

CHAPTER 3 COMPLIANCE AUDIT

3.1 Non-compliance with rules and regulations

For sound financial administration and control, it is essential that expenditure conforms to financial rules, regulations and orders issued by the competent authorities. This helps in maintaining financial discipline and prevents irregularities, misappropriation and frauds. Audit of the departments of the Government, their field formations as well as the autonomous bodies brought out several instances of lapses in management of resources and failures in adherence to the norms of regularity, propriety and economy. Some of the audit findings on non-compliance with rules and regulations are as under:

HEALTH AND FAMILY WELFARE DEPARTMENT

3.1.1 *Fraudulent disbursement of financial assistance*

Fictitious project proposals and inspection reports for contractual farming of medicinal plants resulted in fraudulent disbursement of financial assistance of ₹ 86.23 lakh

The National Medicinal Plants Board (NMPB) under the Ministry of Health and Family Welfare, Government of India formulated (November 2000) a Centrally Sponsored Scheme of contractual farming of medicinal plants. As per guidelines of the scheme, applicants desirous of availing financial assistance (subsidy) were required to submit the project proposals alongwith Memorandum of Understanding (MoU) with the buyer of the produce of medicinal plants, bank appraisal report of the projects, land documents duly verified by the Revenue Department and Registration Certificate obtained from the State Medicinal Plants Board (SMPB)/State Government. Financial assistance to the tune of 30 *per cent* of the project expenditure or upto a maximum of ₹ nine lakh was to be paid to the selected farmers through Financial Institution⁴⁵ (FI) in two equal installments. Fifty *per cent* of the assistance was to be released to the FI after 50 *per cent* of its term loan for the projects was disbursed to the farmer. The remaining 50 *per cent* of the assistance was to be released to the Term Loan Account of the concerned borrower, on disbursement of the second installment of term loan. Before releasing the financial assistance, the officials of NMPB or in their absence officials of the SMPB were to inspect the project area and submit inspection report of satisfactory progress or otherwise of the project.

⁴⁵ The Financial Institutions shall include NABARD, IDBI, SIDBI, ICICI, State Financial Corporations, State Industrial Development Corporations, Financial and Development Corporation, other RBI designated loaning institutions of the States/UTs, Commercial/Cooperative Banks etc.

Scrutiny of records (October 2009) of the Director, Ayurveda, Punjab and Member Secretary, SMPB, (Director) and information collected subsequently (March 2010) revealed that the proposals for financial assistance to 14 beneficiary farmers submitted to the NMPB were defective to the extent that:

- the documents relating to the land reported to have been owned by the farmers were not authenticated by the Revenue Authorities of the State Government. These were certified by the beneficiaries themselves;
- there were no bank appraisal notes in the prescribed format. Only a letter from the State Bank of Patiala, Phase-7, Mohali (which did not bear reference number and date) promising to sanction term loans to the beneficiaries was attached to the proposals; and
- documents supporting registration of the beneficiary farmers with SMPB/State Government were not furnished with the proposals.

Despite these deficiencies in the project proposals, NMPB released (May 2005) the first installment of financial assistances of ₹ 43.35 lakh (in the form of 14 bank drafts) to the Director. The Director was directed to disburse the amount to the beneficiary farmers after obtaining letter from the bank regarding release of the first instalment of term loan and physical verification report. On the ground that none of the cultivators could be contacted, the Director reportedly returned (September 2005) the bank drafts to NMPB. Subsequently, the Director who is reported to have returned the first instalment to NMPB, without ascertaining the facts from the State Bank of Patiala, about release of terms loans to the beneficiaries submitted (January 2007) the inspection reports and utilization certificates in respect of the first installment to NMPB. On the basis of the inspection reports and utilization certificates, NMPB released (March 2007) the second installment of assistance of ₹ 42.88 lakh to the Director for disbursement to the beneficiaries through their term loan accounts in the bank.

Audit scrutiny revealed that the inspection reports of progress of the projects submitted by the Director to NMPB were fictitious, as no medicinal plants were cultivated in the village Dargah Khalid-Bin-Walid stated in the proposals.

Further enquiry from NMPB revealed that the drafts for the first instalment were not received back in that office. Cross verification with the Bank of Baroda, Chandigarh on whom the drafts were drawn by NMPB disclosed that both the installments of financial assistance required to be credited to the term loan accounts of the beneficiary farmers were actually credited to the saving bank account of the respective beneficiaries in the branches of State bank of Patiala and immediately thereafter the amounts were transferred to the bank

account of the society⁴⁶ with whom MoUs were signed by the beneficiaries for the sale of produce (raw herbs) of the medicinal plants. No term loan was sanctioned by the State bank of Patiala to any of the beneficiary farmers. The crediting of both the installments of financial assistance in the saving bank account (instead of term loan account) of the beneficiaries in two branches of the State Bank of Patiala, (Chuni Kalan branch and sector 34, Chandigarh branch) other than the branch (Mohali) which originally furnished the letter promising sanction of term loans, shows the possible involvement of the banks, which needs to be investigated.

Thus, failure of the Director to ensure (a) correctness of the project proposals and the inspection reports and (b) crediting of the bank drafts in the term loan account of the beneficiaries and forwarding the utilization certificates for the first instalment (reportedly returned the drafts of the instalment to NMPB) facilitated fraudulent disbursement of financial assistance of ₹ 86.23 lakh.

On being pointed out, the Director stated (December 2009) that 14 bank drafts towards the first installment of the financial assistance were returned to NMPB who might have forwarded them to the bank accounts of the beneficiaries. He further stated that on receipt of the second installment of subsidy, the amount was paid to the cultivators through bank drafts, but there was no proof of this in the records of his office. The reply is not acceptable as (i) the bank drafts reported to have been returned to NMPB never reached the NMPB and on the contrary these were encashed in the banks and (ii) the Director had sent the inspection reports on cultivation of medicinal plants and the utilization certificates to NMPB to get the second installment, without ascertaining the position regarding disbursement of the first installment of assistance and term loan and without checking genuineness of the inspection reports etc. These failures facilitated the fraud. The whole issue needs to be investigated and appropriate action should be taken against the persons responsible for the lapses.

The matter was referred to the Government in March 2010; reply has not been received (November 2010).

CIVIL AVIATION DEPARTMENT

3.1.2 Loss of interest

Non-fixing of time schedule for payment led to loss of interest of ₹5.15 crore

An international civil air terminal at Mohali was to be set up as a Joint Venture (JV) by the Airports Authority of India (AAI) and the Government of Punjab (GoP). As per the original plan (January 2008), GoP was to contribute the cost of land and other allied infrastructure towards 49 *per cent* of the equity share in the JV Company. A Memorandum of Understanding (MoU) to this effect was to be signed (January 2008) between AAI and the Greater

⁴⁶ M/s Panchshseel Cooperative Collective Farming Society Ltd. 41, Phase 2, Mohali, the buyer of the produce of medicinal plants.

Mohali Area Development Authority (GMADA) on behalf of GoP. However, GoP agreed (January 2008) to the request of the Government of Haryana (GoH) for equal sharing of the cost of land and allied infrastructure required for the terminal. Accordingly, the MoU was signed (January 2008) by AAI, GMADA and GoH.

Scrutiny of records (April 2009) of the Director, Civil Aviation, Punjab (DCA) revealed that the Council of Ministers of GoP accorded (February 2008) *ex post facto* approval to the MoU and decided that initial investment be made by GoP in order to get the project implemented as per schedule. It was further decided that GoH would be given the details of their share of cost asking them to deposit the same immediately. In case of delay in payment, the share would be recovered with interest. But neither the MoU contained the schedule for payment by GoH nor the decision of Council of Ministers to get interest in case of delayed payment by GoH was got agreed upon from GoH by an addendum/corrigendum to the MoU. GoP spent ₹ 460.88 crore by April 2008 towards the cost of land for the terminal, whereas GoH was informed of its share of ₹ 230.44 crore on 23 July 2008, which was recouped on 7 November 2008 i.e. after a delay of about three months. When GoP took up (October 2009) the matter with GoH for payment of interest for the delayed payment, GoH refused to pay interest on the plea that there was no time limit fixed in the agreement for making payment of its share.

Thus, failure of DCA to fix time schedule for payment of its share by the GoH and also to inform and get consent of GoH for payment of interest in case of delayed payment, led to loss of interest of ₹ 5.15 crore⁴⁷ during the period 1 August 2008 to 6 November 2008. On being pointed out, DCA stated (April 2009) that action taken would be shown at the time of next audit.

The matter was referred to the Government (November 2009); reply has not been received (November 2010).

IRRIGATION AND POWER DEPARTMENT

3.1.3 Avoidable payment of interest

Avoidable delay in finalization of the land acquisition award resulted in payment of interest of ₹3.46 crore to the land owners

Section 11-A of the Land Acquisition Act, 1894 (Act) provides that if an award of compensation for the land under acquisition is not announced within two years from the date of publication of the declaration, under Section 6 that the acquisition is for public purpose, the entire proceedings of acquisition would lapse. The market value of land is determined as on the date of publication of the preliminary notification under Section 4 of the Act, and if the compensation amount so determined is not paid before assuming possession of the land, the amount due is to be given with interest from the

⁴⁷ Calculated at an average rate of interest on Government borrowing for the year 2008-09 @ 8.32% on ₹ 230.44 crore for 98 days from 01.08.2008 to 06.11.2008.

date of taking possession of the land till payment is made to the land owners under the provision of section 34 of the Act.

Scrutiny of records (April 2007 and May 2010) of the Executive Engineer, Drainage Division, Patiala (EE) revealed that to acquire 237.85 acres of land required for the Miranpur Choe⁴⁸ in the District Patiala, the Department of Irrigation issued preliminary notification under Section 4 and declaration under Section 6 of the Act in January 2002 and January 2003 respectively. The possession of land was taken in June 2003 and the work of choe was completed in January 2007 at an expenditure of ₹ 1.30 crore. The Land Acquisition Officer, Drainage Circle, Patiala (LAO) was required to announce the award within two years from the date of declaration of notification under Sections 6 of the Act, but the LAO submitted the draft award to the District Collector, Patiala (DC) in February 2005 i.e. after the lapse of the acquisition proceedings on the plea that there were 22 villages under the scheme and it took two years for preparation of files. The DC submitted the draft award to the Government in April 2005 for approval. The matter remained under protracted correspondence (April 2005 to May 2006) between the Government and the DC and ultimately, the State Government rejected the proposed draft award in May 2006 on the ground that it was time barred. After a year, the said award of ₹ 8.74 crore was, however, approved (May 2007) by the Government on the advice of the Advocate General Punjab who suggested that as possession of the land had already been taken, the Government was required to approve the draft award at the earliest. However, the funds were provided by the Irrigation Department to the LAO in March 2009 and September 2009 after two years of the approval of the award. The payments of the compensation amount of ₹ 12.20 crore (including interest) to the land owners were made between November 2009 and July 2010.

Thus, the payment of compensation was delayed as the LAO submitted the draft award after expiry of the stipulated period of two years. The Government took two years to reject and approve the same draft award and thereafter delayed the release of funds by two years which resulted in avoidable payment of interest of ₹ 3.46 crore to the land owners. These delays were administrative in nature and were avoidable.

The matter was reported to the Government (July 2010); reply has not been received (November 2010).

⁴⁸ Choe is a rivulet in which water flows seasonally

**RURAL DEVELOPMENT AND PANCHAYATS DEPARTMENT
AND LOCAL GOVERNMENT DEPARTMENT**

3.1.4 Avoidable payment of interest

Delayed transfer of the grants to the Local Bodies and Panchayati Raj Institutions resulted in avoidable payment of interest of ₹ 73.09 lakh

While implementing the recommendations of Twelfth Finance Commission (TFC) for supplementing the resources of Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs), the Government of India (GoI) directed the States to transfer the grants given by it to the PRIs and the ULBs, within 15 days of the same being credited to the States' account. In case of delayed transfer, the State Government shall transfer to the PRIs/ULBs an amount of interest at the rate equal to the Reserve Bank of India bank rate along with the delayed transfer of grants.

Scrutiny of the sanctions and information collected (March 2008 to December 2009) from the Rural Development and Panchayats Department, (DRDP), Local Government Department and Finance Department (FD) revealed that the GoI released (27 September 2007 and 27 January 2009) grants of ₹ 17.10 crore and ₹ 64.80 crore to the Government of Punjab for supplementing the resources of the ULBs and PRIs respectively. As per the above mentioned directions of the GoI, the grants were to be transferred by 12 October 2007 to the ULBs and 11 February 2009 to the PRIs. The Director, Local Bodies submitted the bill to the treasury for drawal of the grants for ULBs on 9 October 2007, whereas the treasury issued cheque on 26 November 2007. Consequently, the grant was transferred to the ULBs on 30 November 2007 i.e. after a delay of 48 days. As regards the grants meant for PRIs, the FD gave concurrence for release of the grants after 13 days of its credit to the State's account and the DRDP took 10 days to give approval for release of the grants and the treasury took 15 days to clear the bill. Thereafter, the grants could not be transferred due to imposition of model code of conduct for elections w.e.f. 2 March 2009. Approval of the Election Commission of India to transfer the grants during imposition of the model code of conduct was received on 28 March, 2009 and the grants were transferred to the PRIs on 29 April 2009 i.e. after a delay of 76 days in all. Due to these delays, the Government had to pay interest of ₹ 16.95 lakh to the ULBs and ₹ 56.14⁴⁹ lakh to the PRIs out of its own resources.

Thus, non-adherence to the time schedule fixed by the GoI for transfer of the grants recommended by TFC resulted in avoidable payment of interest of ₹ 73.09 lakh.

⁴⁹ Total interest paid (₹ 82.02 lakh) minus interest earned (₹ 25.88 lakh) by keeping the amount in bank account of the Director, Rural Development and Panchayats after drawal from treasury for the period from 23 March 2009 to 28 April 2009 = ₹ 56.14 lakh.

On being pointed out (December 2009), the Deputy Controller (F&A) in the Directorate of Local Government, Punjab attributed the delay in transfer of grants to the ULBs to late passing of the bill by the treasury, whereas the Treasury Officer (TO) stated that the bill could not be passed in time because the Director, Local Government had neither mentioned any urgency nor approached the treasury for clearing the bill. The Deputy Controller (F&A) in the Directorate of Local Government in turn stated that no urgency clause was inserted in the financial sanction as advice from the FD did not contain any such clause. The replies are not acceptable as similar irregularity was pointed out in para 2.2.2 of the Report of the C&AG for the year ended 31 March 2009 and the concerned departmental authorities were not only supposed to be well conversant with applicable instructions regarding transfer of GoI grants but were also to ensure inter-departmental co-ordination to avoid delay in transfer of the grants. As regards the delay in transfer of the grants to the PRIs, the Director, Rural Development and Panchayats did not reply.

The matter was referred to the Government in March 2010, reply has not been received (November 2010).

IRRIGATION AND POWER DEPARTMENT

3.1.5 Drawal of funds in advance of requirement

Drawal of funds without immediate requirement resulted in loss of interest of ₹ 63.62 lakh

Financial Rules⁵⁰ provide that no money should be withdrawn from the treasury unless it is required for immediate disbursement. Further, it is not permissible to draw advances from the treasury for execution of works the completion of which is likely to take considerable time.

The Government of Punjab (Department of Irrigation) accorded sanction (March 2007) to deposit ₹ 12.44 crore with Power Grid Corporation Limited (Corporation) for execution of the works of re-routing of 800 KV Kishenpur-Moga and 220 KV Kishenpur-Sarna transmission lines from the construction area of Shahpurkandi (SPK) Dam Project. In March 2007 the Chief Engineer, SPK Dam project (CE), sanctioned the estimate of these works for ₹ 12.44 crore. The SPK Dam Project Authority released (April 2007) an advance payment of ₹ 6.50 crore to the Corporation for early commencement of the work. As per release order, the balance payment was to be made in phased manner as per requirement of the works and the Corporation was to submit the requirement of funds in advance so that the funds could be released promptly for smooth execution of the works. The Corporation was also required to submit monthly utilization certificate for adjustment of the advances given.

⁵⁰ Rule 2.10 (b) (5) of the Punjab Financial Rules, Volume I.

Scrutiny of records (February 2009) revealed that the Financial Advisor and Chief Accounts Officer (FA&CAO), SPK Dam Project, without ascertaining the requirement of funds from the Corporation, withdrew ₹ 5.94 crore from the treasury on 24 March 2008 on the plea of anticipated demand from the Corporation and made a Demand Draft (DD) for the said amount in the name of the Corporation. But the DD was not issued as no demand for fund was received from the Corporation and utilisation certificate for the advance of ₹ 6.50 crore paid in April 2007 was also not received from the Corporation. Subsequently on the request of the Corporation, the Department released an amount of ₹ four crore and ₹ 1.69 crore to the Corporation on 19 March 2009 and 23 February 2010 respectively. The remaining amount of ₹ 24.16⁵¹ lakh was still lying with the department (May 2010).

Thus, imprudent action of the department in drawing funds of ₹ 5.94 crore from the treasury without any requirement for immediate disbursement and keeping the amount outside the Government account in the form of DD for a period of 12 to 23 months, defeated the spirit of the rules and resulted in loss of interest of ₹ 63.62 lakh⁵² to the State Government.

On being pointed out (February 2009), the CE stated (July 2009) that the DD for ₹ 5.94 crore was prepared in anticipation that the work might have been completed and the utilization certificate for the advance payment of ₹ 6.50 crore would be furnished by the Corporation. The reply is untenable as funds were drawn without getting the demand from the Corporation. Drawal of such a huge amount and keeping the same outside the Government account for long periods militate against the concept of financial prudence.

The matter was referred to the Government in March 2009 and July 2010; reply has not been received (November 2010).

**PUBLIC WORKS DEPARTMENT
(BUILDINGS AND ROADS BANCH)**

3.1.6 Excess payment

Excess payment of ₹ 60 lakh made to the contractors due to non-enforcement of price adjustment on account of fall in the price of bitumen

The Public Works Department (Buildings and Roads branch) award contracts for laying of bituminous surfaces on the roads in Punjab on 'through rate basis'. The contractor makes his own arrangement for procurement of bitumen from the public sector oil companies. Agreements executed between the department and the contractors provide for price adjustment i.e. addition or deduction from the contract price in the event of rise or fall in the cost of bitumen procured for the work. The price so required to be adjusted is the difference between the base price ruling on the date of receipt of tender and

⁵¹ ₹ 12,43,59,000 minus ₹ 12,19,42,866 = ₹ 24,16,134.

⁵² Calculated at the borrowing rate of interest of Government for the year 2008-09 i.e. 8.32 per cent.

the price mentioned in the actual invoice produced by the contractor from time to time. The elements of carriage to the site of work, 10 *per cent* contractor's profit and all taxes are included in arriving at the cost. The price adjustments on this account are required to be made by the Engineer-in-Charge at the time of making payment to the contractors.

Scrutiny of records (May 2010) of the Executive Engineer, Central Works Division No. I, Amritsar (EE) revealed that in respect of four works⁵³ executed during February 2009 and February 2010, though the price of bitumen at the time of execution of the works was lower than the base price, the Engineer-in-Charge had not made deductions on account of reduction in the price from the running/final bills of the contractors. Thus, non-enforcement of the price adjustment by the EE resulted in excess payment of ₹ 60 lakh to the contractors during February 2009 to February 2010.

When pointed (May 2010) by Audit, the EE replied that the works were in progress and difference in price of bitumen would be recovered from the final bills. The reply is not acceptable as the amount of price adjustment was to be recovered from the running bills. It was also noticed (May 2010) that recovery on account of price adjustment (₹ 14.71 lakh) was not made by the EE even when the final bill for the work was paid (February 2010) to the contractor in the case of one work⁵⁴.

The matter was referred to the Government in June 2010; reply has not been received (November 2010)

HOME AFFAIRS AND JUSTICE DEPARTMENT

3.1.7 Avoidable payment due to non-availing of rebates

Superintendents of Central Jail, Patiala and District Jail, Sangrur failed to avail the rebates on electricity consumption resulting in avoidable payment of ₹57.44 lakh

The Punjab State Electricity Board, (PSEB) decided (December 2002)⁵⁵ to provide single point bulk electricity supply to Government hospitals and certain other residential colonies with 11 KV metering facility under the tariff applicable for Domestic Supply. According to the circular dated 30 December 2002 of PSEB, under the 11 KV metering facility, rebates at the rate of 10 *per cent* for distribution losses and at three *per cent* for transformation losses were to be allowed on the recorded consumption of

⁵³ (1) Renewal coat/special repair on Amritsar Bhikhiwind Khemkaran road (SH 21) in Km 7 (.745), 8, 9, 10, 11 and 14=5.745 Kms (Group No.1). (2) In Km 15, 16, 17 (.250) 18, 19, 20, 21(.940) and 22 (.940)=7.130 Kms (Group-2). (3) In Km 28, 29, 30, 31, 32 and 33 (.900)=5900 Kms (Group No.3). (4) In Km 59, 60, 61, 62, 63, 64, 65(.350) and 66 (.580)=6930 Kms (Group No.4).

⁵⁴ Renewal coat/special repair on Amritsar Bhikhiwind Khemkaran road (SH 21) in Km 7 (745), 8, 9, 10, 11 & 14=5.745 Kms (Group No.1).

⁵⁵ Commercial Circular No. 66/2002 dated 30 December, 2002 of PSEB.

energy. Further on the billed amount of sale of power, a five *per cent* rebate was also to be given towards handling/service charges.

Scrutiny of records (September 2009) of the Superintendent, Central Jail, Patiala revealed that a single point 11 KV metering facility was availed by the Jail in November 2004. However, while paying the electricity bills for the period from November 2004 to March 2010, neither the Sub-Divisional Engineer of PSEB allowed the prescribed rebates nor the Jail Superintendent claimed the rebates at any stage.

Similarly, test check of records (November 2009) of the Superintendent, District Jail, Sangrur revealed that a single point 11 KV metering facility was availed by the Jail in February 2005. While PSEB allowed the prescribed rebate of 18 per cent upto April 2006, the rebate of 5 *per cent* towards handling/services charges was discontinued from the billing month of May 2006 without assigning any reason. Thereafter, upto March 2010 in some of the electricity consumption bills the rebate was either allowed at the rate of 13 *per cent* only or was not allowed at all. The Superintendent, District Jail, Sangrur did not take up the matter with PSEB authorities for allowing the rebates in accordance with the PSEB's circular.

Thus, failure of the Superintendents to avail the prescribed rebates on electricity consumption resulted in avoidable payment of ₹ 57.44 lakh⁵⁶ (*Appendices 3.1 and 3.2*) during the period mentioned above.

On being pointed out, the Superintendents stated (September 2009 and November 2009) that the matter would be taken up with the PSEB. Further reply was awaited (July 2010).

The matter was referred to the Government in December 2009 and January 2010; reply has not been received (November 2010).

AGRICULTURE DEPARTMENT

3.1.8 Undue favour to the contractors

Labour cess of ₹ 55.64 lakh was not deducted from the contractors' bills

The Punjab Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008 regulate the employment and conditions of service of the building and other construction workers and provides for their safety, health and welfare measures.

As a part of implementation of the above stated Rules, the Government vide notification dated 11 November 2008 decided that in case of building or other construction work that has been or is being carried out through contractors, all Government departments, corporations, and local authorities etc., shall deduct a cess at source at the rate of one *per cent* of the amount of cost approved as per the tender notification from the bills of the contractors at the time of making payments. The amount so deducted was to be remitted to the Punjab

⁵⁶ Patiala: ₹ 44.20 lakh and Sangrur: ₹ 13.24 lakh.

Construction Workers Welfare Board on or before 10th day of the succeeding month, after deducting the cost of collection, if any, not exceeding one per cent of the amount so collected.

Scrutiny of records (July 2009 to June 2010) revealed that cess amounting to ₹ 1.13 crore⁵⁷ at the rate of one *per cent* of the total payments of ₹ 113 crore made to the contractors during November 2008 to July 2009 was not deducted by 11 divisions from the contractors bills. Further, an amount of ₹ 57.41 lakh⁵⁸ was recovered at the instance of audit leaving ₹ 55.64 lakh⁵⁹ still recoverable. Thus, failure to deduct the cess of ₹ 55.64 lakh by seven divisions, amounted to undue favour to the contractors.

On this being pointed out, two divisions (Faridkot and Jalandhar) stated that deductions were started after receipt of the notification. Two⁶⁰ divisions stated that necessary action would be taken and three⁶¹ divisions stated that the matter was under consideration. The replies of Faridkot and Jalandhar divisions are not acceptable because recovery of the cess was to be made effective from the date of issue of the notification irrespective of the date of receipt of the notification.

The matter was referred to the Government in March 2010; reply has not been received (November 2010).

3.2 Failure of oversight/governance

Government has an obligation to improve the quality of the life of the people in the area of health, education, development and upgradation of infrastructure, public services etc. Audit noticed instances where the funds released by the Government for creating public assets remained unutilized/blocked or proved unfruitful/unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. Some important audit findings about failure of oversight/governance are as follows:

⁵⁷ Executive Engineers, Punjab Mandi Board, Bathinda: ₹ 12.51 lakh, Chandigarh (Civil): ₹ 3.43 lakh, Chandigarh (Electrical): ₹ 3.29 lakh, Faridkot: ₹ 2.85 lakh, Ferozepur: ₹ 0.99 lakh, Gurdaspur: ₹ 10.35 lakh, Jalandhar: ₹ 2.67 lakh, Ludhiana (Civil): ₹ 22.43 lakh, Ludhiana (Public Health): ₹ 6.33 lakh, Muktsar: ₹ 29.32 lakh and Sangrur: ₹ 18.88 lakh.

⁵⁸ Bathinda: ₹ 12.51 lakh, Chandigarh (Civil): ₹ 3.43 lakh, Chandigarh (Electrical): ₹ 3.29 lakh, Ludhiana (Civil): ₹ 22.43 lakh and Sangrur: ₹ 15.75 lakh.

⁵⁹ Faridkot: ₹ 2.85 lakh, Ferozepur: ₹ 0.99 lakh, Gurdaspur: ₹ 10.35 lakh, Jalandhar: ₹ 2.67 lakh, Muktsar: ₹ 29.32 lakh, Ludhiana (Public Health): ₹ 6.33 lakh and Sangrur: ₹ 3.13 lakh.

⁶⁰ Gurdaspur and Ferozepur.

⁶¹ Sangrur, Muktsar and Ludhiana.

IRRIGATION AND POWER DEPARTMENT

3.2.1 Loss due to defective designing of a canal syphon

Construction of a canal syphon designed on the basis of incorrect data led to loss of ₹2.79 crore

The Director, Kandi Canal Design Directorate, Chandigarh (Director) conveyed (November 2002) approval of the design for construction of a canal syphon at the junction of Nasrala Choe (a rivulet in which water flows seasonally) and Kandi Canal at RD 64.108 Km to the Superintending Engineer, Kandi Canal Circle, Hoshiarpur (SE). For the purpose of designing the syphon, the flood discharge at this point was estimated as 22284 cusecs by the Director on the basis of field data given by the SE. The discharge estimated by adopting the Dicken's formula was to be compared with the observed field data of flood discharge and to be reported to the Directorate for review of discharge calculation, if required. In addition, the guidelines of the Accelerated Irrigation Benefit Programme (AIBP) launched in 1996-97 by the Government of India for implementation of major and multipurpose irrigation projects provided that while preparing the detailed project reports relating to irrigation/flood control works, peak flood data of at least 25 years was to be taken into consideration. The Nasrala Choe recorded the highest flood discharge of 53620 cusecs on 26 September 1988.

The Chief Engineer Irrigation, Punjab (CE) accorded (January 2006) technical sanction for construction of the said canal syphon under the AIBP at an estimated cost of ₹ 2.55 crore (revised to ₹ 2.83 crore in August 2006). The Executive Engineer, Investigation (J) Division, Hoshiarpur (EE) allotted the work to a contractor in February 2006, which was completed in July 2006 at an aggregate cost of ₹ 2.79 crore.

Scrutiny of records (October 2008) of the EE and information collected subsequently (January 2009 and March 2009) revealed that despite the instructions of the Design Directorate and guidelines of AIBP, the SE/EE did not compare the estimated discharge of 22284 cusecs with the actual peak discharge data of 53620 cusecs of the choe. As a result, when the Choe recorded discharge of 45371 cusecs on 13 August 2008, the syphon was completely damaged resulting in loss of ₹ 2.79 crore. An inquiry committee set up under the chairmanship of Special Secretary Irrigation to investigate the issue inter-alia attributed (November 2008) the damage of syphon to the increase in velocity of water which in turn damaged the down stream protection works and eroded the bed material.

On being pointed out, the EE stated (February 2009) that the design of the syphon was approved by the Director, Design Directorate. The Director intimated (July 2009) that the flood discharge of the choe required for designing of the syphon as supplied by the SE was 16983 cusecs, which was again confirmed by the EE. In reply, the CE informed (May 2010) that for reconstruction of the damaged syphon, the design has been finalized by taking the discharge data of 54000 cusecs confirming the audit observation. Thus,

furnishing of incorrect data by the EE and SE and construction of the canal syphon designed on the basis of incorrect data resulted in loss of ₹ 2.79 crore.

The matter was referred to the Government in July 2010; reply has not been received (November 2010).

LOCAL GOVERNMENT DEPARTMENT

3.2.2 Blocking of funds

Release of funds to the Cantonment Boards without any demand resulted in blocking of funds of ₹ 2.42 crore

In December 2008, the Department of Finance, Government of Punjab, sanctioned release of ₹ 213.68 crore to the local bodies i.e. Municipal Corporations, Councils and Nagar Panchayats in the State for the purpose of developmental works.

Scrutiny of records (September 2009) in the office of Director, Local Government, Punjab, revealed that out of the total amount of ₹ 213.68 crore released, ₹ two crore each were released to the Chief Executive Officers of the Cantonment Boards at Ferozepur and Jalandhar between December 2008 and February 2009 without any demand. Further scrutiny disclosed that out of the total funds of ₹ four crore released, an expenditure of ₹ 87.17 lakh (Ferozepur) and ₹ 70.67 lakh (Jalandhar) only had been incurred till March 2010 and the balance amount of ₹ 2.42 crore remained unutilized with the Boards.

Thus, the release of ₹ four crore to the Cantonment boards, without any demand resulted in blocking of funds of ₹ 2.42 crore from February 2009 to March 2010.

The matter was referred to the Government in March 2010; reply has not been received (November 2010).

IRRIGATION AND POWER DEPARTMENT

3.2.3 Blocking of funds

Boundary pillars and distance marks costing ₹ 1.10 crore remained unused for the last four years

Financial Rules⁶² stipulate that purchases shall be made in the most economical manner and in accordance with definite requirement of the public service.

Scrutiny of records (November 2008) of the Executive Engineer (EE), Gurdaspur Division Upper Bari Doab Canal (UBDC), Gurdaspur revealed that the Chief Engineer, Canals, Department of Irrigation sanctioned (July 2005) the estimates for ₹ one crore (revised to ₹ 1.10 crore in February 2006) for

⁶² Rule 15.2 (b) of the Punjab Financial Rules Vol. I.

procurement of boundary pillars and distance marks⁶³ required for fixing along the channels of UBDC system with the provision that the material would be fixed departmentally. The EE procured 12,377 boundary pillars and 5,138 distance marks costing ₹ 1.10 crore. The EE intimated (March 2009) that after retaining 1328 boundary pillars and 668 distance marks with him, the remaining material was distributed (between April 2006 and August 2006) to three other divisions⁶⁴ of the circle. Whereas the EEs of these divisions intimated (March 2010 and August 2010) that neither any boundary pillars nor distance marks had been issued to the divisions through any indent by the EE, UBDC, Gurdaspur nor received by these divisions. However, some boundary pillars and distance marks had been dumped in the rest houses and they were not taken on stock.

In August 2007, the Superintending Engineer, Upper Bari Doab Canal Circle, Amritsar (SE) referring to his earlier instructions of October 2006 directed the EEs of the four divisions to execute the work immediately as per codal provisions. The EEs did not comply with the directions of the SE and the SE also did not pursue the matter after August 2007.

On being pointed out, the EEs⁶⁵ stated (August 2010) that instructions (October 2006) of the SE, UBDC circle, Amritsar were endorsed (November 2006) to all the Sub-Divisional Officers, but boundary pillars and distance marks had still not been fixed. The EE, UBDC Gurdaspur stated (August 2010) that the estimates for fixing of the boundary pillars and distance marks submitted (November 2006) to the Superintending Engineer were not sanctioned due to non-availability of funds. The reply is acceptance of audit finding.

Thus, lack of proper coordination between SE/EEs, and lack of concrete efforts on their part resulted not only in blocking of government funds of ₹ 1.10 crore for the last four years, but also exposed the material to the risk of theft and deterioration with the passage of time.

The matter was referred to the Government in July 2010; reply has not been received (November 2010).

⁶³ Boundary pillars and distance marks are used to prevent encroachment of the Government land and to know the exact location of various structures/exact length of the canal respectively.

⁶⁴

Sr No.	Name of division	Boundary Pillars	Distance Marks
1.	Jandiala Division UBDC	4088	1972
2.	Madhopur Division UBDC	2830	384
3.	Majitha Division UBDC	4131	2114
	Total	11049	4470

⁶⁵ EE, Jandiala UBDC Division, Amritsar; and EE, Majitha UBDC Division, Amritsar.

HEALTH AND FAMILY WELFARE DEPARTMENT

3.2.4 Inordinate delay in procurement of equipment

Inordinate delay of 10 years on the part of department to procure the medical equipment

The Employees State Insurance Corporation Act, 1948 aims to accomplish the task of protecting the employees against the hazards of sickness, maternity, disablement and death due to employment injury and to provide medical care to the insured persons and their families. Under the scheme, the expenditure on medical care is shared between the Employees State Insurance Corporation (ESIC) and the State Government in the ratio of 7:1.

Scrutiny of records (October 2006) in the Office of the Director Health Services (SI), Punjab, (Director) revealed that under the Action Plan 1998-99, ESIC accorded (January 2000) approval to purchase 42⁶⁶ numbers of essential equipment for seven ESI hospitals⁶⁷ in the State at an estimated cost of ₹ 2.17 crore and released (January 2001) ₹ 1.90 crore as its share in advance to the Director for the purpose. Tenders invited for purchase of the equipment in April 2000 and October 2000 were rejected by the Purchase Committee on the ground of failure of the participating firms to fulfil the terms and conditions such as furnishing of the registration certificate, balance sheet, details of the equipment supplied by the firm in the past etc.

Thereafter, the Director accorded (June 2001) approval for purchase of four⁶⁸ equipment as per specifications mentioned in the tenders of Punjab Health System Corporation (PHSC). The Government also granted approval to the department (October 2001) to procure the equipment through the Controller of Stores, Punjab (CoS) on the basis of specifications prescribed by PHSC. However, the purchase could not be effected during 2001-02 due to late release of funds in February by the Finance Department. Subsequently, during 2002-03 to 2006-07, tenders could not be finalized due to non-fulfilment of technical specifications and terms and conditions of the tenders such as furnishing of the registration certificate, balance sheet, details of the equipment supplied by the firm in the past etc. In 2007-08, when the tenders were in process (February 2008), it was decided in a meeting held between the Director General (ESI) and Chief Secretary, Punjab that equipment would be purchased at PHSC tenders because the firms did not participate in the tenders due to less quantity of purchase. However, the Purchase Committee observed that PHSC had floated tenders for hydraulic dental unit, whereas the requirement was for electronic dental unit and accordingly the committee did not give its consent to purchase the dental unit. The tender floated by the

⁶⁶ (1) Cardio Monitor with Defibrillator:7 (2) Dental Unit:7 (3) Pulse Oximeter:7 (4) Resuscitation equipment:7 (5) Semi Auto Analyzer :7 and (6) Ultra Sound Machine:7.

⁶⁷ Amritsar, Hoshiarpur, Jalandhar, Ludhiana, Mohali, Phagwara and Rajpura.

⁶⁸ (1) Emergency Resuscitation Kits (2) Pulse Oximeters (3) Chair Mounted Dental Units and (4) Ultra-Sound Machines.

department in 2009-10 for procurement of the dental unit was also rejected by the Director on the plea of higher rates quoted by the tenderers.

Thus, the department failed to procure the requisite equipment except a few⁶⁹ for up-gradation of the hospitals, even after a lapse of 10 years due to one or the other reasons.

On being pointed out, the Director stated (January 2010) that purchase of the dental unit and ultra sound machine could not be effected due to non-finalisation of the tenders and non-compliance of technical specifications by the firms and efforts were being made to purchase these items during 2010 on the basis of PHSC tender. But the fact remained that the department could neither evolve any set purchase system of its own nor did it adopt that of the PHSC. This resulted in inordinate delay in the purchase of various equipment and non-procurement of the dental units and ultra sound machines, in spite of the availability of funds and Government approval as early as in October 2001 to procure the equipment through the CoS with PHSC specifications.

The matter was referred to the Government in December 2009; reply has not been received (November 2010).

3.3 Persistent and pervasive irregularities

An irregularity is considered persistent if it occurs year after year. It is deemed pervasive when prevalent in the entire system. Recurrence of irregularity, despite being pointed out in earlier audits, is indicative of slackness on the part of the executive and lack of effective monitoring. This in turn encourages willful deviations from observance of rules/regulations and results in weakening of administrative structure. Some important audit findings of persistent irregularity is as under:

INDUSTRIES AND COMMERCE DEPARTMENT

3.3.1 Inadmissible payment of investment incentive

Payments of investment incentive of ₹ 2.64 crore to ineligible industrial units

With a view to attract industrial investment in the State, the Government of Punjab, introduced a package of incentives under the Punjab Industrial Incentive Codes 1992 (code 1992) and 1996 (code 1996) according to which new industrial units that started commercial production on or after 1 October 1992 and 1 April 1996 respectively in the specified areas were eligible for investment incentive at the rate of 30 *per cent* or 20 *per cent* of their fixed capital investment subject to the maximum of ₹ 50 lakh or

⁶⁹ Emergency Resuscitation Kits valuing ₹ 4.67 lakh were purchased in 2005-06. Cardiac Monitor with Defibrillator, Pulse Oxymeter and Semi auto analyzer valuing ₹ 21.33 lakh were purchased in 2008-09.

₹ 30 lakh depending upon the area in which the units were located. Few instances of payment of inadmissible investment incentive are given below:

(a) Rule 5.2 of the code 1996 provided that in respect of the industrial units which did not have their own land and building, incentive would be allowed, if they had lease/rent deed for land/building occupied by them for a period of ten years.

Incorrect payment of investment incentive (capital subsidy) made to units which neither had land in their name nor any lease deed executed in their favour, in contravention of the provisions of the industrial policy was pointed out in paragraph 3.1 (c) (i) of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1997. On examination of this paragraph, the Public Accounts Committee observed (March 2004) that the investment incentive had been given incorrectly and desired to know the person responsible for not scrutinizing the papers thoroughly before sanctioning the incentive.

Audit scrutinized (September and October 2009) records of 254 industrial units to which investment incentives were released during the year 2008-09 by the Director of Industries and Commerce, Punjab (Director). Audit scrutiny disclosed that investment incentives of ₹ 1.39 crore were released in February 2009 to 11 industrial units (*Appendix 3.3*), which had neither land and building in the name of the units nor had any lease deed in their favour for the prescribed period of 10 years. Thus, payment of investment incentives of ₹ 1.39 crore was made to ineligible industrial units.

On this being pointed out in January 2010, the Director stated (March and April 2010) that the land if brought into the stock and balance sheet of the unit could be considered the property of the firm. In respect of one case, the Director stated that the partners gave affidavit to the effect that they had transferred the land in the name of the unit and thus the land was sole property of the unit and the subsidy was granted on that basis. The reply is not acceptable because as per decision of the Hon'ble Supreme Court⁷⁰, "in the absence of an agreement to the contrary, property exclusively belonging to a person, on his entering into partnership with others, does not become a property of the partnership merely because it is used for the business of the partnership. Such property will become property of the partnership only if there is an agreement-express or implied-that the property was, under the agreement of the partnership, to be treated as the property of the partnership". In the 11 cases mentioned above, no agreements were executed by the partners. Even in the cases where affidavits were executed by the partners stating that the land stood transferred in the name of the units, the affidavits can not be considered as valid agreements unless the transfer of land is carried out by registering the transfer deed in favour of the unit. Hence, the payment of incentive to the 11 units was inadmissible.

⁷⁰ In the case of Arm Group Enterprises Limited Vs. Waladorf Restaurant and others {(2003) 6 Supreme Court cases 423}.

(b) As per Rules 3, 5 and 6 of the code 1996, only small scale industrial units were eligible for investment incentive. Rule 2.18 of the code 1996 defines small scale unit as an industrial unit falling within the definition of such unit as given by the Central Government and registered as such with the Department of Industries, Punjab. As per the Government of India, Ministry of Commerce and Industry (GoI) notification dated 24 December 1999, an industrial unit having plant and machinery worth ₹ one crore was to be treated as Small Scale Industry (SSI).

Scrutiny (October 2009) of records for the year 2008-09 of the Director revealed that an industrial unit⁷¹ in Amritsar falling in category 'A' area and another unit⁷² at Samana falling in category 'B' area had plant and machinery worth ₹ 1.57 crore and ₹ 2.67 crore respectively, which were higher than the prescribed limit of ₹ one crore for classifying the units as SSI. The units were erroneously registered as SSI on 12 October 2000 and 30 November 2000 respectively in violation of the instructions issued by GoI. With reference to this erroneous classification, both the units were allowed and paid maximum investment incentive of ₹ 80 lakh in February 2009 at the rate of 30/20 per cent of the fixed capital of ₹ 5.92 crore, which was inadmissible as the units were not SSI. Thus, failure to classify the units correctly resulted in inadmissible payment of investment incentive of ₹ 80 lakh to the two units.

On this being pointed out (October 2009), the Director did not furnish any reply.

(c) As per code 1992, commercial production means commencement of manufacture and sale of product for which the unit was set up. Scrutiny of records in the office of the Director of Industries, Punjab revealed (October 2009) that three⁷³ cold storage units were allowed investment incentive of ₹ 44.28 lakh in February 2009 on their fixed capital investment of ₹ 221.40 lakh, which was inadmissible as these units were not manufacturing/ production units and were only providing storage facilities for preserving the food articles. Thus, payment of incentive to these cold storage units was violative of the provisions of the industrial code and resulted in inadmissible payment of investment incentive of ₹ 44.28 lakh to the three industrial units.

On this being pointed out (October 2009), the department did not furnish any reply.

⁷¹ M/s Grover Knitters Pvt. Ltd. Amritsar.

⁷² M/s Shree Krishna Spintex Ltd. Samana.

⁷³ M/s Central Cold Storage, Nanaksar (Jalandhar): Rs 18.54 lakh, M/s Guru Nanak Cold Stores & General Mills, V&PO Bajwa Kalan (Jalandhar): Rs 15.42 lakh and M/s Prabhakar Cold Storage, Bela (Ropar): Rs 10.32 lakh.

The matter was referred to the Government in January, June and July 2010; replies have not been received (November 2010).

CHANDIGARH
The



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Pr. Accountant General (Audit), Punjab

Countersigned



NEW DELHI
The

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