

## CHAPTER III

### AUDIT OF TRANSACTIONS

Audit of transactions of the Government departments, their field formations as well as that of autonomous bodies brought out several instances of 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 the broad objective heads.

#### 3.1 Non-compliance with the rules

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

#### Road Construction and Rural Works Departments

##### 3.1.1 Loss due to non-disposal and short lifting of bitumen

**The Government suffered a loss of ₹ 77.48 lakh due to non-disposal and short lifting of bitumen.**

(A) Rule 276 of the Bihar Public Works Department Code requires an Assistant Engineer to submit to the Executive Engineer, a list of such stored items which have not been used for the last two years. The latter shall obtain the order of the Superintendent Engineer (SE) for the disposal of such material who (SE) shall, in turn, make every attempt to get this stock consumed by other Circles or their disposal through sale.

Test check (June 2010) of the records of Road Construction Division, Bhabhua revealed that 204.267 Metric Tonne (MT) Bitumen procured in 2003-04 under Capital outlay on Roads & Bridges (5054) and repair and maintenance head (3054) was lying unused in the store, open to the vagaries of nature ever since their procurement. Due to their improper custody, the bitumen spilled out and got mixed with earth and shrubs thus becoming unfit for use. It was, further observed, that no efforts were made by the Department to get the stored bitumen consumed on works. Damage of the stored bitumen resulted in loss of ₹ 72.94<sup>1</sup> lakh to the Government.

The EE stated (June 2010) that necessary guidance regarding the disposal had been sought from the higher authorities.

(B) The construction from Pasaraha Railway Station to Jhanjhara road (2.5 k.m.) under Mukhya Mantri Gram Sadak Yojna of the Rural Works

<sup>1</sup> Based on 2008 price of bitumen @ ₹ 35,710 per MT.

Department (RWD), Works Division, Khagaria was awarded (May 2007) to a contractor at ₹ 66.35 lakh for completion in six months by November 2007. The work was completed (December 2009) and a total sum of ₹ 64.32 lakh was paid (January 2010) to the contractor through 12 running account bills against the work done.

Test check (April 2010) of records of the Executive Engineer (EE), RWD, Khagaria revealed that 24.75 MT bitumen and 5.625 MT emulsion was required for the execution of the work. For this, the EE issued a supply order (November 2007) to Indian Oil Corporation (IOC), Patna. Further scrutiny revealed that 30.30 MT bitumen was shown as consumed in the work. However, the division furnished only 15.629 MT bitumen invoices to audit. The Indian Oil Corporation (IOC), Patna had also confirmed that only 15.629 MT bitumen was lifted by the contractor against the supply order of the work. This indicated that the contractor received inadmissible payments for 9.05 MT bitumen and 5.625 MT emulsion without actual lift and their utilisation in the said work. This also puts a question mark on the quality of the work executed.

On this being pointed out, the EE, RWD, Khagaria stated that perhaps the remaining challans were enclosed with files of other road works of the same contractor due to human error and would be shown to audit later. The reply was not acceptable since IOC, Patna had already confirmed to audit that only 15.629 MT bitumen was lifted against the reported usage of the 30.30 MT bitumen. This resulted in an inadmissible payment of ₹ 4.54 lakh<sup>2</sup> to contractor.

Thus, non-disposal of bitumen and excess payment against short lifting of bitumen in the above two cases resulted in a total loss of ₹ 77.48<sup>3</sup> lakh to the Government.

The matters were reported to Government (August 2011); the replies had not been received (November 2011).

## Water Resources Department

### 3.1.2 Loss to the Government

**The Government suffered losses of ₹ 2.89 crore due to department's failure in encashing bank guarantee within its validity period apart from acceptance of fake bank guarantees by the Divisions.**

A provision under Rule 172 (II) of the Bihar Public Works Departmental (BPWD) Code and terms and conditions of the Notice Inviting Tender (NIT) stipulate that for works costing more than ₹ one crore, a contractor/agency must submit a bank guarantee (BG) issued by a nationalised bank situated within the State. If a tenderer submit a BG from a bank outside the State, the same is required to be replaced by another BG issued by any nationalised bank situated within the State at the time of execution of the agreement. Further, the

<sup>2</sup> 80/100 grade bitumen 9.05 MT x @ ₹ 34854.13 /MT- Rate as of 03.02.2009= ₹ 3.15 lakh and Emulsion 5.625 MT x @ ₹ 24715.63/MT-Rate as of 16.06.2009= ₹ 1.39 lakh

<sup>3</sup> ₹ 72.94 lakh + ₹ 4.54 lakh = ₹ 77.48 lakh.

Government Decision No. 54 (January 1991) under Annexure A of the Bihar Public Works Department Code Vol. I prescribed compulsory verification by the department of all BGs submitted by contractors from the concerned banks through special messengers, before releasing payments to them. In addition, Clause 10 (B) (iii) of the Standard Bidding Document (SBD) provided for grant of plant and machinery advance to contractors only against the plant and machinery brought to site by them.

### 3.1.2.1 Loss due to expiry of bank guarantee

The Executive Engineer (EE), Flood Control Division (FCD), Mokama at Bakhtiarpur entered into an SBD agreement (June 2007) for ₹ 27.84 crore with M/s Vijeta Construction Pvt. Ltd., Ranchi for the construction of drainage and access road for the National Thermal Power Corporation (NTPC) plant at Barh. The work was to be completed in one year i.e. by May 2008.

Audit scrutiny (March 2011) of the above agreement revealed that in contravention of the aforesaid provision of the BPWD Code and terms and condition of the NIT, the EE accepted a BG<sup>4</sup> of ₹ 55.68 lakh issued by bank stationed outside the State viz. Allahabad Bank, Main Branch, Ranchi (Jharkhand) with validity upto 10 June 2009. Since the agency had executed merely 21 per cent of work valuing ₹ 5.98 crore<sup>5</sup> up to March 2009, the EE, FCD, Mokama rescinded the contract in April 2009. However, the EE in violation of Clause 3 (a) of SBD, retained the BG for 67 days after the contract was rescinded. Thereafter, on 8 June 2009 i.e. just 48 hours before the end of BG validity, it was sent to the issuing bank in Ranchi for its encashment. Since the BG was received only on 12 June 2009, the bank refused to encash it on the ground of expiry of its validity resulting in non-forfeiture of the security deposit of the defaulting contractor. No reason, whatsoever, was on record or given by the EE for withholding the BG for 67 days.

Thus, the late submission of the BG by the EE resulted in a loss of ₹ 55.68 lakh to the Government. No reply had been received from the Water Resources Department.

### 3.1.2.2 Loss due to fake bank guarantee

The Executive Engineer (EE), Saran Division, Chapra entered into an SBD agreement (February 2008) for the execution of a road work<sup>6</sup> with M/s Ram Pravesh Rai Estate Pvt. Ltd. at ₹ 17.42 crore for completion by May 2009. The contractor submitted nine BGs dated 7 February 2008 of Central Bank of India (CBI), Ambara Chowk Branch, Muzaffarpur for ₹ 3.15 crore against the performance security<sup>7</sup>, tools and plants advance<sup>8</sup> and mobilisation advance<sup>9</sup>

<sup>4</sup> BG. no. 021002/165/2007/ dt. 11.06.2007

<sup>5</sup> Vide 8th R/A bill, VR. No. 21 dt. 26.03.2009

<sup>6</sup> Raising, strengthening and construction of black top road on Magarpar Charaki from 0 to 16 km and Saran embankment from 20.151 km to 35.20 km.

<sup>7</sup> BG no. 58 dated 07.02.2008 - ₹ 54,10,000

<sup>8</sup> BG no. 59 dated 07.02.2008 - ₹ 27,10,100,

BG no. 60 dated 07.02.2008 - ₹ 30,10,100,

BG no. 61 dated 07.02.2008 - ₹ 30,10,100.

**Total ₹ 87,30,300**

<sup>9</sup> BG no. 62 dated 07.02.2008 - ₹ 35,00,000

BG no. 63 dated 07.02.2008 - ₹ 35,00,000

BG no. 64 dated 07.02.2008 - ₹ 35,00,000

BG no. 65 dated 07.02.2008 - ₹ 35,00,000

BG no. 66 dated 07.02.2008 - ₹ 34,20,139

**Total ₹ 174,20,139**

(MA). The BGs were valid for one year. Audit scrutiny (December 2010) revealed the following discrepancies:

- Acceptance of BGs for ₹ 3.15 crore, valid upto February 2009 was irregular as it did not cover the entire period of work to be completed by May 2009.
- Out of the total MA of ₹ 1.74 crore, ₹ 1.50 crore was irregularly released (February 2008) by the EE before receiving the required verification report (March 2008) of the BGs.
- Rupees 87.10 lakh released as tools and plants advance to the contractor was irregular and was not in conformity with the Clause 10 (B) (iii) of SBD, since this advance was sanctioned on the basis of the BGs provided by the contractor and not against the plant and machinery brought to the site.
- The contractor did not get the BGs for ₹ 3.15 crore revalidated despite reminders (November and December 2008) from the Division. Instead, he submitted a fresh BG<sup>10</sup> for ₹ 87.11 lakh only in January 2009. Since BGs for the remaining amount were not submitted by the contractor, the Division referred (July 2009) the previous BGs to the bank, for re-verification. In response, the issuing bank stated (September 2009) that all the BGs submitted in February 2008 were fake.
- Since the contractor had executed just 19 *per cent* of the works and had failed to provide fresh BGs, the work was rescinded by the EE after payment of ₹ 3.45 crore (March 2010). Though ₹ 3.70<sup>11</sup> crore was outstanding (March 2010) against the contractor, only ₹ 50 lakh was recovered against the advances from his bills, and BG of ₹ 87.11 lakh was forfeited and encashed by the Division. Thus ₹ 2.33 crore remained to be recovered from the contractor. Later, at the instance of Audit, an FIR was lodged (December, 2010) against the said contractor.

The Chief Engineer, Water Resources Department, Siwan stated (January 2011) that necessary directions were being issued to the EE, Saran Division for recovery of the outstanding amount as per the SBD's Clause. However, details of action taken against the contractor had not been received (June 2011).

The above facts revealed failure of the Divisional officers to encashment of BG within its validity period, irregular grant of advances, acceptance of fake BGs and non-verification of BGs. Consequently, the Divisions incurred a loss of ₹ 2.89<sup>12</sup> crore and the work in respect of Saran Division remained incomplete in spite of incurring an expenditure of ₹ 3.45 crore.

The matters were reported to the Government (May 2011), their replies were awaited (November 2011).

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<sup>10</sup> BG no 157/31 March 2009 for ₹ 87.11 lakh, Bank of Baroda, Main Branch, Patna; later re-validated upto 31 March 2010.

<sup>11</sup> Total advances: ₹ 174.20 lakh + ₹ 87.11 lakh + ₹ 108.69 lakh (interest)= ₹ 369.99 lakh or ₹ 3.70 crore.

<sup>12</sup> Case A: ₹ 55.68 lakh

Case B: ₹ 2.33 crore

**Total: ₹ 2.89 crore**

### 3.2 Audit against propriety/Excess/Wasteful/Infructuous expenditure

Authorisation of expenditure from public funds is 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, extra and infructuous expenditure, some of which are mentioned below:

#### Road Construction Department

##### 3.2.1 Irregular award of work and excess payment on price neutralisation

**Road works costing ₹ 21.53 crore were awarded to ineligible contractors which were rescinded resulting in extra liability of ₹ 7.46 crore and excess payment of ₹ 25 lakh on price neutralisation of bitumen at higher rates.**

The Enlistment of Contractors Rule, Bihar 2007 read with Annexure 'C' of the Bihar Public Works Department (BPWD) Code prescribes that all contracts costing more than ₹ 3.50 crore can be awarded only to a registered Class-1 A contractor of the Road Construction Department (RCD). Further, decision no. 112 of the BPWD Code (Annexure A) permits only those contractors to submit tenders who own the minimum essential prescribed machines<sup>13</sup>. Any officer ignoring these conditions while approving tenders would be held responsible for the same. In addition, Clause 4.5 B of Section 1 of the Standard Bidding Document (SBD) also requires the bidders to declare and demonstrate, for the review of the employer, the availability of the critical equipment<sup>14</sup> required to be deployed on the work.

(A) The Executive Engineer (EE) Shahabad Road Construction Division, Ara entered (December 2007) into an SBD Agreement for "widening and strengthening of Ara-Sinha road (km 0 to 16)" for ₹ 9.17 crore for completion in 18 months i.e. by June 2009.

Audit scrutiny (March 2011) of the bid documents revealed that at the time of award of the work, the contractor was not registered as 'A' class contractor with the RCD. This fact was mentioned in the comparative statement of the technical bids by the Divisional Accountant. In addition, the contractor did not

<sup>13</sup> Hot Mix Plants with electronic controls, paver finishers, front end loaders, tandem rollers, vibratory rollers, tar boilers, tipper trucks, type mounted tar boilers with bitumen sprayers and compressor machines.

<sup>14</sup> Motor Grader, Dozer, Front end loader, Smooth Wheeled Roller, Vibratory Roller, Fully Computerised Hot Mix Plant of minimum 80-100 TPH (turnage per hour) with electronic controls, Paver Finisher with electronic Sensor, Water Tanker, Bitumen sprayer, Tandem Roller, Concrete Mixer with integral Weigh Batching facility with maximum age of 5 years.

have the essential key plants and equipment<sup>15</sup> as required under Clause 4.5 (B) of Section 1 of SBD. Even the Hot Mix Plant (HMP) possessed by the contractor was of lower specification of 40-60 Turnage Per Hour (TPH) against 80-100 TPH required for work.

In spite of these deficiencies, the Departmental Tender Committee (DTC) decided (October 2007) to award the contract in favour of the said contractor in contravention of the decision no. 112 of the Government, BPWD Code. Thereafter, in September 2008, the Engineer-in-chief-cum-Additional Commissioner, RCD granted a registration certificate of RCD to the contractor about nine months after the award of the work (December 2007).

Audit scrutiny (March 2011) also revealed that the contractor did not complete even a single kilometre of the road up to the black top level, though payment of ₹ 2.67 crore (29 per cent) was made (June 2009) to him. The EE rescinded the agreement because of slow progress of work after forfeiting security deposits of ₹ 42.14 lakh. In January 2010, this residual work was transferred to the Bihar Rajya Pul Nirman Nigam Ltd. (BRPNN) at ₹ 9.58 crore. The BRPNN in turn executed a fresh agreement with another agency (M/s Maheshwar Kshtreshwari Construction Pvt. Ltd.) at ₹ 10.35 crore with the scheduled date of completion by March 2011. The work was still under progress and ₹ 7.06 crore (68 per cent) had been paid to the contractor as of July 2011.

Thus irregular award of the contract to an ineligible contractor resulted in consequential additional liability/extra cost to the tune of ₹ 3.43<sup>16</sup> crore.

**(B)** The Executive Engineer (EE) Shahabad Road Construction Division, Ara entered (February 2008) into an SBD agreement with a contractor for “widening and strengthening of Ara-Ekwana-Khaira-Sahar Road (km 19 to 35)” for ₹ 12.36 crore for completion in 18 months i.e. by August 2009.

Audit scrutiny revealed (March 2011) that the technical bid documents submitted by the contractor were completely blank and the fact was appropriately recorded in the comparative statement by the Superintending Engineer, Bhojpur Road Circle, Ara. Though, this unqualified bid document was submitted to the Chief Engineer, South Bihar Section, RCD, Bihar, Patna yet the DTC approved the award of work to this contractor and the EE, RC Division, Ara entered into an SBD agreement. This SBD agreement was, however, entered into without verifying the tools, plants and other machinery of the contractor as required under the BPWD Code and Clause 4.5 (B) (a) of Section 1 of SBD.

Even after the lapse of 22 months from the award of contract, the contractor had executed only 44 per cent of the work and was paid ₹ 6.18 crore. Due to the slow progress of the work, the EE rescinded (December 2009) the agreement after forfeiting ₹ 40.17 lakh. The remaining works were transferred (March 2010) to the BRPNN which in turn awarded the work to another agency (Raj Kumar Singh Raja Construction Pvt. Ltd.) at a cost of

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<sup>15</sup> Viz. fully computerised Hot Mix Plant of capacity 80-100 TPH (turnage per hour), tandem roller, motor grader, dozer, front end loader etc.

<sup>16</sup> Additional liability/extra cost = (₹ 10.35 crore - ₹ 9.17 crore) + ₹ 2.67 crore - ₹ 42.14 lakh (forfeited security) = ₹ 3.43 crore

₹ 10.62 crore, thereby committing the Government to an additional liability of ₹ 4.03<sup>17</sup> crore. Rupees 1.17 crore (11 per cent) had been paid to the contractor as of July 2011.

On this being pointed out (April 2011), the Special Secretary, Road Construction Department, Government of Bihar stated (June 2011) that it was not mandatory for the tender receiving authority to physically verify the prescribed machinery and the EE, after being satisfied by the information given by the bidder had recommended the technical bid for evaluation. He further stated that Decision no. 112 of Government in the PWD Code, was the instruction issued by the Engineer-in-Chief (EIC) of the Department and it was not applicable for works under SBD. He, however, agreed that the extra cost incurred to complete the works would be recovered from the contractor.

The reply of the Special Secretary is not relevant since in the first case (Ara-Sinha Road), the very award of the contract to an unregistered contractor was highly irregular. In the second case (Ara-Ekauna Sahar Path-Km 19 to 35) too, though the 'owning' of plants and equipment by the contractor was mandatory vide provisions of the BPWD Code, the work was irregularly awarded to the contractor even after the contractor had submitted blank technical bid documents. Hence, the contractor should have been disqualified at the technical bid stage itself. Instead, overlooking this serious deficiency, the Chief Engineer (CE) (South) irregularly qualified (technically) the contractor and obtained DTC approval for its award. Further the statement of the Special Secretary, RCD regarding Decision No. 112 was also factually incorrect since this decision was an integral part of the BPWD Code and therefore was mandatorily applicable on all works' contracts including those under SBD.

Thus, the irregular award of works to ineligible contractors resulted in an extra burden of ₹ 7.46<sup>18</sup> crore.

(C) As per Clause 10 CA and 10 CC of Standard Bidding Document (SBD), if after submission of the tender, the price of cement, steel, bitumen etc. incorporated in the works increases beyond the prices prevailing at the time of the last stipulated date of receipt of tenders (including extension, if any) for the work, the amount of the contract shall accordingly be varied and as such, the contractor would be paid the differential amount of increased price for the said material utilised in the work. The price adjustment for increase or decrease in the cost of bitumen shall be paid in accordance with the formula<sup>19</sup> prescribed in the SBD contract. This provision will be applied only

<sup>17</sup> ₹ 10.62 crore-(₹ 12.36 crore-₹ 6.18 crore)-₹ 40.17 lakh = ₹ 4.03 crore.

<sup>18</sup> ₹ 3.43 crore + ₹ 4.03 crore = ₹ 7.46 crore

<sup>19</sup> 
$$V_b = 0.85 \times P_b / 100 \times R \times \frac{(B_1 - B_0)}{B_0}$$

$V_b$  = Increase or decrease in the cost of work during the month under consideration due to changes in rates for bitumen.

$B_0$  = The official retail price of bitumen at the IOC depot at nearest centre on the day 28 days prior to date of opening of Bid.

$B_1$  = The official retail price of bitumen of IOC depot at nearest centre for the 15<sup>th</sup> day of the month under consideration.

$P_b$  = Percentage of bitumen component of the work.

$R$  = Total value of work

to those agreements which are running in the time schedule or for which time extension had been allowed by the competent authority.

- Test check of records of Road Construction Division, Jehanabad revealed (July 2010) that the contract for widening and strengthening of Babhana-Shakurabad road was awarded (June 2008) to a contractor for ₹ 5.56 crore for completion by June 2009. The division paid price neutralisation towards escalation of bitumen price by applying the formula prescribed in the contract. Scrutiny of calculations further revealed that the B<sub>0</sub> value i.e. the official retail price of bitumen at the nearest centre on the day 28 days prior to the date of opening of bid was ₹ 29856.98 but was incorrectly applied as ₹ 24964.12. Further the value of 'R' i.e. total value of the work taken into account was inflated by adding nine<sup>20</sup> per cent. This resulted in excess payment of ₹ 20.11 lakh (*Appendix-3.1*) towards price neutralisation of bitumen to the contractor.

The matter was also referred (May 2011) to the Government. The Special Secretary in reply stated (October 2011) that ₹ 17.49 lakh had been recovered from the 28<sup>th</sup> running on-account bill of the contractor. He further added that the value of 'R' applied in the formula is the agreed value of work.

The reply of the Special Secretary was not acceptable as the price neutralisation as recorded in the Standard Bid Document (SBD) agreement was to be given on the cost of work and not on the agreed value of work. Thus allowing the agreed value of work instead of BOQ value of work was quite irregular and inadmissible. However, no action has so far been taken to recover balance amount of ₹ 2.61 lakh from contractors.

- Test-check of records (February 2011) of Road Construction Division, Kishanganj revealed that the work of widening and strengthening of Kishanganj-Taibpur-Thakurganj-Galgalia (KTTG Part-II) road was awarded (5 February 2008) to a contractor at ₹ 10.85 crore, for completion in one year (4 February 2009). The work was completed and a total amount of ₹ 10.74 crore was paid to the contractor through 12 on-account bills. The scrutiny of calculation of formula for price neutralisation revealed that B<sub>1</sub> value i.e. official retail price of bitumen at the nearest centre on the 15<sup>th</sup> day of the month under consideration was incorrectly applied and price neutralisation was paid for ₹ 48.80 lakh against the admissible amount of ₹ 26.40 lakh. This resulted in excess payment of ₹ 22.40 lakh (*Appendix-3.2*).

The Special Secretary, RCD replied (October 2011) that the value of B<sub>1</sub> had been applied as per data received from IOC, Patna. However, neither any documentary evidence was furnished to the audit nor any action was taken against the officials concerned.

Due to incorrect application of price neutralisation clause of SBD agreements, excess payment of ₹ 25.01 lakh<sup>21</sup> was made to the contractors.

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<sup>20</sup> The work was awarded to the contractor at nine per cent above the BOQ.

<sup>21</sup> ₹ 2.61 lakh + ₹ 22.40 lakh = ₹ 25.01 lakh



**3.2.2 Execution of road works with lower specifications****Execution of road works with lower specifications rendered the work costing ₹ 2.79 crore substandard.**

Based on the recommendations of I.I.T. Roorkee, Secretary, Road Construction Department (RCD), Bihar, Patna accorded (February 2009) administrative approval (AA) for ₹ 12.23 crore for 'improvement of riding quality of pavement (IRQP) work<sup>22</sup>' of National Highway (NH) 30. Keeping in view the heavy traffic load on the road, the technical specifications provided for crust thickness was 115mm bituminous work i.e. 75 mm dense graded bituminous macadam (DBM) and 40 mm bituminous concrete (BC). The technical sanction had, however, not been accorded as of July 2011.

Audit scrutiny of records of NH West-Division, Patna (October 2010) revealed that after the administrative approval (AA) of the works, the Chief Engineer, NH, Bihar, Patna, for preparation of Bill of Quantity (BOQ) of the work, directed (February 2009) the Executive Engineer to reduce the crust thickness of 75 mm, by utilising 50 mm bituminous macadam (BM) in place of 75 mm DBM and 25 mm semi dense bituminous concrete (SDBC) in place of 40 mm BC without assigning any reason for it. The BOQ were accordingly prepared, approved and tenders invited (February 2009) in two parts viz. (a) for work in km 150 to 153 and 157(600m) to 159 and (b) for km 160 to 166 with 50 mm BM and 25 mm SDBC. The work in km 160 to 166 awarded (June 2009) to an agency for ₹ 3.73 crore was completed (March 2010) and final payment was made (August 2010) for ₹ 3.36 crore.

The re-tender for the work in km 150 to 153 and 157 (600 metre) to 159 was awarded (October 2009) to M/s Amraha Construction Private Ltd. for ₹ 3.40 crore. However, during the monthly review meeting of the department, the Secretary, RCD directed the CE, NH Wing (November 2009) to execute the work as per provisions of the AA, keeping in view the traffic volume on the road and to avoid its early damage. Consequently, this tender was also cancelled (January 2010). Thereafter, based on the AA, the work was awarded (March 2010) to an agency (M/s Umesh Kumar and Company) for ₹ 5.47 crore. Payment of ₹ 4.73 crore was made to the agency upto the sixth on-account bill (July 2011).

Audit scrutiny revealed that work on the same road in km 160 to 166 was executed with crust thickness of 75 mm using 50 mm BM and 25 mm SDBC while in km 150 to 153 and 157 (600 m) to 159, it was executed with that of 115 mm with 75 mm DBM and 40 mm BC. As seen from the Secretary RCD's instruction in view of the traffic volume on this road, the same crust thickness of 115mm designed to prevent early deterioration was required to be maintained all along this road. Thus, CE's decision to reduce the crust thickness specification in disregard to recommendations of IIT, Roorkee and specification of AA was not only injudicious but fraught with the risk of early deterioration of the road in km 160 to 166 of NH-30 costing to ₹ 2.79 crore (*Appendix-3.3*).

<sup>22</sup> In km 150 to 153, 157 (600 m) to 166 and hard shoulder drainage and hume pipe culverts in different kms between 150 to 166 km

The matter was reported to the Government (April 2011). The Special Secretary, RCD, Bihar, Patna stated (May 2011) that the specification was reduced only to limit the expenditure of the State Government as the Ministry was not reimbursing the amount spent by the State Government on NHs.

The reply of the Special Secretary, RCD, Bihar was not acceptable as the Secretary RCD had himself earlier observed that execution of this work with lower specifications might cause early damage to the road and had ordered restoration of the original specifications made in AA. Further, keeping in view the expert recommendations of IIT, Roorkee, the heavy traffic load on this road and to prevent its early damage, there was no justification for execution of the work with lower specifications in a part of the road. Thus, the execution of work with lower specification in km 160 to 166 of NH- 30 led to substandard work of ₹ 2.79 crore.

### 3.2.3 Sub-standard execution of road works

**Non-adherence to the Ministry of Road, Transport and Highways specifications led to execution of sub-standard road work costing ₹ 1.22 crore.**

In order to improve the Dharhara-Chandi Path (0 km to 6.75 km) under the Rashtriya Sam Vikas Yojana, the Executive Engineer (EE), Shahabad Road Division, Ara entered (May 2007) into an agreement with an agency for executing works estimated to cost ₹ 2.49<sup>23</sup> crore with completion by May 2008. The works were to be executed as per the specifications fixed by the Ministry of Road, Transport and Highways (MORTH) Government of India. As per Clause 506.5 of MORTH specifications, the contractor was required to execute the final surfacing i.e. semi dense bituminous concrete (SDBC) over the built-up spray grouting (BUSG) within a maximum period of 48 hours.

Further, Clause 17 of the Notice Inviting Tenders (NIT), being the part of the agreement, required the contractor to maintain and rectify defects of the work up to three years after completion of the work. The work was completed in March 2010, after availing time extension and the Division paid ₹ 1.87 crore as per the final bill (March 2010), against which ₹ 1.22 crore was incurred on road works.

Audit scrutiny (March 2011) of the work execution records revealed that while the BUSG item for 5154.55 m<sup>2</sup> in the first and second km was executed in June 2007, this was covered by SDBC only in December 2007. Further, the BUSG for 11864.50 m<sup>2</sup> in the third to seventh km was executed in April 2008 and the same was covered by SDBC only in December 2008. The above facts revealed a delay of five to eight months in covering the BUSG with the final bituminous surface, which was in contravention of the MORTH specifications.

Audit scrutiny further revealed that as against the actual requirement of 83.13 MT bitumen, the contractor had used 56.96 MT bitumen resulting in less consumption of 26.17 MT bitumen, consequently resulted into execution of sub-standard work. Non-adherence to the MORTH specifications resulted in

<sup>23</sup> Road work: ₹ 140.09 lakh, RCC Culvert: ₹ 3.93 lakh, RCC Box Culvert: ₹ 11.51 lakh and HL Bridge: ₹ 93.79 lakh.

execution of sub-standard road work of ₹ 1.22 crore and its premature damage to the road as revealed by the Executive Engineer's (EE) Report in November 2008 and March 2010. A third party quality check requisitioned by the EE and conducted by MSV International, Inc (October 2008) also confirmed less consumption of bitumen on the road work. Further, after just five months of completion of the work (March 2010), the Sub-division Officer, Koilwar, asked the Junior Engineer, Koilwar, to prepare a fresh estimate for its repairs and maintenance, in spite of a valid defect liability period till March 2013. Repairs of the road only after five months indicated that the construction executed earlier was substandard.

The Special Secretary, RCD in his reply (October 2011) stated that the work of SDBC was not done from May to October 2008 due to heavy rain and also cited practical problems in execution of SDBC works over BUSG within 48 hours. He further added that the contractor had re-executed the works on the stretches cited by MSV International as per directions and specifications. As such, there was no substandard execution of work. He further added that due to plying of over loaded wet sand trucks, the road crust got damaged. Resultingly, it was not possible to enforce defect liability on the contractor in such adverse conditions.

The reply of the Special Secretary that the road got damaged due to 'plying of over loaded trucks' was not acceptable because of the following reasons: (i) It is a cover up to the substandard execution of work since heavy loaded sand trucks had been plying on this road ever since the mining of sand had started from the Koelwar ghat. (ii) The SDBC work was required to be executed within a maximum of 48 hours of BUSG execution as per the MORTH specification, citing incessant rains as the cause for delays in covering the BUSG was also not acceptable as the delays ranged between five and eight months and sufficient anticipatory action should have been taken by the Division. (iii) The report of the third party quality check was also in itself an admission of the sub-standard work, though, it was repaired only to limited stretches. (iv) No documentary evidence viz. measurement book was produced in support of department's contention that proper rectification had been done on the stretches as objected to by MSV International. Thus, absolving the contractor of his responsibilities against defect liability on the plea of adverse conditions was irregular as this could have saved and served the interest of the Government.

Thus, non-adherence to the Ministry of Road, Transport and Highways specifications led to execution of sub-standard road work of ₹ 1.22 crore.

#### **3.2.4 Irregular award of contract and infructuous expenditure on road works**

##### **Award of a contract to an ineligible contractor resulted in infructuous expenditure of ₹ 1.42 crore.**

A contract for improving the riding quality of the Hajipur – Muzaffarpur Road under National Highway (NH-77) was awarded (March 2009) by the Executive Engineer, NH Division No. 2 (EE), Muzaffarpur on the basis of a single tender. The value of the contract was ₹ 6.89 crore and the period of completion was eight months (October 2009). Scrutiny (July 2010) of records

of the EE, NH Division No. 2, Muzaffarpur revealed the following irregularities in the award of the contract:

- The Notice Inviting Tender (NIT) required the bidders to own a fully computerized Hot Mix Plant (HMP) of required specifications and a quality testing laboratory. The bidders were also required to submit work experience certificates for the last three years, details of bank credit facilities available to them, sales tax clearance certificates and a character certificate. Though the bidder did not fulfill these requirements, the Chief Engineer, NH Wing, Road Construction Department (RCD), Bihar, Patna irregularly declared the technical bid of the contractor 'successful'. Thereafter, the Departmental Tender Committee (DTC) approved the contract in favour of the said contractor.
- The Performance Bank Guarantee (BG) submitted by the contractor for ₹ 16.50 lakh, was valid only up to August 2009 i.e. two months short of the contractual period (October 2009). However the EE did not take any steps to get the same extended upto the completion period. This lapse amounted to an undue favour to the contractor.
- As the contractor had completed merely 10.6 per cent of the work up to September 2009, the EE rescinded (September 2009) the work and ordered forfeiture of the security deposits of the contractor. However, in December 2009, the Engineer-in-Chief (EIC), RCD, Patna stayed this rescinding order and ordered revival of the contract till completion of 'profile corrective course' and execution of semi-dense bituminous concrete (SDBC) in the badly damaged stretches by the contractor. Further, the EIC irregularly sanctioned ₹ 27 lakh as Mobilisation Advance (MA) after eight months (January 2010) of commencement of work and also allowed ₹ 13.41 lakh as Secured Advance (SA) against bitumen challans. The action of the EIC was in violation of Clause 10B (ii) of Standard Bidding Documents (SBD) which limited the period of grant of MA to one month from the work order. But no approval of the DTC, the original sanctioning authority, was sought for.
- In spite of providing these facilities, the contractor could not show any progress in the execution of work, and accordingly, the contract was finally closed (May 2010) by EE after a total payment of ₹ 1.42 crore to the contractor. The 'limited work' was also not completed by the contractor as no SDBC work was carried out by him in the stipulated badly damaged stretches.
- Even the work executed proved infructuous as the contractor could not complete even a single kilometre of motorable road owing to their non completion upto black top level with Bituminous Macadam (BM) and SDBC works. In spite of incurring an expenditure of ₹ 1.42 crore, no improvement in riding quality was achieved.

Thus the award of work to an ineligible single bidder, revocation of the rescinding order, grant of MA after the rescinding of the work, release of BG in spite of pending recoveries were irregular.

On being reported (June 2011), the Special Secretary, RCD, Government of Bihar replied (September 2011) that the bidder had submitted the papers of ownership of HMP, paver finisher, bitumen boiler etc. as per the requirement in the technical bid. Based on this, the technical bid evaluation committee headed by the CE, NH, Bihar, Patna declared the technical bid successful. Subsequently the DTC approved the financial bid of tenderer and the work was accordingly awarded. He further stated that since the road was to be handed over to National Highways Authority of India for four laning purposes, the reviving of rescinded contract was done in work interest to minimise the suffering of masses at large. Also, the MA of ₹ 27 lakh had been recovered from the contractor. Hence, the expenditure incurred so far had been fruitful.

The reply of the Special Secretary was not acceptable as the contractor did not own the HMP and other equipment and was to procure the same on 'hire' basis. This fact was duly noted in the comparative statement (CS) of technical bid itself. Even the column of plant and machinery in the check list prepared, signed and recommended by the EE was blank. Despite this the EE recommended the CS in public interest to higher authorities in favour of the contractor. Thus the work was 'knowingly' awarded to an ineligible contractor. The above actions of the departmental officers resulted in infructuous expenditure of ₹ 1.42 crore on the incomplete works.

### **Road Construction and Rural Works Departments**

#### **3.2.5 Creation of additional liability due to non-recovery of risk and cost amount**

**Rescission of two contracts after invoking the risk and cost clause without actual recovery led to an additional liability of ₹ 9.43 crore besides non-deposit of forfeited security deposits amounting to ₹ 8.38 crore under 27 contracts.**

Clause 3 of the F<sub>2</sub> agreement empowers the Executive Engineer (EE) either to forfeit the security deposit (SD) of the contractor or to employ labour and material to carry out the balance work, debiting the cost as if it has been carried out by the contractor or to execute fresh contracts for the incomplete work at the cost of the contractor. This Clause specifically mentions that the EE should adopt any of the above measures so as to safeguard the interest of the Government in the best possible manner. Similarly, Clause 3 of SBD provides that upon rescission of a contract, the earnest money deposits, SDs and performance guarantees shall be forfeited.

Further, Clause 14 of the SBD provides that in case of cancellation of a contract, the incomplete work shall be carried out at the risk and cost of the contractor. Any excess expenditure incurred or to be incurred by Government in completing the works or excess loss or damages suffered by the Government shall be recovered from the moneys due to the contractor on any account or from the contractor himself in accordance with the provisions of the contract.

During the period from April to July 2011, audit scrutinised the issue of rescinding of contracts in the Road Construction Department and Rural Works

Department. A total of 33 contracts rescinded during 2008-2011 and valued at ₹ 187.90 crore were analysed which revealed the following deficiencies:

### 3.2.5.1 Non-imposition of penalty

Two contracts executed by two<sup>24</sup> Divisions valued at ₹ 5.47 crore were rescinded after execution of works of ₹ 1.87 crore owing to slow and tardy progress of works. The EEs of these Divisions in violation of Clause 3 of F<sub>2</sub> agreement neither invoked the risk and cost clause of the agreement nor did they forfeit the SD of ₹ 9.36 lakh available with them (*Appendix 3.4A*).

### 3.2.5.2 Non-deposit of forfeited amount

In 27 contracts valued at ₹ 143.23 crore, which were rescinded invoking the risk and cost clause, the EICs/EEs were required to forfeit the SD amount and remit the same into the treasury. However, the EICs/EEs only issued orders for forfeiture of the SDs amounting to ₹ 8.38 crore, but did not remit this forfeited amount into the treasury as of June 2011. The action by the EICs/EEs resulted in irregular accounting of receipts of ₹ 8.38 crore (*Appendix 3.4 B*). In reply, EE, RCD, Sheikhpura stated (December 2011) that as the matter was subjudice, SD could not be forfeited and remitted into treasury.

### 3.2.5.3 Non-recovery of liability

In two rescinded contracts<sup>25</sup> against a balance work of ₹ 7.92 crore, fresh contracts were entered into for ₹ 17.34 crore. The EEs, in these two cases determined the liability at ₹ 2.88 crore only against the actual additional expenditure of ₹ 9.43 crore. Against this, SDs of ₹ 98.79 lakh were forfeited. The balance determined liability of ₹ 1.89 crore was not recovered from the contractors as of June 2011 by the EEs (*Appendix 3.4 C*).

The matter was reported to the Government (July 2011), their reply had not been received (November 2011).

## Water Resources Department

### 3.2.6 Extra payment due to irregular cancellation of tenders

**Irregular cancellation of a brick soling tender led to extra payment of ₹ 2.69 crore.**

The Government of Bihar vide Resolution No. 3451(s) dated 12 March 2008 notified all works departments that contracts valuing more than ₹ two crore must be concluded in the Standard Bidding Document (SBD) format.

Test check of records (February 2011) of the Chief Engineer (CE), Water Resources Department (WRD), Valmikinagar and information collected (April 2011) from the office of the Executive Engineer (EE), Champaran

<sup>24</sup> RCD Sheikhpura (2F<sub>2</sub>/07-08) and RCD Supaul (65F<sub>2</sub>/08-09)  
<sup>25</sup> RCD Khagaria (01SBD/07-08) and RCD Begusarai (01SBD/07-08)

Division, Motihari, revealed that the EE, floated (April 2008) a tender in four groups for brick soling atop the Champaran embankment from 20 mile 41 chain to 83 mile. As per the Notice Inviting Tenders (NIT), the participating bidders were required to be registered with any State Government's works department or to possess similar nature work experience. The NIT also mentioned that the agreement was to be executed in Bihar Public Works Department Form No. PWD F-2. Since the estimated value of the work was ₹ 14.77 crore and as required, the contract were not concluded in the SBD format, the Departmental Tender Committee (DTC) cancelled (July 2008) the tenders.

Thereafter, tenders (NIT/02-08-09) were again invited (July 2008) by the EE in four groups for the same value. However, the DTC cancelled (November 2008) this tender, this time on the grounds that the bidders did not have the work experience. Tenders (NIT/04-08-09) were again re-invited (December 2008) by splitting the same work into 13 groups. Since the Schedule of Rates (SOR) was revised in December 2008, the total value of the contracts was revised to ₹ 16.54 crore. Based on the bids received, the works were awarded to nine contractors at a total contract value of ₹ 17.67 crore.

Audit analysis of the bids received in response to the second and third NITs revealed that the bidding contractors for all the four groups were registered first class contractors under the works departments, who fulfilled the work experience criteria. There was also no adverse comment up to the Chief Engineer level during the technical evaluation of the bids. Consequently, the rejection of the bids received during the second tendering on the grounds of non-fulfilling the work experience criteria by the DTC was not justified as in the third tendering, the DTC awarded the major chunk of the work (eight out of 13 groups) to the same four previously disqualified contractors (*Appendix 3.5*).

On this being pointed out, the CE, WRD replied (February 2011) that the DTC cancelled the tenders on the ground of non-fulfilling of tender conditions. The reply was not acceptable because the bids received in the second tender were rejected by the DTC for not fulfilling the work experience condition. However this rejection was not correct since the bids received were technically qualified by the CE and the bidders had the required work experience. Consequently, the cancellation of the bids received by the DTC on technical grounds was irregular. Further, in the third tendering, the work of eight out of the 13 groups was awarded to the same four technically disqualified contractors. A total payment of ₹ 17.46 crore was made (March 2010) for the works, resulting in avoidable extra payment of ₹ 2.69<sup>26</sup> crore from the original estimate of ₹ 14.77 crore

The matter was reported to Government (May 2011), their reply had not been received (November 2011).

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<sup>26</sup> ₹ 17.46 crore (Final Payment) - ₹ 14.77 crore (Original BOQ).

## Health Department

### 3.2.7 Extra expenditure due to purchase of medical equipment on higher rate

#### **Violation of purchase rules by the Principal/Superintendents of Medical College/Hospitals resulted in extra expenditure of ₹ 2.67 crore.**

Rule 131(J) of the Bihar Finance (Amendment) Rules, 2005 (Rules) requires that all purchases made should be transparent, competitive and fair so as to secure best value for money. For purchasing high value plant, machinery etc. of a complex and technical nature, bids were to be obtained in two parts viz. (a) technical bid containing all technical details along with commercial terms and conditions and (b) financial bid, indicating prices for the items mentioned in the technical bid. The technical bids were to be opened first for its evaluation by a competent committee/authority. Thereafter, only the financial bids of technically qualified bidders were to be opened for financial evaluation and ranking before award of the contract. Further, Rule 131R (xiv) *ibid* required contracts to be ordinarily awarded to the lowest bidders.

Audit scrutiny (May 2010 and March 2011) of the records of three<sup>27</sup> units revealed that two-part tenders were invited<sup>28</sup> for procurement of 27 medical equipment and machines. Based on the recommendations of the Purchase Committees/Technical Committees of the college and hospitals, the Principal/Superintendents awarded contracts to bidders other than the lowest ones. Such awards of contracts were sought to be justified on the grounds viz. “the particular brands had wide installation base with reports of sturdy duty and satisfactory results”, “very useful to patients and for research work” and “installed and running satisfactorily in other medical colleges and were of good quality”.

Purchase of the above machines at a cost of ₹ 5.05 crore ignoring the lowest technically accepted offers of ₹ 2.38 crore resulted in unjustified extra expenditure of ₹ 2.67 crore (*Appendix-3.6*).

On this being pointed out, the Superintendent, DMCH, Darbhanga stated (May 2010) that the purchases at higher rates were made on the basis of specifications and quality of machines. The Principal, Darbhanga Medical College stated (January 2011) that the purchases made at higher rate were approved by the Purchase Committee on the recommendations of the Heads of the concerned departments being experts in the fields. The Superintendent, JNMCH, Bhagalpur stated (March 2011) that the machines, being dangerous, were purchased with due care.

The above replies were not acceptable as these purchases violated the principles of the two-part bidding process wherein all technically qualified

<sup>27</sup> Principal Darbhanga Medical College(DMC), Darbhanga ; Superintendent Darbhanga Medical College Hospital(DMCH), Darbhanga and Superintendent Jawaharlal Nehru Medical College (JNMCH), Bhagalpur

<sup>28</sup> April and October 2007, May 2008 and May and June 2009



bidders were treated at par and the contract awarded to the lowest bidder. Though, in comparative statement of the bids, it was noticed that the specification of the articles were the same as for the lowest bidders, the non award of contract to the lowest bidders and consequential violation of Purchase Rules by the Principals of MCs and Superintendent of DMCH, resulted in extra expenditure of ₹ 2.67 crore.

The matter was reported to Government (April 2011), the reply is awaited (November 2011).

### Public Health Engineering Department

#### 3.2.8 Irregular sanction and infructuous expenditure

**Public Health Engineering Department in violation of the Ministry of Rural Development guidelines sanctioned ₹ 50.35 crore to implement an inappropriate Scheme. Expenditure of ₹ 19.76 crore incurred so far on this scheme also proved to be infructuous.**

Roof Top Harvesting (RTH) was a water conservation scheme under the sustainability component of the Accelerated Rural Water Supply Programme (ARWSP), Ministry of Rural Development (MRD), Government of India (GOI). As per the MRD guidelines, the RTH scheme was feasible in areas having rainfall of considerable intensity, spread over the larger part of the year i.e. for Himalayan areas, Northeastern States, islands of Andaman & Nicobar, Lakshadweep and southern parts of Kerala and Tamil Nadu. As per MRD recommendations, Bihar was included in the sub-humid Satluj-Ganga zone for which the recommended water harvesting measures were ponds, check dams, gully plugging, contour bunding and not the RTH. This scheme was also an ideal solution in areas where there was inadequate ground water supply and surface water sources were either lacking or insignificant. The MRD guidelines also required the implementing Departments to conduct a techno-feasibility study before any scheme was approved for implementation.

Audit scrutiny revealed that during 2006-07 to 2010-11, the Public Health Engineering Department (PHED), Government of Bihar, in violation of the MRD guidelines, sanctioned 3215 Roof Top Harvesting structures in 23 districts<sup>29</sup> at a total cost of ₹ 50.35 crore. The above sanctions were accorded by the Government without conducting the techno-feasibility study. This cost was to be shared on a 75:25 basis by GOI and the State Government up to 2008-09 and 100 per cent by GOI thereafter. An amount of ₹ 19.76 crore was spent on 1070 completed and 2145 incomplete structures till March 2011.

Principal Secretary, PHED in his reply stated (December 2011) that adoption of Rain Water Harvesting (RWH) structure had been the integral part of National Rural Drinking Water Programme (NRDWP) (erstwhile ARWSP) since the inception of Rajiv Gandhi National Drinking Water Mission (RGNDWM) in 1988, which was being funded by the Ministry of Drinking

<sup>29</sup> Arwal, Auragabad, Banka, Begusarai, Bhagalpur, Bhojpur, Buxar, Gaya, Jamui, Jehanabad, Kaimur, Katihar, Khagaria, Lakhisarai, Munger, Nalanda, Nawada, Patna, Rohtas, Samastipur, Saran, Sheikhpura and Vaishali.

Water and Sanitation across the country and presently, the NRDWP was supporting all states in adopting RWH in all areas under the sustainability component with 100 *per cent* grant-in-aid. He further added that all the concerned Executive Engineers had been directed to make the non-functional structures functional within one month and submit report.

The reply of the Principal Secretary was not acceptable since the audit comment is specifically on implementation of the non-feasible RTH scheme and not the RWH measures. The clearance of the RTH scheme by the SLSCC was itself irregular and contrary to MRD guidelines which recommended RTH structures only in defined areas having copious rain fall through out the year.

Thus, implementation of the inappropriate RTH scheme and incurring of an expenditure of ₹ 19.76 crore on completed/incomplete structures by the PHED in the States was irregular.

### **3.3 Irregular/Avoidable/Unadjusted expenditure**

An expenditure is deemed as irregular if there is a deviation, wilful or otherwise, from the rules and norms prescribed by a competent authority, while incurring the same since this is indicative of lack of effective monitoring by the executive. This, in turn, encourages wilful deviations from observance of rules/regulations leading to avoidable/unjustified expenditure. A few cases of such irregularities are discussed below:

#### **Public Health Engineering Department**

##### **3.3.1 Avoidable expenditure due to payment of surcharge**

##### **Non-installation of capacitor banks and shunt capacitors led to an avoidable expenditure of ₹ 1.37 crore in the Bihar Rajya Jal Parishad.**

Para 6.23 of the Extraordinary Gazette (December 2007), Government of Bihar required all High Tension (HT) consumers to maintain an average power factor (PF) of 90 *per cent* or above. In case of any variation, the consumer was either liable to pay surcharge or receive incentives as specified by the Bihar Electricity Regulatory Commission (Commission). This condition was also included in the HT agreement (Clause 4 for PF) executed between consumers and Bihar State Electricity Board (BSEB). The Commission's Tariff Order for 2008-09 stipulated the surcharge rates<sup>30</sup>. In order to maintain the average PF, electrical equipment were required to be fitted with power storage systems such as capacitor banks and shunt capacitors.

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<sup>30</sup> (i) For each fall of 0.01 in PF up to 0.80 = Surcharge of one per cent on demand and energy charge. (ii) For each fall of 0.01 in PF below 0.80 = Surcharge of 1.5 (one and half) per cent on demand and energy charge.

Scrutiny of the records of four<sup>31</sup> divisions of Bihar Rajya Jal Parshad (BRJP) revealed (August-September 2010) that BRJP (a HT consumer) did not maintain the average PF during April 2008 to March 2011 due to the non-installation of capacitor banks and shunt capacitors. Consequently, BRJP paid an amount of ₹ 1.37 crore in 208 billed cases as surcharge to the BSEB as of March 2011 (*Appendix-3.7*). Specific action to maintain the average PF and to prevent the recurring loss had still not been taken (May 2011). Thus the non-installation of capacitor banks and shunt capacitors by BRJP resulted in avoidable expenditure of ₹ 1.37 crore as surcharge for fall in PF.

In reply, the Chief Engineer, BRJP stated (May 2011) many old pumps were not equipped with capacitor bank which caused loss in power factor during operation. He further stated that an agency had been engaged to conduct energy audit of drainage pumping stations. Subsequent to the receipt of its report and recommendations, suitable measures would be adopted. This fact was also corroborated (September 2011) by the Principal Secretary, PHED.

Thus, non-installation of capacitor banks and shunt capacitors led to an avoidable expenditure of ₹ 1.37 crore to the Bihar Rajya Jal Parishad.

**Building Construction, Environment and Forest, Minor Water Resources, Public Health Engineering, Road Construction, Rural Works and Water Resources Departments**

**3.3.2 Unadjusted advances**

**Non-adherence to codal provisions by Divisional Officers resulted in non-adjustment/non-recovery of temporary advances of ₹ 67.38 crore in seven Departments<sup>32</sup>.**

Rule 300 of the Bihar Treasury Code, Volume-I stipulates that 'no money should be withdrawn from the treasury unless it is required for immediate payment. It is not permissible to draw advances in anticipation of demands from the treasury either for the execution of works, the completion of which is likely to take a considerable time, or to prevent the lapse of appropriations'. Further, Note below Rule 300 mentions that if under special circumstances, money is drawn in advance under the orders of the competent authority, the unspent balance of the amount so drawn should be refunded to the treasury at the earliest possible opportunity and in any case, before the end of the financial year in which the amount was drawn. In addition, Rule 100 of the Bihar Public Works Account Code stipulates that accounts of temporary advances given for payments against passed vouchers should be closed as soon as possible.

<sup>31</sup> Division No. 1, Saidpur, Patna; Division No. 2, Beur, Patna; Division No. 5, Pahari, Patna; Works Division, Patna

<sup>32</sup> Building Construction, Environment and Forest, Minor Water Resources, Public Health Engineering, Road Construction, Rural Works and Water Resources Department

Test check (April 2010 to May 2011) of records of seven selected departments involving 101 divisions revealed that ₹ 67.38 crore were outstanding as temporary advances against 382 divisional officials for periods ranging from one to 43 years. Of these, 307 officials had been transferred to other divisions, 53 had retired and 22 had expired during this period (*Appendix-3.8*).

Non-adjustment/non-recovery of advances from the concerned officials by the divisions was indicative of negligence and non-adherence to the above codal provisions. The act of relieving the transferred officials without adjustment/recovery of outstanding advances was a serious lapse on the part of concerned Divisional Officers. This led to the accumulation of ₹ 67.38 crore as unadjusted temporary advances in the various departments. While the chances of recovery of ₹ 12.38 crore from the retired officials and the families of the deceased officials was remote, the possibility of some of these advances being misappropriated by the concerned officials could not be ruled out.

In reply, the EEs stated that detailed investigations and correspondence were being made for recovery of the outstanding advances.

The matter was reported to Government (June 2011), their reply had not been received (November 2011).

## Water Resources Department

### 3.3.3 Irregular expenditure

**Inadmissible provision for the compaction of earth on a work where earthwork was being executed by Rajasthani tractors resulted in irregular payment of ₹ 1.43 crore to the contractor.**

The Government order (December 2008) stipulated that in all agreements involving the execution of earthwork and its compaction using Rajasthani tractors, no provision of rates for compaction was to be made.

Test check of records of the Waterways Division, Bihar Sharif revealed (January 2011) that the works of raising and strengthening (R/S) of two Zamindari Bandhs (ZBs) from NH-31 (Sakraul Village) to Jamsari of river Goithwa (both banks) and from village Rajpur Kotouna to Kulte Ziar of Sakri river (both banks) under Nalanda district were awarded<sup>33</sup> (November 2009) to a contractor for ₹ 8.27 crore and ₹ 5.31 crore respectively with a stipulation for completion within 18 months i.e. by September 2011.

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<sup>33</sup> Agreement No. 1F<sub>2</sub>/2009-10 dated 04.01.2010 for the work of "Raising and strengthening of Zamindari Bandh from NH-31 to Jamsari of river Goithwa"(both banks) under Nalanda district and Agreement No. 2F<sub>2</sub>/2009-10 dated 04.01.2010 for Raising and Strengthening of Zamindari Bandh from village Rajpur-Kotouna to Kulte Ziar of river Sakri under Nalanda district (From km 11.40 to Km 24.00 of left bank and Km 17.10 to Km 22.94 Km of Right bank)

Audit scrutiny of the records of the aforesaid works disclosed that in contravention of the above Government order, the item of 'compaction of earth' at the rate of ₹ 17.60/m<sup>3</sup> was included in both the agreements despite the earth-works being done by Rajasthani tractors. This provision was included in spite of the noting of the Executive Engineer (EE) in the Comparative Statement of the financial bid of the latter work (i.e. R/S of ZB from village Rajpur Kotouna to Kulte Ziar) in which he categorically stated (August 2009) that the extra provision for compaction of the earthwork being done by the Rajasthani tractors in the Bill of Quantity (BOQ) was redundant, unjustified and required deletion from the agreements. However, the work was awarded by the department to the contractor without any revision in the BOQ and without deletion of provision of compaction from the agreements.

Thereafter, in November 2010, Engineer-in-Chief (EIC), WRD (North) directed the Chief Engineer (CE), WRD, Patna to delete the item of 'compaction' from the agreements as its provision and inclusion therein on works in which earthworks were being done by Rajasthani tractors, was not admissible. He further instructed to suitably amend the estimate. Even then, the item of compaction was not deleted from the agreements, which resulted in irregular payments of ₹ 1.43 crore<sup>34</sup>.

On this being pointed out, the EE stated (January 2011) that the item of compaction was provided in the estimate as per the Government order. The reply was not acceptable and contrary to the Government order (December 2008). Though the violation was specifically brought to notice of the CE by the EE in case of second work, the CE did not take any steps to get this item deleted before the award of the contracts. This resulted in irregular payment of ₹ 1.43 crore to the contractor.

The matter was reported to Government (May 2011), the reply is awaited (November 2011).

## Health Department

### 3.3.4 Irregular purchase of medicines

**Irregularities in the purchase of medicines totalled ₹ 4.21 crore on account of irregular grant of advances of ₹ 3.26 crore including non-delivery of medicines of ₹ 58.54 lakh, avoidable creation of liability of ₹ 70.90 lakh and excess payment of ₹ 24.05 lakh on local purchase.**

The Health Department, Government of Bihar Resolution (July 2006), designated the District Health Societies (DHS) as the procurement agencies for the purchase of medicines, surgical and other clinical materials for the requirement of Civil Surgeons (CS). The concerned DHS were to procure their medical requirements from vendors approved by the State Health Society (SHS), Patna as per the approved terms and conditions. All payments were to

<sup>34</sup> 535454 m<sup>3</sup> @ ₹ 17.60/m<sup>3</sup> in Ag. No. 1F<sub>2</sub>/2009-10 and  
278563.45 m<sup>3</sup> @ ₹ 17.60/m<sup>3</sup> in Ag. No. 2F<sub>2</sub>/2009-10  
814017.45 m<sup>3</sup> @ ₹ 17.60/m<sup>3</sup> = ₹ 143.27 lakh or ₹ 1.43 crore

be initially borne by the DHS and subsequently recouped from the CS through bank drafts.

Scrutiny of records of 12 CS<sup>35</sup>, eight DHS<sup>36</sup> and of the Sadar Hospital, Motihari, for the period 2008-11 revealed the following irregularities:

**3.3.4.1 Unauthorised advance**

The DHS supply agreements required all medicines to be purchased on “cash and carry” basis and prohibited advance payment to the suppliers. In violation of this provision, CS Rohtas and DHSs, Madhubani and Begusarai advanced ₹ 3.26 crore to different firms for purchase of medicines during 2008-11. Out of these advances, medicines valued at ₹ 2.67 crore only were supplied, resulting in non-supply of medicine for ₹ 58.54 lakh (August 2011) (*Appendix-3.9*).

In reply, the CS Rohtas and DHSs Madhubani and Begusarai stated (August 2011) that the advance payments were made in light of Department’s resolution (July 2006) and the issue of non-supply of medicines has been taken up with the suppliers for immediate supply of medicine otherwise necessary legal action would be initiated.

The replies were not acceptable as no advance payment to the supplies was to be made under ‘cash and carry’ provision for purchase of medicines.

This resulted in the irregular grant of advances of ₹ 3.26 crore and extending undue benefit to the suppliers at the risk and cost to the Government, apart from non-delivery of medicines for ₹ 58.54 lakh.

**3.3.4.2 Injudicious surrender of funds and unauthorised purchases of medicine**

It was the responsibility of the CS to ensure that the purchase of medicines was within the budget allotment. Rule 13 (2) of Bihar Financial Rule (BFR) clearly stated that all charges incurred must be paid and drawn at once and under no circumstances may be allowed to be paid from the grant of next year. If possible, expenditure should be postponed till the approval of the next budget, but on no account the charges actually incurred in one year be carried over and paid from the grant of ensuing year.

Scrutiny (June 2010) of the records of CS, Vaishali, revealed that out of a budget allotment of ₹ 1.81<sup>37</sup> crore for the year 2009-10 for the purchase of medicines, ₹ 11.23 lakh was surrendered (March 2010), effectively reducing the allotment to ₹ 1.70 crore. However, the CS, Vaishali placed supply orders for medicines costing ₹ 1.91 crore through DHS, Vaishali. Further, in

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<sup>35</sup> Ara, Buxar, Bhabhua, Begusarai, Bhagalpur, Khagaria, Madhubani, Motihari, Muzaffarpur, Munger, Rohtas and Vaishali.

<sup>36</sup> Bhabhua, Buxar, Begusarai, Khagaria, Madhubani, Muzaffarpur, Munger and Rohtas.

<sup>37</sup> PHC ₹ 1.15 crore; Sadar Hospital: ₹ 24.00 lakh; Referral Hospital: ₹ 21.36 lakh; Additional PHC: ₹ 20.50 lakh

violation of the Health Department Resolution wherein only DHSs were authorised for purchases of medicines, CS, Vaishali placed direct purchase orders for medicines valued at ₹ 49.90 lakh. This resulted in total purchases of ₹ 2.41 crore during the year and created liability of ₹ 70.90 lakh apart from irregular expenditure.

On this being pointed out (June 2010), no reply was given by the department (November 2011).

#### **3.3.4.3 Excess payment on Local Purchase**

Health Department Resolution (July 2006) stipulated that for the purchase of medicine included in the SHS approved list, there was no need to invite tenders or to summon any meeting of the District Purchase Committee (DPC). Audit scrutiny (January 2011) of records of CS, Bhagalpur revealed that during 2008-10, in 20 cases, medicines included in the SHS approved list and valued at ₹ 74.01 lakh were purchased locally on the recommendation of the DPC at rates higher than those approved by the SHS. These purchases, in violation of the prescribed procedure, resulted in excess payment of ₹ 24.05 lakh. (*Appendix-3.10*).

In reply, CS, Bhagalpur stated (January 2011) that local purchases were made due to delayed supply of medicines by the approved firm and were purchased from firms at rates approved by the DPC. The reply was not acceptable since such purchases were not authorised and there was no documentary evidence to suggest that approved firms were given the supply orders. As such, the question of timely supply of medicine did not arise. Procurement of medicines at rates higher than the SHS approved rates and its approval by an unauthorised DPC resulted in an excess expenditure of ₹ 24.05 lakh.

From the facts discussed above in three cases, it is evident that during 2008-11, irregularities in the purchase of medicines totalled ₹ 4.21 crore on account of unauthorised advances of ₹ 3.26 crore including non-delivery of medicines of ₹ 58.54 lakh, unauthorised purchases of ₹ 49.90 lakh, avoidable creation of liability of ₹ 70.90 lakh and excess payment of ₹ 24.05 lakh on local purchase were committed.

The matter was reported to Government (May 2011), the reply had not been received (November 2011).

**Public Health Engineering, Minor Water Resources, Road Construction, Water Resources and Rural Works Departments**

**3.3.5 Creation of liability due to non-deduction of labour cess in five departments**

**Non-deduction of labour cess led to the creation of liability amounting to ₹ 8.42 crore.**

The Government vide an Extraordinary Gazette notification (865 dated 18 February 2008) authorised the enforcement of labour cess as envisaged by the Ministry of Labour, Government of India notifications of September 1996 titled 'the Building and Other Construction Workers' Welfare Cess Act, 1996'. The Act required the deduction of labour cess at the rate of one *per cent* of the cost of construction incurred by an employer. Accordingly, all government departments and public sector undertakings engaged in construction works were required to deduct labour cess at the prescribed rate from the bills of the agencies and remit the same to the Building and Other Construction Workers Welfare Board (Welfare Board) through a crossed demand draft within 30 days of such deductions.

Scrutiny of 51 divisions of five departments<sup>38</sup> revealed (August 2010 to May 2011) that in 1057 works, a total payment of ₹ 862.63 crore was made to different agencies/contractors during 2008-09 to 2010-11. However, ₹ 8.63 crore, which was one *per cent* of the construction cost was not deducted from the bills of the respective agencies/contractors resulting in non-remittance of an equivalent amount to the Welfare Board as required under the Act. This resulted in the creation of liability amounting to ₹ 8.63 crore (*Appendix-3.11*) by the aforesaid departments to the Labour Resources Department, Government of Bihar.

On this being pointed out, the concerned Executive Engineers replied (August 2010 to May 2011) that the labour cess could not be deducted as there was no provision for the same in the contract; lack of awareness of this fact and non-communication to divisions by their respective departments. These replies were not acceptable since the enforcement of the labour cess was authorised though an Extraordinary Gazette notification and was mandatory on the part of the Executive Engineers to include the provision of labour cess in the works contract and deduct this cess.

Though the matter was reported to the Government in May 2011, only the replies from Road Construction Department (RCD) (June 2011) and Public Health Engineering Department (October 2011) were received as of October 2011.

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<sup>38</sup> Public Health Engineering – 11 divisions  
Water Resources – 7 divisions  
Road Construction – 9 divisions  
Minor Water Resources – 1 division and  
Rural Works – 23 divisions



- The Joint Secretary, Road Construction Department while citing the Chief Secretary's (CS) circular BCWC/01/2009/035 dated 5<sup>th</sup> January 2010 accepted that the labour cess was deductible in the State from 2007-08 and necessary action had been taken to deposit an equivalent amount of one *per cent* of the total work executed during 2007-10.
- The Principal Secretary, PHED, while annexing the aforesaid CS's circular letter stated (October 2011) that while ₹ 20.83 lakh had been deducted from an agency (IVRCL, Hyderabad) during the period 2010-11 under PH Division, Hajipur and the labour cess from contractors' bill would be deducted from 2011-12 under PH Division, Darbhanga. However, no mention was made for the other nine test-checked PH divisions. Also, there was no indication how labour cess could be deducted from the contractors against works executed during 2007-08 to 2010-11.

Thus, non-deduction of labour cess led to the creation of liability amounting to ₹ 8.42<sup>39</sup> crore.

### Human Resources Development Department (Higher Education)

#### 3.3.6 Misutilisation of funds

**The Vice Chancellors of seven State Universities irregularly utilised ₹ 17.23 crore of fees collected from students for the payment of salaries of its staff which affected the infrastructural development and other facilities in the respective colleges.**

The Chancellor of the Universities instructed (December 2006) that all student fees<sup>40</sup> collected by the colleges must be transferred and credited to a designated account in the respective universities. These accounts were to be operated by the Registrars and Finance Officers of the universities for infrastructural improvements, development of playgrounds, maintenance of laboratories and libraries and improving facilities for staff and students in the colleges.

Audit scrutiny (May 2010 and June 2011) of the relevant records for the period December 2006 to March 2011 in seven universities revealed that in violation of the aforesaid directions, these universities diverted ₹ 17.23<sup>41</sup> crore from the designated account and utilised the money for payment of salaries of the staff.

<sup>39</sup> ₹ 862.57 lakh – ₹ 20.83 lakh = ₹ 841.74 lakh or ₹ 8.42 crore.

<sup>40</sup> Tuition fee, admission fee, library fee, sports fee, college development fee etc.

<sup>41</sup> B.N. Mandal University, Madhepura, ₹ 1.17 crore, B.R. Ambedkar University, Muzaffarpur, ₹ 7.00 crore, Tilka Manjhi Bhagalpur University (TMBU), Bhagalpur, ₹ 2.24 crore, Lalit Narayan Mithila University (LNMU), Darbhanga, ₹ 0.95 crore, Veer Kunwar Singh University, Ara, ₹ 0.71 crore, Jayprakash University, Chapra, ₹ 4.02 crore and Magadh University, Bodh Gaya, ₹ 1.14 crore.

The Registrars, Tilka Manjhi Bhagalpur University (July 2010) and Lalit Narayan Mithila University, Darbhanga (May 2011) accepted the audit finding and stated that these diversions were made due to non-receipt of adequate grants from the Government against the demand raised by the Universities for payment of salaries. These replies were not acceptable since the funds realised from collection of fees were earmarked for infrastructural development of the colleges and were not to be utilised for any other purpose.

Thus, irregular diversion of student fees amounting to ₹ 17.23 crore by the seven state universities for payment of salaries of staff resulted in the corresponding non-availability of funds for the infrastructural development and other facilities in the respective colleges. These amounts had not been recouped as of May 2011.

The matter was reported to Government (June 2011), their reply had not been received (November 2011).

### **3.3.7 Irregular payment to University employees**

**An amount of ₹ 4.18 crore was irregularly paid to University employees on account of advance increments, assured career progression benefits and interim relief.**

#### **3.3.7.1 Irregular payments of advance increments**

Subsequent to the recommendations (August 2001 and July 2002) of the University Grants Commission (UGC), the Human Resources Development Department, Government of Bihar issued (May 2010) directives to all the Universities of the State to allow two advance increments to those teachers who had acquired Ph.D degrees while in service before January 1996 but had not got promotional benefits against it. The two advance increments were to be made effective from 27 July 1998, though the financial benefits were to accrue from the date of the Resolution i.e. 18 May 2010.

Audit scrutiny (June 2010) in nine<sup>42</sup> universities revealed that in contravention of the above directions, three<sup>43</sup> universities provided two advance increments with effect from 1 January 1996 instead from 18 May 2010 to 247 teachers who had acquired Ph.D. degrees. This resulted in irregular payment of ₹ 1.90 crore (*Appendix-3.12*).

On this being pointed out, the Finance Officer, Kameshwar Singh Sanskrit University, Darbhanga assured (May 2011) the recovery of irregular payment. However, communication regarding the recovery was awaited (November 2011). No reply had, however been received from Jai Prakash University, Chapra as of November 2011.

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<sup>42</sup> B.N. Mandal University, Madhepura; B.R. Ambedkar Bihar University; Muzaffarpur; J.P. University, Chapra; Kameshwar Singh Sanskrit University Darbhanga; Lalit Narayan Mithila University, Darbhanga; Magadh University, Bodh Gaya; Patna University, Patna; Tilkamanjhi Bhagalpur University, Bhagalpur and Veer Kunwar Singh University, Ara.

<sup>43</sup> Kameshwar Singh Sanskrit University, Darbhanga; B.N. Mandal University, Madhepura; J.P. University, Chapra.

### 3.3.7.2 Irregular implementation of Assured Career Progression scheme

The Finance Department, Government of Bihar promulgated (June 2003) the Bihar State Employees' Conditions of Service, Assured Career Progression Scheme (ACP) Rules, 2003 which was effective from August 2005. Section 1 (2) of the Notification clearly prohibited its applicability to the employees of autonomous institutions, assisted partially or fully, by the State Government. Further, Section 25 (ii) of the Bihar Agriculture Universities Act, 1987 prohibited Universities colleges or its institution from increasing the pay and allowances of its staff without prior sanction of the Government.

Test check (December 2010) of records of the Rajendra Agriculture University (RAU) Bihar, Pusa (Samastipur) Headquarters and its six<sup>44</sup> subsidiary units revealed that the Board of Management, RAU irregularly adopted (April 2004) this (June 2003) Notification and extended the ACP benefits to its employees though this was not at all applicable to the employees of RAU, being an autonomous institution. This resulted in an unauthorised payment of ₹ 1.89 crore to 385 members of the staff in the RAU headquarters and six test-checked units (*Appendix-3.13*).

The Controller, RAU stated (July 2011) that the ACP scheme had been implemented with the approval of the Board of Management and did not need any approval of the State Government.

The reply was not acceptable since the benefits of this scheme were not extendable to the employees of the autonomous institutions. The grant of this benefit was clear violation of the Notification dated June 2003 itself and also in contravention of the provisions of the Bihar Agriculture Universities Act.

### 3.3.7.3 Irregular payment of Interim relief

Provisions of para 12 of the State Government's order October 2004 regarding pay revision of University employees, provide stoppage of payment of interim relief (IR) with effect from April 1997 (being the date of accrual of the financial benefits of pay revision) to employees opting to draw pay and allowances in the pre-revised scale. Subsequently, at the time of arrear payment, the IR paid to the staff on the old pay scale was to be adjusted and payment of IR was to be stopped from the date of implementation of the revised pay scale.

Scrutiny (May-June 2011) of records of three<sup>45</sup> Universities revealed the following irregularities:

<sup>44</sup> (i) Bihar Veterinary College, Patna (BVC), (ii) Regional Research Station (RRS), Agwanpur, (iii) Bihar Agriculture College (BAC), Sabaur, (iv) Agriculture Research Institute (ARI), Patna, (v) Soil Survey and Land Use Planning Scheme, Sabaur and (vi) Sugarcane Research Institute (SRI), Pusa.

<sup>45</sup> Patna University, Patna; B.N. Mandal University, Madhepura and Magadh University, Bodh Gaya.

- In Patna University (PU), IR amounting to ₹ 4.83 lakh was recoverable (June 2011) in 24<sup>46</sup> cases for periods ranging from one to 11 years. Further, in 16 cases, the University permitted drawal in the pre-revised scales, resulting in irregular payment of ₹ 19.84 lakh till December 2010. Thereafter, their pay scales were revised (January 2011) and payments of IR were stopped. Five members of the staff, to whom IR amounting ₹ 4.13 lakh was paid for the period from April 1997 to March 2005, had retired, while in one case, IR amounting to ₹ 0.86 lakh for the period from April 1997 to March 2009 was not adjusted against the arrears. No recovery had been effected as of date (June 2011). Thus, the total payment of ₹ 29.67 lakh to 46 employees of PU was irregular and recoverable from them (*Appendix-3.14*).
- In B.N. Mandal University, Madhepura, a total sum of ₹ five lakh was paid as IR during the period April 1997 to February 2011 to four Class III employees of Purnea College, Purnea who had opted for the revised scale. These payments were irregular and recoverable from them (*Appendix-3.15*).
- In Magadh University, Bodh Gaya, ₹ 4.38 lakh paid (during the period April 1997 to February 2011) as IR to four Class III employees, who had opted in the pre-revised scale, was irregular and recoverable. The payment of IR to these four employees was still continuing (*Appendix-3.16*).

Thus, ₹ 39.04 lakh was irregularly paid as IR to the employees of the aforementioned three Universities and was recoverable. Registrar, PU accepted (July 2011) the audit contention and assured that the recovery would be effected from the arrear bills of the employees and from the retirement dues of retired employees. The Registrars of the other two Universities did not give any specific replies.

The above facts revealed that ₹ 4.18 crore was irregularly paid by six Universities to their staff on account of incentive increment (₹ 1.90 crore), assured career progression benefits (₹ 1.89 crore) and interim relief (₹ 39.05 lakh) which was recoverable from them.

The matter was reported to Government (July 2011), their reply had not been received (November 2011).

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<sup>46</sup> 14 cases: ₹ 1.50 lakh for 2005-06; 8 cases: ₹ 1.92 lakh for 2002-06; 1 case: ₹ 0.27 lakh for 2002-07; 1 case: ₹ 1.14 lakh for 1997-2008.

## Rural Development Department

### 3.3.8 Irregular retention of State Plan funds

**An amount of ₹ 42.78 crore drawn from the treasury without any immediate requirement was irregularly retained in savings bank accounts in violation of the provisions of the Bihar Treasury Code.**

Rule 13 of the Bihar Financial Rules (BFR), read with the Note below Rule 300 of the Bihar Treasury Code, stipulates that no money should be drawn from the treasury unless required for immediate payment. Further, the Note below Rule 13 of BFR instructs that money should not be drawn from the treasury simply on the ground that the competent authority had sanctioned the charge. Provisions of above rules prohibit drawal of money from the treasury and its deposit in any account only to avoid lapse of allotment. If under special circumstances, money was drawn in advance under orders of the competent authority, the unspent balance of the amount so drawn was to be refunded to the treasury at the earliest possible opportunity and in any case, before the close of financial year in which the amount was drawn.

In order to provide the necessary infrastructure<sup>47</sup> in 137 newly created blocks, the Rural Development Department (RDD), Government of Bihar sanctioned (February 2008) ₹ 713.54 crore. The works were to be executed by the Building Construction Divisions of the concerned districts and the funds were to be released in a phased<sup>48</sup> manner during 2007-11. While issuing the order, the Principal Secretary (PS), RDD in violation of the above codal provisions, instructed the concerned Deputy Development Commissioners (DDC) of the respective District Rural Development Agencies (DRDA) to withdraw the released amounts and deposit the same in separate savings bank accounts. The Government in the meantime nominated (March 2008) three<sup>49</sup> consultant architects to provide technical assistance and to monitor the work.

Test check (January to April 2011) of records of nine DRDAs<sup>50</sup> revealed that ₹ 43.48 crore for 17 blocks were released in instalments to the DRDAs during February 2008 to March 2009. Of this, ₹ 69.46 lakh was spent on soil testing and Detail Project Reports (DPR) while no amount was spent on construction activity.

Thus, an amount of ₹ 42.78 crore (*Appendix-3.17*) was withdrawn between February 2008 to March 2009 without any immediate requirement and kept in saving bank accounts just to avoid its lapse in gross violation of Bihar Financial Rules and Bihar Treasury Code. Further, the order of the PS, RDD,

<sup>47</sup> Block campus, buildings and /Circle Office, Inspection room, residential buildings and development of complex.

<sup>48</sup> 40 per cent as first instalment, next 40 per cent after the expenditure of 60 per cent of amount provided and the rest 20 per cent after the expenditure of 60 per cent of total amount provided.

<sup>49</sup> Kapoor and Associates, Sen and Lal Consultant Pvt. Ltd. and Chowdhary Kumar Consultant Pvt. Ltd.

<sup>50</sup> Munger, Motihari (East Champaran), Samastipur, Chhapra (Saran), Nawada, Nalanda, Sasaram, Sheohar and Sitamarhi.

directing the concerned DDC to withdraw the whole amount and to deposit the same in separate savings bank accounts was irregular.

On the matter being pointed out, while the DDCs justified the withdrawal on the basis of the departmental instructions and assured that necessary action would be initiated, the Principal Secretary, RDD stated (August 2011) that due to procedural delay construction work could not be started. Instruction has been issued for entire unutilised amount to be deposited into the treasury.

## Agriculture Department

### 3.3.9 Irregular diversion and underutilisation of funds

**Earmarked funds of ₹ 3.74 crore for SC/ST farmers under Power Tiller Protsahan Karyakram were irregularly diverted to other categories of farmers.**

In order to increase agricultural productivity and to promote better agricultural management, the Agriculture Department, Government of Bihar formulated an 'Agricultural Mechanisation Programme' during 2008-11. Under this programme, the 'Power Tiller Protsahan Karyakram' (PTPK) was an important component, wherein power tillers were made available to the farmers at subsidised<sup>51</sup> rates. As per the scheme guidelines, 16 per cent and one per cent of the allotments were to be earmarked for farmers of Scheduled Castes (SC) and Scheduled Tribes (ST) respectively. Diversion of funds earmarked for SC/ST was not permissible.

- Scrutiny (April to July 2011) of the scheme records in 22<sup>52</sup> District Agriculture Offices revealed that during 2008-11, eight<sup>53</sup> District Agriculture Officers (DAOs) irregularly diverted ₹ 3.74 crore meant for subsidy to SC/ST farmers to other category of farmers as detailed below:-

(₹ in lakh )

Year	No. of DAOs	Allotment	Funds to be earmarked for SC/ST	Expenditure on SC/ST	Diversion
2008-09	2 <sup>54</sup>	560.40	95.27	16.2	59.80 <sup>55</sup>
2009-10	4 <sup>56</sup>	125.40	21.32	1.20	20.12
2010-11	6 <sup>57</sup>	2200.20	374.03	80.40	293.63
<b>Total</b>		<b>2886.00</b>	<b>490.62</b>	<b>97.80</b>	<b>373.55</b>

On this being pointed out, the DAOs<sup>58</sup> stated (May and June 2011) that as the requisite number of applications from SC/ST categories were not received, the

<sup>51</sup> Maximum 50 per cent of the cost of power tiller or ₹ 60,000 whichever is less.

<sup>52</sup> Ara, Araria, Aurangabad, Begusarai, Bhagalpur, Chapra, Gaya, Gopalganj, Jehanabad, Katihar, Khagaria, Kishanganj, Madhepura, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Saharsa, Samastipur, Sitamarhi and Vaishali.

<sup>53</sup> Begusarai, Gaya, Khagaria, Muzaffarpur, Nalanda, Patna, Sitamarhi and Vaishali.

<sup>54</sup> Nalanda and Patna.

<sup>55</sup> ₹ 19.27 lakh was surrendered.

<sup>56</sup> Gaya, Khagaria, Sitamarhi and Vaishali.

<sup>57</sup> Begusarai, Gaya, Muzaffarpur, Nalanda, Patna and Vaishali.

<sup>58</sup> Muzaffarpur and Vaishali.

amount was disbursed amongst other category of farmers. Further, DAO Vaishali assured that the same would not be repeated. These replies were not acceptable as this amount was earmarked for providing subsidy to SC/ST farmers and the scheme guidelines specifically prohibited their diversion.

- Further, the scheme guidelines required each district to maintain subsidy utilisation records in the prescribed proforma (Proforma 4.5). In three<sup>59</sup> districts, an expenditure of ₹ 1.17 crore (2008-11) was incurred. However, the column delineating the category of beneficiaries was deleted from the proforma. Consequently the actual distribution of subsidy to the SC/ST farmers could not be ascertained.

In reply (October 2011) Secretary, Agriculture Department, Government of Bihar, Patna replied that the criteria of owning minimum one acre land for granting power tillers to the farmers deprived the SC/ST farmers of the benefits of the schemes during 2008-11. Further, adequate numbers of applications were also not received from them despite the scheme being advertised through news papers, notice board of blocks, krishi melas and demonstrations etc. This resulted in either surrendering or diversion of earmarked funds for SC/ST farmers to general category farmers in public interest.

The reply was not acceptable since the earmarking of fund was meant to ensure that SC/ST farmers were provided funds under the scheme. The diversion of funds meant for SC/ST farmers to general category farmers was also prohibited under the scheme guidelines. Therefore, the diversion of ₹ 3.74 crore earmarked to SC/ST farmers was irregular and unauthorised under the scheme.

### 3.4 Failure of oversight/governance

The Government has an obligation to improve the quality of life of the people through fulfilment of certain goals in the area of health, education, development and upgradation of infrastructure and public service. However, Audit scrutiny revealed instances where in the funds released by the Government for creating 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:

<sup>59</sup> Araria, Chapra and Gopalganj.

## Health Department

### 3.4.1 Idle buildings and equipment

**Lack of planning and deficient monitoring at the district and departmental levels resulted in nugatory expenditure of ₹ 1.89 crore and irregular retention of ₹ 76.25 lakh.**

In order to provide intensive care facilities in 22<sup>60</sup> Sadar Hospitals, the Health and Family Welfare Department, Government of Bihar allotted (November 2005) ₹ 7.50 crore at the rate of ₹ 34.11 lakh per unit to the concerned Civil Surgeon-cum-Chief Medical Officers (CS-cum-CMO). This amount was to be transferred to the respective District Health Society (DHS) for the construction of Intensive Care Unit (ICU) buildings in their respective districts.

Thereafter, the State Health Society (SHS), Bihar, Patna released (November 2008) a sum of ₹ 1.40 crore as the first instalment (₹ 18 lakh each for equipment and ₹ two lakh each for training) to seven districts<sup>61</sup> for the purchase of ICU equipment including Patna district, where the space for establishing the equipment was already available in hospital building. Procurement of the ICU equipment was entrusted to the Heads of the Departments of Anaesthesia of the respective medical colleges of the concerned districts. The successful operationalisation of the ICUs was to be done by January 2009.

Test check (February 2011) of the records of the DHS, Munger and information collected (April to May 2011) from six<sup>62</sup> DHSs revealed the following:

- ICU buildings costing ₹ 34.11 lakh each were constructed in Samastipur (April 2011), Khagaria (May 2008) and Katihar (December 2010). However, no funds were made available to them for purchase of equipment as of May 2011.
- ICU buildings were still to be completed (August 2011) in Begusarai district, despite allotment of funds (₹ 34.11 lakh each) since November 2005. Further, no equipment was purchased in Ara and Motihari districts despite funds (₹ 20 lakh each) being available.
- Construction of the ICU building could not be started in Munger as of May 2011, due to non-availability of site, leading to irregular retention of ₹ 34.11 lakh for five and half years. In spite of this, ICU equipment worth ₹ 17.86 lakh (out of ₹ 20.00 lakh) was purchased

<sup>60</sup> Bettiah, Saran (Chapra), Purnea, Nalanda, Aurangabad, Bhojpur (Ara), Gopalganj, Siwan, Motihari, Samastipur, Madhepura, Rohatas (Sasaram), Munger, Sitamarhi, Katihar, Khagaria, Madhubani, Hajipur, Nawada, Begusarai, Saharsa and Jehanabad

<sup>61</sup> Bhojpur (Ara), Nalanda, Motihari (East Champaran), Munger, Aurangabad, Madhubani and Patna

<sup>62</sup> Ara, Begusarai, Katihar, Khagaria, Motihari, Samastipur



(February 2009) and remained idle in the store of the Sadar Hospital, Munger. Thus, the irregular retention of funds and idling of equipment in Munger amounted to ₹ 54.11 lakh.

The matter was reported to the Government (June 2011). The Principal Secretary cum Chief Executive Officer, SHS, Bihar, Patna replied (August 2011) that out of the 22 ICU buildings, 20 had been completed while the funds allotted for equipment in first phase were unutilised in Motihari, Ara and Patna districts. However, equipment in remaining four districts had been purchased. Further, efforts were being made to provide funds for ICU equipment in the remaining districts with instruction for operationalisation of ICU equipment by December 2011.

The reply was in itself an admission of the fact that the completed buildings in five districts were not being utilised for the intended purposes. The statement regarding non-utilisation of funds for equipment in Munger district was not true as ₹ 17.86 lakh had already been spent (February 2009) on purchase of equipment which were being kept idle as of October 2011. The proposal suffered from lack of planning and deficient monitoring both at the district and departmental levels as was evident from the mismatch of funds for building and equipment. This led to a nugatory expenditure of ₹ 1.89 crore (₹ 1.71<sup>63</sup> crore on idle building and ₹ 17.86 lakh on idle equipment). In addition, irregular retention of ₹ 76.25<sup>64</sup> lakh resulting in non-operationalisation of ICU units in the seven test-checked districts depriving the people of the intensive care facilities.

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<sup>63</sup> **Building-** Samastipur: ₹ 34.11 lakh; Khagaria: ₹ 34.11 lakh; Katihar: ₹ 34.11 lakh; Ara: ₹ 34.11 lakh; Motihari: ₹ 34.11 lakh.

<sup>64</sup> **Equipment-** Ara: ₹ 20 lakh; Motihari: ₹ 20 lakh; Munger: ₹ 2.14 lakh and **Building-** Munger : ₹ 34.11 lakh