November 2009) that the construction work of the buildings was completed at a cost of ₹ 3.57 crore³³ and the same was handed over³⁴ to the DSWO between December 2007 and July 2008. However, the buildings were not used though the possession was taken by the Principal. Out of the proposed 12 trades, only five trades could be started at the existing ITI building in August 2006 and all the 32 posts were vacant as of March 2010.

Thus, failure of the Principal to occupy the buildings and failure of the Director (Training), Vocational Education and Training, Mumbai to appoint necessary staff resulted in idle investment of ₹ 3.57 crore.

The Principal stated (March 2010) that the buildings could not be occupied since these were located at an unsuitable site and that no staff was appointed. The reply was not acceptable because the Deputy Director, Vocational Education and Training, Amravati, the nodal authority of the project and the Principal were involved in the selection of the site.

Thus, due to lack of co-ordination between DSWO and Director (Training), Vocational Education and Training, Mumbai neither the ITI was operationalised fully, nor the buildings were used for the purpose for which these were constructed at a cost of ₹ 3.57 crore. The main objective of the

³³ ₹ 1.67 crore for ITI building and ₹ 1.90 crore for hostels and staff quarters

³⁴ ITI building in December 2007 and hostels and staff quarters in July 2008

scheme *i.e.*, development of skill of the scheduled caste boys and girls was also not fully achieved.

The matter was referred to the Government (June 2010). Reply has not been received. (January 2011).

Housing Department

Maharashtra Housing and Area Development Authority

3.5.4 Blocking of funds due to sub-standard work

Construction of sub-standard tenements and non-development of the locality by the Amravati Housing and Area Development Board resulted in blocking of ₹ 0.42 crore incurred towards construction cost and ₹ 3.23 crore recoverable from tenants towards principal and other charges.

The Amravati unit of Maharashtra Housing and Area Development Authority (MHADA) constructed 599³⁵ tenements at Akoli in Amravati District. Of these, 568 tenements were allotted between March 2002 and March 2003 and 31 remained vacant due to lack of demand. The allotments were made after taking an initial payment³⁶ while the balance amounts³⁷ were treated as loans bearing interest³⁸.

Scrutiny of records (September 2008) revealed that, after payment of monthly instalments, other charges³⁹ and interest amounting to ₹ 82.78 lakh upto March 2004, 551(465 EWS and 86 LIG) tenants refused further payments citing sub-standard construction work, absence of potable/ piped drinking water and non-development of locality. Inspection carried out by the MHADA (September 2004) also revealed deficiencies in construction, inadequate provision of amenities and non-development of area around the tenements. On request by the tenants, the Government instructed (April 2005) Amravati unit of the MHADA to stop the recovery till completion of development of the locality and repair of the tenements. But the Government revoked the order in March 2006 citing blockage of funds as intimated by the Chief Officer, Amravati Board. However, the tenants opposed the recovery.

³⁵ 475 for Economically Weaker Section (EWS) and 124 for Lower Income Group (LIG) during the years 2001 and 2002 at a total cost of ₹ 4.10 crore

³⁶ ranging between ₹ 11,031 and ₹ 25,000 per tenement

³⁷ ranging between ₹ 40,000 and ₹ 1.25 lakh

³⁸ ranging between 9 *per cent* and 13 *per cent* repayable in 14 to 15 years in monthly instalments ranging between ₹ 500 and ₹ 2100

³⁹ Other charges include land rent, establishment charges, insurance.



Sub-standard tenements (6 October 2010)

The MHADA resolved (June 2008) to waive off the interest on the loan component along with delayed payment charges amounting to ₹ 1.58 crore up to March 2008 subject to approval by the Government and payment of outstanding principal amount and other charges by the tenants within six months of the waiver of interest. The Government's decision was awaited as of October 2010.

The poor quality of work and inadequate development work in the locality due to inadequate supervision by the MHADA resulted in refusal of payment of monthly instalments and other charges by the tenants. This, along with the indecision of the Government regarding the collection/waiver of interest resulted in non-recovery of ₹ 3.23 crore from tenants and blocking of ₹ 0.42 crore on construction of 31 tenements lying idle.

The Government replied (October 2010) that no objection regarding defects in construction was reported by the tenants within the specified period. As the allotment was done in the year 2002 and complaints of the tenants regarding substandard quality of construction were raised after March 2004, the allegation was not accepted. Further, steps would be initiated for recovery of the due amounts from the beneficiaries.

The reply is not convincing as the MHADA's inspection report of September 2004 accepted deficiencies in construction of tenements.

Medical Education and Drugs Department

3.5.5 Unfruitful expenditure

Execution of defective works due to inadequate monitoring resulted in unfruitful expenditure of ₹ 1.21 crore on officers' quarters lying unused for over five years and extra expenditure of ₹ 12.50 lakh for repairs to administrative building.

The Government in Medical Education and Drugs Department (Department) approved (December 1998) the proposal for construction of buildings for

Maharashtra University of Health Sciences (MUHS), Nashik in two phases⁴⁰ for ₹ 30.73 crore. The Department appointed (October 1999) M/s. Swastik Architect as its Architect-Consultant for construction works of the University Complex. The Architect-Consultant was responsible for ensuring quality of construction, rectification of defects as well as obtaining completion certificate from the Municipal Corporation. A Project Co-ordination Committee (PCC) was constituted to monitor the project and achieve co-ordination and expeditious decision.

Scrutiny (April 2010) of records of the MUHS revealed that the Architect-Consultant had failed to obtain completion certificates (CC) and water connection for the officers' quarters as documents such as plan, blueprint, work design *etc.*, were not submitted to the Nashik Municipal Corporation (NMC) by him. As a result, the officer's quarters constructed at a cost of ₹ 1.21 crore remained unoccupied since their completion in April 2005. Further, due to defective works, the NMC issued (July 2003 and November 2006) only partial CCs for the administrative and library buildings which were occupied by the MUHS in January 2005 and November 2006 respectively. Despite this, the Department on the recommendation of the Architect-Consultant directed the MUHS to release full payment to the contractor for all the buildings.

Investigation (September 2005) conducted by the Public Works Department (PWD)⁴¹ into the defects, as requested by the Department indicated inadequate monitoring as the reason for the defective works⁴². The Chief Engineer, PWD, Nashik Circle, urged (September 2005) the Department for early action to get the works repaired as the defect liability period would expire during November/ December 2005. The defects were not rectified by the contractors during the defect liability period. However, neither the Department nor the PCC initiated any action against the Architect-Consultant for his failure to ensure the quality of work.

The Department decided (March 2008) to release ₹ 25 lakh to the PWD for urgently needed repairs, out of which an expenditure of ₹ 12.50 lakh was incurred as of January 2009.

⁴⁰ The Phase I of the project at an estimated cost of ₹ 13 crore was divided into three packages and awarded (July 1999) to three different contractors for construction of (i) Administrative Building, (ii) Library, Guest House, Officers Quarters and (iii) Compound wall, Entrance plaza, Internal roads

⁴¹ Vigilance and Quality Control Circle, Public Works Department, Nashik

⁴² Water seepages in all the buildings and falling of ceiling plasters. The stone plastering of outer walls of administrative building and guest house was also in a precarious condition and needed urgent replacement



Officers' quarters lying unused



Defective works

The Department and the PCC also did not ensure whether the Architect-Consultant had fulfilled his supervisory responsibilities before releasing the payment to the contractor. This resulted in execution of substandard work and consequent unfruitful expenditure of ₹ 1.21 crore on the unoccupied officers' quarters. Further, the failure of the Department to get the work repaired through the contractor within the defect liability period resulted in extra expenditure of ₹ 12.50 lakh on the occupied buildings. Besides, the MUHS is also left with unusable and dangerous buildings.

The Registrar, MUHS stated (June 2010) that the MUHS had communicated to the Government and Architect-Consultant about the defective works. Further, a draft legal notice to the Architect-Consultant had been submitted (January 2008) to the Government for approval, but had not yet been finalised (July 2010) despite a lapse of more than two years.

The matter was referred to the Government (July 2010). Reply has not been received. (January 2011).

Public Health Department

3.5.6 Idle investment on construction of hospital building

Failure to ensure availability of personnel concurrently with completion of the hospital building (March 2008) at Malvani, Malad and purchase of equipment, medicines *etc.* (March 2009) in anticipation of commencement of functions, resulted in idle investment of ₹ 4.09 crore.

Public Health Department, Government of Maharashtra (PHD) while considering the demand of people's representatives for provision of better medical facilities, administratively approved (October 2003) construction of a 60 bedded hospital at Malvani (Malad), Mumbai which was completed by the Public Works Department⁴³ in March 2008 at a cost of ₹ 3.93 crore.

⁴³ Executive Engineer, Building Construction Division, Public Works Department, Mulund, Mumbai (EE)

Scrutiny of records (January 2010) of the EE and information collected (March 2010) from the Director, Health Services, Mumbai (DHS) and Deputy Director, Health Services, Mumbai Circle, Thane (DDHS) revealed that the DHS placed a request with the Government⁴⁴ only in February 2008 for sanction of 82 posts of medical and paramedical staff required for functioning of the proposed hospital. Sanction for the same is still awaited (September 2010). Meanwhile, in March 2009, furniture, machinery, medical equipment, medicines, linen, computers and printers were purchased by the DDHS at a cost of ₹ 16.89 lakh for the hospital.

Though the Municipal Corporation of Greater Mumbai issued an occupation certificate (July 2009) for the constructed hospital building and the EE requested the DDHS (August 2009) to take over the possession of the building, the DDHS did not take possession as the required posts were not filled up by the Government. On a question raised in the Legislature in March 2010, the DDHS stated that efforts were made to start the hospital by deputing medical officers/staff from Konkan region. However, the same could not be done as large number of posts in Konkan region was vacant. The purchased material was kept in the office of the DDHS and the medicines which were nearing expiry date were transferred to District Hospitals, Raigad and Thane on loan basis.

Thus, the Department's failure to ensure availability of personnel concurrently with the completion of the hospital building resulted in non-commissioning of the building costing ₹ 3.93 crore for over two years. Further, other material/equipment worth ₹ 15.51 lakh⁴⁵ remained idle for 20 months. Moreover, the targeted beneficiaries were deprived of the intended medical facilities indicating defective planning and tardy implementation of public health projects.

Joint Director, Health Services, Mumbai stated (March 2010) that due to non-sanction of the required posts by the Government, the possession of the building could not be taken. It was anticipated that the required posts would be filled in by the Government and the hospital would start functioning, therefore, necessary equipment, medicines *etc.*, were purchased from the available grant. The local people have, however, been provided medical facilities by the municipal hospital in the locality.

The argument was not acceptable as the hospital, which was constructed with the aim of enhancing the existing facilities in the area, could not achieve the objective and the fact remains that an investment of ₹ 4.09 crore is lying unutilised for want of staff support.

The matter was referred to the Government (April 2010). Reply has not been received (January 2011).

⁴⁴ Additional Chief Secretary, Public Health Department, Mantralaya, Mumbai

⁴⁵ Out of material/equipments worth ₹ 16.89 lakh purchased, medicines costing ₹ 1.38 lakh which are nearing expiry date were transferred to other District hospitals.

Public Works Department

3.5.7 Loss to Government

Stoppage of work due to poor financial planning and Department's failure to protect Government assets resulted in loss of ₹ 1.02 crore to the Government.

The construction work of 192⁴⁶ type II Government residential quarters at Ravi Nagar and Mental Hospital Transit Premises in Nagpur (MHTP) was awarded (August 1997) by the Executive Engineer, Integrated Unit (Medical) Public Works, Nagpur (EE), to a contractor at an agreed cost of ₹ 3.99 crore for completion in 24 months which was extended upto March 2004.

Scrutiny of the records (October 2009) of EE revealed that since the commencement of work, the provision of funds was inadequate due to which the contractor could not maintain the progress of work. After completing the work valuing ₹ 1.26 crore within the stipulated period, the contractor stopped the work at MHTP in March 2004. After stoppage of the work, theft of doors, windows frame, grills, kitchen platform, wash basin, *etc* took place between June 2004 and July 2006, which was reported to police by the EE. The issue of theft and damages to the building at MHTP was also raised (November 2005) in the State Legislative Assembly (LA). The Superintending Engineer, Public Works Circle, Nagpur (SE) informed (February 2006) the LA that the contractor was responsible for handing over the building after rectifying the omissions and therefore, there was no loss to the Government.

The contractor's request (October 2005) for withdrawal of the work under contract clause 15(2)⁴⁷ was also recommended by EE to SE in January 2006. However, the SE forwarded the withdrawal proposal to the Chief Engineer, Public Works Region, Nagpur (CE) only in April 2007 which was accepted in June 2007. The revised estimate of ₹ 2.83 crore for the balance work including damaged portion⁴⁸ was awarded (November and December 2007) to five contractors. The rectification of damaged works were completed (March, July 2010) at a cost of ₹ 1.02 crore.

Thus, poor financial planning led to stoppage of work by the contractor, and the Department's failure to protect the assets after the contractor left the work incomplete resulted in loss of ₹ 1.02 crore to the Government.

The EE stated (October 2009 and April 2010) that the work was lingering due to paucity of funds and that FIRs were lodged every time thefts occurred. He further added (December 2010) that there were reasons on record regarding delay in withdrawal of work.

⁴⁶ 64 quarter at Ravi nagar and 128 quarter at mental hospital transit premises

⁴⁷ Clause 15(2) - The contractor shall be deemed to have been discharged from his obligations to complete the remaining unexecuted work under the contract.

⁴⁸ Assessed by SE in August 2007 at ₹ 83.67 lakh

The reply was not acceptable as work was withdrawn under clause 15 (2) with no liability to the contractor which indicated that the Department was responsible for premature stoppage of work. Besides, the Department did not take necessary steps to protect its assets.

The matter was referred to the Government (July 2010). Reply has not been received (January 2011).

Water Resources Department

3.5.8 Idle investment

Two Lift Irrigation Schemes remained incomplete for more than a decade despite an investment of ₹ 4.22 crore due to failure to get electric connection and repairs to pumps and other electrical machineries.

The Ankhoda Lift Irrigation Scheme (LIS) on Deotari Nala in Chamorshi Taluka, District Gadchiroli, was administratively approved by the Government in October 1992 for ₹ 46.05 lakh to generate an irrigation potential of 570 hectares (Ha) of land. The project was revised subsequently in December 2004 for ₹ 2.80 crore. The work was started in April 1993 and was nearly completed in June 2007 at a cost of ₹ 2.73⁴⁹ crore except the work of cable and delivery pipes worth ₹ 0.26 lakh and repairs to panel board, transformer and pumps. Audit observed (May 2008 and March 2009) that though construction of pump house was completed in October 2005, the pumps were not installed as of January 2011. Due to passage of time, the pumps got rusted and the transformer and panel board needed repairs before its installation. The Deputy Engineer, Lift Irrigation Mechanical Sub-Division No.3, Chandrapur assessed (November 2009) the cost of repairs to the pumps and allied equipments at ₹ 32.84 lakh. However, no repairs were carried out and the LIS remained incomplete. As a result, no irrigation potential could be created as of January 2011 and no irrigation benefits could accrue to the beneficiaries despite spending ₹ 2.73 crore.

The Executive Engineer, Irrigation Division, Gadchiroli stated (January 2011) that repairs of pumping machinery, panel board and transformer was completed and installation of pumping machinery would be done by May 2011 after supply of electricity at the work site.

In another case, the Zendejan LIS, Taluka Shirpur, District Dhule was administratively approved by the Government in July 1999 for ₹ 1.11 crore to generate an irrigation potential for 321 Ha of land. The project was revised in January 2002 for ₹ 1.67 crore. The main work⁵⁰ was awarded (July 1999) on lump sum contract for ₹ 99.55 lakh and distribution system (August 2005) for

⁴⁹ Main work- ₹ 84.47 lakh, Canal- ₹ 109.77 lakh, Pumping Machinery and Electricity- ₹ 24.96 lakh, Miscellaneous and work charge establishment- ₹ 5.72 lakh. Centage charges- ₹ 43.56 lakh and land acquisition- ₹ 4.95 lakh = Total ₹ 273.43 lakh

⁵⁰ Main work included Intake chamber, Inlet pipe, Jack well cum pump house, Raising main, Delivery chamber, Land acquisition and pumping machinery.

₹ 24.82 lakh to a contractor by the Executive Engineer Minor Irrigation Division Dhule (EE). The works of LIS including distribution system were completed at a cost of ₹ 1.38 crore (May 2007). However, pumps installed in July 2000 remained to be tested as of July 2010 for want of electric supply which was supplied in May 2010. Despite EE's request (July 2000) for supply of electricity to the Superintending Engineer, Maharashtra State Electricity Board, Dhule (MSEB) and depositing ₹ 10.95 lakh (April 2002 and December 2008), the electric supply was made available only in May 2010 and testing was in progress till December 2010. Thus, the LIS remained incomplete although a period of more than 10 years had elapsed since the commencement of work in July 1999 and no irrigation benefits accrued to the beneficiaries despite spending of ₹1.49 crore.

The EE replied (January 2011) that the civil works were completed and testing of electrical parts and rising main was completed by sub-division at Shirpur. The reply was not acceptable as the sub-division's report showed that testing was in progress and could not be completed because of shortage of water. Besides, irrigation could not start till December 2010.

Thus, for want of small repairs and supply of electricity, an expenditure of ₹ 4.22 crore incurred on two LIS was rendered unfruitful. The objective of providing irrigation facility to 891 Ha of land of various beneficiaries also remained unfulfilled even after a decade.

The matter was referred to the Government (June 2010). Reply has not been received (January 2011).

3.5.9 Avoidable payment to contractor

Delay in settlement of contractor's claims, failure to observe the provision of Arbitration and Conciliation Act, 1996 and advice of legal advisor not to contest the arbitration award resulted in avoidable payment of ₹ 2.75 crore on account of interest.

As per the Arbitration and Conciliation Act, 1996 (Act), an Arbitrator has the power to award interest for the period under arbitration as well as future interest which should be reasonable.

Scrutiny (June 2009) of the records of the Executive Engineer, Majalgaon Canal Division No.VII, Gangakhed, District Parbhani (EE) revealed that a canal work⁵¹ commenced in 1989 was completed in March 1998 and EE paid ₹ 2.37 crore upto March 1999 to the contractor for the work. The contractor had submitted (November 1994) 20 claims for ₹ 1.61 crore, which were rejected by the EE on the ground that nine claims were not acceptable and eleven claims were not in accordance with the tender conditions. The contractor appealed in December 1994 to Superintending Engineer, Jayakwadi Project Circle, Aurangabad (SE) and in August 1995 to Chief Engineer,

⁵¹ Construction of earthwork, structures and selective lining on Minor no 40 at RD 78,630 metre and Distributory No. 41 at RD 79,440 metre of Majalgaon Right Bank Canal awarded (February 1989) at a tendered cost of ₹ 55.60 lakh.

Command Area Development, Irrigation Department, Aurangabad (CE). In the meeting held in October 1995, the CE discussed the claims and directed the EE and the contractor to submit detailed information and evidence such as proof for idleness of labour, material purchases, machinery, removal of silt, execution of more quantities etc. However, the matter remained unresolved, though it was under correspondence between CE and contractor upto November 2002 regarding claims, clarifications and demand. In November 2002, the contractor requested CE to appoint a sole Arbitrator under clause 53 of the contract. As the CE did not take any action within the stipulated period of 30 days i.e. till December 2002, the contractor appointed (January 2003) a sole Arbitrator⁵² in terms of contract clause 53 to resolve his claims. After hearing both the parties, the Arbitrator accepted nine claims and declared the award (November 2004) in favour of the contractor for ₹ 3.92⁵³ crore inclusive of interest at the rate of 18 *per cent* for the period from April 1998 to November 2004.

On this, the legal advisor of Godavari Marathwada Irrigation Development Corporation, Aurangabad (GMIDC) advised (February 2005) not to contest the arbitration award and to try to reduce the award amount by negotiation. Accordingly, a meeting was held (May 2005) between Executive Director, GMIDC and the contractor. The contractor offered (May 2005) full and final settlement for ₹ 3.92 crore to be paid before 30 June 2005. However, the Governing Council of GMIDC requested (October 2005) the contractor for acceptance of principal amount (₹ 1.78 crore) and interest at the bank fixed deposit rates prevailing at that time. Meanwhile, the contractor filed (August 2005) execution petition in the District Court, Parbhani due to failure of the Department to make the payment pursuant to the award. The EE filed (March 2006) reply in the District Court (DC) objecting to executability of the award due to lack of inherent jurisdiction. The DC rejected (July 2006) the objection filed by the EE stating that the arbitration award was executable under clause 53 of tender. On this, a writ petition was filed in the High Court (HC), Aurangabad (August 2006) on the ground that the claim filed by the contractor was time barred by limitation and due procedure was not followed in the appointment of Arbitrator to decide the claim. The HC viewed (October 2007) that no interference in the impugned order was warranted. A special leave petition was filed by GMIDC in the Supreme Court of India which was also dismissed (March 2008) in view of the order passed by the HC. Accordingly, an amount of ₹ 4.40 crore was deposited (May 2008) in the DC. The DC passed (08 April 2009) an order on execution petition and final payment of ₹ 6.67 crore inclusive of the amount deposited was made (19 April 2009) to the contractor.

Thus, failure of the Department to dispose of the contractor's petition in time and observe the provision of the Act and legal advice resulted in avoidable payment of ₹ 2.75 crore (₹ 6.67 crore - ₹ 3.92 crore) on account of interest for the period from 01 December 2004 to 19 April 2009.

⁵² SE, Irrigation Project circle, Beed

⁵³ Principal amount ₹ 1.78 crore + interest ₹ 2.14 crore + award fees ₹ 0.40 lakh = ₹ 3.92 crore

The EE stated (March 2010) that the contractor had not accepted the compromise proposal. The reply was not acceptable in view of the clear provisions of the Act, suggestion of legal advisor and delay in settling the payment issue in time.

The matter was referred to the Government (May 2010). Reply has not been received (January 2011).

Water Supply and Sanitation Department

Maharashtra Jeevan Pradhikaran

3.5.10 Idle investment on a water supply scheme

Augmentation to water supply schemes in Tasgaon taluka completed (July 2004) at a cost of ₹ 22.21 crore remaining idle for the last six years due to non-utilisation.

Maharashtra Jeevan Pradhikaran (MJP) is an autonomous body of the State Government primarily for planning and execution of drinking water supply schemes in the State. The schemes are executed by the MJP on behalf of Municipal Corporations/Municipal Councils (MC)/Zilla Parishads (ZPs)/Gram Panchayats (GPs) with Government grants, loans and popular contribution from local bodies. The Schemes, on their completion are handed over to the concerned local bodies for further operation and maintenance. As per Resolution issued by the Government in Water Supply and Sanitation Department (August 2005), the completed water supply schemes, if not taken over by the concerned ZP/VP, should be run and maintained by the MJP.

Scrutiny of records (November 2007) of the Executive Engineer (EE), MJP Works Division, Sangli and further information collected (January 2009) revealed that the augmentation to Savlaj and four other Regional Rural Water Supply (RRWS) schemes⁵⁴ (Phase I) in Tasgaon taluka of Sangli District was granted administrative approval (October 2003) by the Government for ₹ 25.20 crore. The scheme was meant for augmentation of the five RRWS schemes by providing water from Krishna River as source, since the Sidhewadi and Lodhe Minor Irrigation tanks which were the sources for the schemes had dried up. It was also meant to be a permanent solution to the drinking water scarcity of Tasgaon taluka which were fed by tanker water during seven to eight months in a year.

The scheme was awarded for ₹ 18.03 crore⁵⁵ during January - February 2004 with a stipulated period of completion of four months. The works were completed (May 2004 to July 2004) after incurring an expenditure of ₹ 22.21 crore. The trial run of the scheme was carried out during May 2004 and July

⁵⁴ Arawade, Banurgad, Jadhav wade and Ped Sawarde

⁵⁵ ₹ 1.29 crore (Group I), ₹ 1.74 crore (Group II), ₹ 12.61 crore (Group III), and ₹ 2.39 crore (Group IV)

2004. In February 2006, the ZP, Sangli requested the MJP to run the scheme. However, the MJP also did not run the scheme though stipulated in terms of the August 2005 Resolution. Thus, the infrastructure created under the scheme was lying idle since July 2004.

The Government replied (January 2009) that the scheme was designed to run during scarcity, as Sangli District falls under drought prone area. Since the rain fall in Sangli area was quite satisfactory from the year 2004 onwards; the scheme was not used. Further, it was considering a proposal (January 2008) submitted by the MJP to utilise the Savlaj RRWS scheme for augmenting five other schemes, which were facing water shortage.

The CE accepted (August 2010) that the expenditure incurred on the scheme remained idle. However, the reply was silent about utilisation of the scheme during droughts of 2008 and 2009. The fact remains that the scheme constructed at a cost of ₹ 22.21 crore as a permanent solution to the drought prone areas remained idle for over six years and piped potable water supply remained an elusive goal for the population of Tasgaon taluka.

3.5.11 Unfruitful expenditure on underground drainage scheme

Execution of an underground drainage scheme by Maharashtra Jeevan Pradhikaran without ensuring loan from financial institution resulted in delay in completion of the work for over five years. Besides, the envisaged civic benefits could not be extended to the people even after incurring an expenditure of ₹ 5.71 crore.

Government of Maharashtra, Water Supply and Sanitation Department (Department) accorded (September 1999) administrative approval (AA) for Sangli Underground Drainage Scheme Stage I, Phase I⁵⁶ of Sangli Miraj and Kupwad Municipality Corporation (Corporation) for ₹ 8.80 crore. The work was to be executed by the Maharashtra Jeevan Pradhikaran (MJP), Works Division, Sangli. Funds required for the work were to be raised by way of grant-in-aid from the Department (23.33 per cent i.e., ₹ 2.05 crore), loans from financial institutions (66.67 per cent i.e., ₹ 5.87 crore) and popular contribution (10 per cent i.e., ₹ 88.05 lakh). It is the statutory responsibility of the MJP to raise loans from financial institutions for sewerage schemes. Accordingly, the Department sanctioned (September 1999) grant-in-aid of ₹ 2.05 crore and released the same to the MJP in May 2000. The MJP also received popular contribution of ₹ 0.88 crore⁵⁷ from the Corporation.

The Chief Engineer (CE), MJP, Pune Division accorded (January 2000) technical sanction (TS) for the work which was awarded (April 2001) to a contractor for ₹ 6.56 crore, without ensuring availability of funds. The work was to be completed in 36 months. The MJP subsequently raised (2002-03)

⁵⁶ Scope of the work involved providing, lowering, laying RCC pipes for primary and major secondary sewerage branches of sewer

⁵⁷ Popular contribution ₹ 88.05 lakh (₹ 65 lakh during 2001-02 and ₹ 23.05 lakh during 2002-03)

₹ 1.42 crore only as loan from the Life Insurance Corporation (LIC) against a demand of ₹ 2.42 crore, in view of the poor financial condition of the Corporation. Meanwhile, the contractor stopped the work in May 2005 due to paucity of funds. The work of laying of sewer lines (value: ₹ 4.77 crore) only was completed and ₹ 4.58 crore was paid up to April 2005. The MJP incurred a total expenditure of ₹ 5.71 crore⁵⁸ on the work including ₹ 1.36 crore from its own fund.

As the drainage water from the incomplete scheme spread to the adjoining road and populated areas, the Corporation decided (December 2006) to take over the scheme as it was and complete the balance work from its own sources. The EE of the Corporation requested (January 2007) the MJP to handover the work as it was along with an undertaking about the work executed. In November 2009, the Corporation requested the MJP to furnish a survey report on the status of work before taking over the project; but the MJP did not submit the same. The MJP has not handed over the scheme as expenditure of ₹ 1.36 crore incurred from its own source has not been repaid by the Corporation as of July 2010.

Thus, commencement and execution of the scheme by the MJP without tying up the necessary finances resulted in non-completion of the scheme for over five years and unfruitful expenditure of ₹ 5.71 crore. Besides, lack of co-ordination between the Corporation and the MJP resulted in denial of civic benefits to the residents of the municipal area despite their personal contribution.

The Commissioner, Corporation stated (November 2010) that the MJP has been asked to hand over the executed work along with a quality assurance certificate about the work executed.

The Government replied (January 2011) that the work could not be completed for want of loans from financial institutions. Further, the MJP being a Government organisation is not required to provide any quality assurance for works executed.

3.6 Regulatory issues and other points of interest

3.6.1 Outstanding Inspection Reports, Departmental Audit Committee Meetings, Follow-up on Audit Reports and Action Taken Notes

Failure to enforce accountability and protect the interests of Government

Outstanding Inspection Reports

The Pr. Accountant General (Audit) arranges conduct of periodical inspections of Government departments to test-check their transactions and verify the

⁵⁸ Payment to contractor ₹ 4.58 crore + Contingencies ₹ 28.15 lakh + Establishment and Tools & Plant charges: ₹ 85.07 lakh = ₹ 5.71 crore, which included ₹ 1.36 crore from its own fund

maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspection Reports (IRs) which are issued to the heads of the offices inspected with copies to the next higher authorities. Half yearly reports of pending IRs are sent to the Secretaries of the concerned departments to facilitate monitoring of action taken on the audit observations included in these IRs.

The IRs issued up to December 2009, pertaining to 27 departments, disclosed that 20,558 paragraphs relating to 7,414 IRs were outstanding at the end of June 2010. Year-wise position of the outstanding IRs and paragraphs are detailed in the **Appendix 3.6**.

Departmental Audit Committee Meetings

In order to settle the outstanding audit observations contained in the IRs, Departmental Audit Committees have been constituted by the Government. During 2009-10, 9⁵⁹ out of the 27 departments convened 13 Audit Committee Meetings. Out of 1,474 paras discussed in the meetings, 753 paras were settled.

For ensuring prompt compliance and early clearance of the outstanding paragraphs, it is recommended that the Government should address this issue seriously and ensure that an effective procedure is put in place for (a) taking action against the officials who fail to send replies to IRs/paragraphs as per the prescribed time schedule. (b) recovering losses/outstanding advances/overpayments pointed out in audit in a time bound manner and (c) revamping the system of responding to audit observations.

Follow up on Audit Reports

According to instructions issued by the Finance Department in March 1981, administrative departments were required to furnish Explanatory Memoranda (EMs) duly verified by Audit to the Maharashtra Legislature Secretariat in respect of paragraphs included in the Audit Reports, within one month of presenting the Audit Reports to the State Legislature. The administrative departments did not however, comply with these instructions. The EMs in respect of 174 paragraphs/reviews for the period from 1988-89 to 2008-09 have not yet been received. The position of outstanding EMs from 2001-02 to 2008-09 is indicated in **Table 1**.

⁵⁹ Agriculture, Animal Husbandry, Dairy Development and Fisheries, General Administration, Higher and Technical Education, Law and Judiciary, Public Works, Revenue and Forests, Rural Development and Water Conservation, School Education and Water Resources.

Table 1: Position of outstanding explanatory memoranda

Audit Report	Date of tabling the Report	Number of Paragraphs and Reviews	Number of EMs received	Balance
2001-02	22 July 2003	51	46	5
2002-03	8 July 2004	48	38	10
2003-04	21 July 2005	48	33	15
2004-05	18 April 2006	39	32	7
2005-06	17 April 2007	38	31	7
2006-07	25 April 2008	47	26	21
2007-08	12 June 2009	51	22	29
2008-09	23 April 2010	32	6	26
Total		354	234	120

In addition to the above, EMs in respect of 59 paras relating to the period prior to 2002-03 were also outstanding. Department-wise details are given in **Appendix 1.1**.

Action Taken Notes

The Maharashtra Legislature Secretariat (MLS) Rules stipulate that Action Taken Notes (ATN) on the recommendations of the Public Accounts Committee (PAC) on those paragraphs of the Audit Reports that are discussed are required to be forwarded to the MLS duly verified by Audit. Likewise, ATNs indicating remedial/corrective action taken on the paras that are not discussed are also required to be forwarded to the PAC duly vetted by Audit. It was observed that there were inordinate delays and persistent failures on the part of a large number of departments in forwarding the ATNs on audit paragraphs. Year-wise details of such paragraphs are indicated in **Table 2**.

Table 2 : Position of outstanding action taken notes

Audit Report	Total number of paras in the Audit Report	Number of paras		ATN awaited in respect of paras	
		Discussed	Not discussed	Discussed	Not discussed
1985-86 to 1997-98	862	151	711	98	705
1998-99	47	10	37	10	37
1999-2000	55	7	48	4	48
2000-01	43	8	35	8	35
2001-02	51	9	42	9	42
2002-03	48	8	40	8	40
2003-04	48	2	46	2	46
2004-05	39	15	24	15	24
2005-06	38	1	37	1	37
2006-07	47	1	46	1	46
2007-08	51	—	51	—	51
2008-09	32	—	32	—	32
Total	1,361	212	1,149	156	1,143