

EXECUTIVE SUMMARY

Tax collection	In 2010-11 the collection from mining receipts increased by 33.39 <i>per cent</i> over the previous year, which was attributed to recovery of outstanding amounts under MP Rural and Road Development Act from companies, constant vigil and monitoring by the Department and increase in royalty of minor minerals.
Internal audit not conducted	The Department reported that due to shortage of staff, an internal audit wing has not been established.
Results of audit conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 37 units relating to mining receipts and found underassessment, non/short realisation of revenue and other irregularities involving ₹ 283.98 crore in 1,087 cases.</p> <p>The Department accepted under assessment and other deficiencies of ₹ 269.66 crore in 1,072 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 7.01 lakh was recovered in 18 cases during the year 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 115.46 crore selected from observations noticed during our test check of records relating to non/short levy, non/short realisation, non imposition of penalty etc. on mining receipts in the office of the District Mining Officers (DMOs) where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
Our conclusion	<p>The Department needs to establish the internal audit wing and improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the amount on account of non/short realisation, non-imposition of penalty, non levy of interest etc. pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER - X MINING RECEIPTS

10.1 Tax administration

The Mining Department functions under the overall charge of the Secretary, Mining, Government of Madhya Pradesh. The Director, Geology and Mining is the head of the Department who is assisted by Deputy Directors at headquarters and District Mining Officers (DMO) at the district level. The latter are assisted by Assistant DMOs and Mining Inspectors. The DMOs, Assistant DMOs and Inspectors are under the administrative control of the Collector at the district level.

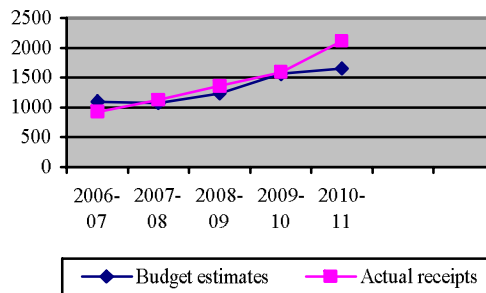
10.2 Trend of receipts

Actual mining receipts during the period 2006-07 to 2010-11 along with the total non-tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual mining receipts vis-a-vis total non-tax receipts
2006-07	1,100.00	923.91	(-) 176.09	(-) 16.01	2,658.46	34.75
2007-08	1,080.00	1,125.39	(+) 45.39	(+) 4.20	2,738.18	41.10
2008-09	1,235.00	1,361.08	(+) 126.08	(+) 10.21	3,342.86	40.72
2009-10	1,566.00	1,590.47	(+) 24.47	(+) 1.56	6,382.04	24.92
2010-11	1,650.00	2,121.49	(+) 471.49	(+) 28.58	5,719.77	37.09

The percentage contribution of receipts from non-ferrous mining and metallurgical industries to the non-tax revenue of the State registered a growth in 2010-11 compared to the previous year.



In 2010-11 the collection from mining receipts increased by 33.39 per cent over the previous year, which was attributed to recovery of outstanding amounts under MP Rural and Road Development Act from companies, constant vigil and monitoring by the Department and increase in royalty of minor minerals.

10.3 Analysis of budget preparation

No files regarding budget preparation were made available to the audit at Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 2,250 crore against budget estimate of ₹ 1,650 crore. The revised estimates were higher by 36.36 per cent as compared to the budget estimate due to probable increase in receipt from Road Development Tax during the year.

10.4 Working of internal audit wing

The Department reported that due to shortage of staff, an internal audit wing has not been established.

10.5 Results of audit

Test check of the records of 37 units relating to mining receipts revealed underassessment, non/short realisation of revenue and other irregularities involving ₹ 283.98 crore in 1,087 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of interest on belated payments	110	0.62
2.	Non/short levy of dead rent/royalty	363	29.81
3.	Non-assessment of rural infrastructure and road development tax	199	125.83
4.	Short realisation of contract money in trade quarries	364	4.40
5.	Other observations	51	123.32
	Total	1,087	283.98

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 269.66 crore in 1,072 cases, which were pointed out in audit during the year 2010-11 and recovered ₹ 7.01 lakh in 18 cases.

A few illustrative audit observations involving ₹ 115.46 crore highlighting important audit findings are mentioned in the following paragraphs.

10.6 Non/short realisation of contract money

As per condition no 5(i) and 9 of the contract agreement for trade quarry, every contractor has to pay contract money on the scheduled dates. If it remains unpaid for more than three months, the contract will be cancelled and the quarry will be re-auctioned. Consequent upon re-auction of the quarry, if the Government sustains any loss, it will be recovered from the defaulting contractor as arrears of land revenue. As per condition No. 23 of the agreement, premature surrender of the contract shall be accepted only when there are no arrears against the contractor. Further, Rule 40 of the Madhya Pradesh Minor Minerals (MPMM) Rules, 1996 provides for maintenance of accounts of income from the auction of trade quarry in form XXIII by the DMO.

We observed during scrutiny of the case files of trade quarries of 32 District Mining Offices¹ (DMOs) between February 2009 and January 2011 that 198 contractors had paid contract money of ₹ 85.06 lakh against the payable amount of ₹ 2.40 crore for the period April 2007 to March 2010. Though the contract money of ₹ 1.55 crore remained unpaid for durations ranging from three months to 46 months, there was nothing on record to show that the Department initiated any action against the defaulting contractors

under the terms of the contract to cancel the contracts and re-auction the quarries. Thus, the DMOs allowed the contractors to quarry despite their default in payment of contract money on due dates. Further, non-maintenance of accounts of income from trade quarries also affected the monitoring of outstanding recovery from the contractors. This resulted in short realisation of contract money of ₹ 1.55 crore.

After we pointed out the cases, all the DMOs, except Mandsaur, Guna, Ratlam, Morena, Ujjain and Dewas stated (February 2009 to May 2011) that action for recovery would be taken as per rule and intimated to audit. DMOs Ujjain, Guna, Ratlam and Dewas stated (April 2011 to July 2011) that an amount of ₹ 10.78 lakh had been recovered. DMO Morena stated (May 2011) that Revenue Recovery Certificate (RRC) had been issued against the concerning contractors for recovery of the remaining amount of contract money. DMO Mandsaur stated (March 2011) that an amount of ₹ 1.50 lakh had been recovered and ₹ 1.82 lakh was not recoverable due to acceptance of surrender of quarries. The reply is not acceptable because dues were required to be cleared before acceptance of surrender. Further replies have not been received (March 2012).

We reported the matter to the Director, Geology and Mining (DGM) and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

¹ Anuppur, Badwani, Balaghat, Bhopal, Chhatarpur, Chhindwara, Damoh, Dewas, Dhar, Guna, Hoshangabad, Indore, Jabalpur, Jhabua, Khandwa, Mandsaur, Morena, Narsinghpur, Neemuch, Panna, Raisen, Ratlam, Rewa, Satna, Sagar, Sehore, Sheopur, Shivpuri, Sidhi, Tikamgarh, Ujjain and Umaria.

10.7 Short realisation of royalty on major minerals

According to section 9-A (i) and (ii) of the Mines and Minerals (Development and Regulation) Act (MMDR), 1957, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the rates specified in the second schedule of the Act, which may be amended through a Gazette notification by the Central Government and would be effective from the date specified in the notification.

We observed during scrutiny of returns furnished by six lessees in five DMOs² between June 2009 and December 2010 that royalty of ₹ 30.65 crore was payable for the major minerals removed from the leased area between April 2007 and March 2010. However, we noticed that the lessees had paid royalty of ₹ 25.70 crore only. The DMOs concerned did not notice the short payment/

payment at incorrect rates, which resulted in short realisation of royalty of ₹ 4.95 crore.

After we pointed out the cases, DMO, Rewa stated (May 2011) that an amount of ₹ 15.41 lakh had been recovered and remaining amount of ₹ 71,773 would be recovered soon while DMO, Betul stated (July 2011) that demand of ₹ 1.42 lakh had been raised.

We reported the cases to the DGM and the Government between December 2009 and May 2011; their replies have not been received (March 2012).

10.8 Short realisation of revenue due to non-revision of contract money

As per condition No. 6 of the contract agreement for trade quarry under the MPMM Rules, if during the currency of the contract the rates of royalty are revised then the contract money shall also be revised proportionately. Government of MP through its notification dated 5 March 2010 enhanced the rates of royalty for minor minerals.

We observed during scrutiny of the case files of trade quarries of 11 DMOs³ between June 2010 and January 2011 that the Department, in violation of the condition of the contract agreement, did not revise the contract money proportionately in case of 277 trade quarry contractors for 27 days of March 2010 (5 March to 31 March 2010). This resulted in short realisation of contract

money of ₹ 33.28 lakh.

² Balaghat, Betul, Katni, Rewa and Satna.

³ Anuppur, Balaghat, Damoh, Hoshangabad, Jabalpur, Narsinghpur, Seoni, Shahdol, Shivpuri, Raisen and Umaria.

After we pointed out the cases, DMOs Shivpuri, Narsinghpur, Seoni, Jabalpur and Anuppur stated (between November 2010 and January 2011) that action would be taken after guidance from Government while DMOs Umaria, Damoh and Hoshangabad stated (between June 2010 and December 2010) that recovery would be made as per rules. DMO, Shahdol stated (October 2010) that revision of contract money was not possible and DMO, Balaghat stated (December 2010) that revised rate of contract money would be applicable for excess extraction. The replies are not acceptable as condition No. 6 of the contract agreement clearly provides for revision of contract money proportionately on revision of the rates of royalty for the quantity permitted in clause 5 (2) of the agreement in lieu of the auction amount. It further provides that for every additional extraction as mentioned in condition 5 (2), the revised rate shall be payable. DMO, Raisen stated (May 2011) that demand notices had been issued.

We reported the cases to the DGM and the Government between April and May 2011; their replies have not been received (March 2012).

10.9 Loss of revenue due to non-realisation of dues in trade quarries

According to the conditions of the contract agreement for trade quarry under the MPMM Rules, on re-auction of the quarry as a result of cancellation of a contract, the loss, if any, shall be recovered from the contractor as arrears of land revenue. Further, in the case of premature surrender all dues against the contractor must be realised before accepting the surrender.

We observed during scrutiny of the case files of trade quarries in two DMOs⁴ in October 2008 and August 2009, that two trade quarries of sand were sanctioned in June 2007 and February 2008 for a period of two years. We further noticed that the trade quarry of Sidhi was cancelled due to non-deposit of contract money in which the Government sustained a loss

of ₹ 1.54 lakh due to non-recovery of installments and differential amount on re-auction from the previous contractor. In the other trade quarry (Shivpuri), the Department did not ensure recovery of the outstanding amount of ₹ 4.08 lakh, recoverable from the contractor on account of premature surrender of the quarry. Thus, Government sustained a loss of ₹ 5.62 lakh in these two cases.

We reported the case to the DGM and the Government between December 2009 and May 2011; their replies have not been received (March 2012).

⁴ Shivpuri and Sidhi.

10.10 Short realisation of royalty on minor minerals

According to Rule 30 (1) (b) of the MPMM Rules, 1996, every lessee of a quarry lease shall pay royalty in respect of the mineral removed/consumed from the leased area at the rates specified in schedule III. As per instructions issued by the Government of Madhya Pradesh (GOMP), Mineral Resources Department dated 31 January 2006, the District Collector shall demarcate and reserve the quarries of minor minerals after these are proposed by the General Manager (GM), Madhya Pradesh Rural Road Development Authority (MPRRDA) for construction of roads. Further as per rule 68 (2) of the MPMM Rules, GM, MPRRDA shall submit the quarterly statement of extracted/consumed minor minerals to the Collector (Mining). DMO will maintain the account of the transit passes and reconcile it with the Department from time to time.

10.10.1 We observed during scrutiny of the returns and other records of 13 DMOs⁵ between October 2008 and December 2010 that though royalty of ₹ 5.43 crore was payable for the minor minerals removed from the leased area by 33 lessees between April 2007 and March 2010, the lessees had paid royalty of ₹ 3.70 crore only. The DMOs did not scrutinise the returns and raise the demand to realise the remaining amount of royalty. This resulted in short realisation of royalty of ₹ 1.73 crore.

After we pointed out the cases, all the DMOs, except Mandsaur, Raisen and Ujjain stated (between October 2008 and December 2010) that action would be taken after scrutiny. DMO Mandsaur, Raisen and Ujjain stated (between March and July 2011) that an amount of ₹ 8.04 lakh had been recovered.

10.10.2 We observed during scrutiny of the records of 11 DMOs⁶ between December 2008 and February 2011 that quarries of minor minerals were reserved for MPRRDA for construction of roads in 55 packages. We observed from the information collected from MPRRDA that royalty of ₹ 4.03 crore was payable for the minerals consumed in the works. However, MPRRDA paid royalty of ₹ 1.89 crore only against the payable amount of ₹ 4.03 crore. We also observed that the quarterly returns were neither submitted by the GM, MPRRDA nor was it demanded by the DMOs. In the absence of this vital control, the DMOs were unable to assess the royalty leviable and paid by the lessees. This resulted in short realisation of royalty of ₹ 2.14 crore.

We reported the cases to the DGM and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

⁵ Chhattarpur, Gwalior, Hoshangabad, Katni, Khandwa, Mandsaur, Narsinghpur, Panna, Raisen, Sagar, Satna, Ujjain and Umaria.

⁶ Anuppur, Balaghat, Jabalpur, Indore, Narsinghpur, Seoni, Shahdol, Sheopur, Tikamgarh, Umaria and Vidisha.

10.11 Unauthorised retention of Government money by the lessees

According to Rule 29 of the Madhya Pradesh Financial Code, all Government receipts should be collected and deposited regularly and promptly in the Consolidated Fund. Further, as per Rule 7 of the Madhya Pradesh Treasury Code, all receipts payable to Government account should be deposited without any delay. Further, as per Section 4(2) of the MP *Gramin Avasanrachna Tatha Sadak Vikas Adhiniyam, 2005* (MPGATSV) every holder of a mineral bearing land shall be liable to pay by way of penalty in default of payment of tax payable by him for any period by the prescribed date, an amount not exceeding three times of tax so payable by him for that period.

We observed during scrutiny of the records of DMOs, Singrauli and Betul in October and December 2010 respectively that two lessees of coal [M/s Northern Coalfields Limited (NCL) Singrauli and Western Coalfields Limited (WCL), Betul] collected ₹ 81.78 crore as *Gramin Avasanrachna Tatha Sadak Vikas Kar* (tax) from their customers between September 2005 and March 2010 but the amount was unauthorisedly retained by them and not deposited in Government account. The Department did not take any action to

get the amount of ₹ 81.78 crore deposited in Government account and levy the penalty prescribed under the Act.

After we pointed out the cases, DMO, Singrauli stated (October 2010) that demand notices had been issued to NCL and action was being taken to realise the whole amount, while DMO, Betul stated (December 2010) that demand notices for recovery had been issued and audit would be intimated after recovery.

We reported the cases to the DGM and the Government between March and May 2011; their replies have not been received (March 2012).

10.12 Non-realisation of rural infrastructure and road development tax

According to the provisions of MPGATSVA, 2005 and notification of September 2005, rural infrastructure and road development tax shall be levied at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and ₹ 4,000 per hectare per year in case of idle mines. The Act further provides that the competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year.

We observed during scrutiny of the returns and case files of 14 DMOs⁷ between September 2009 and December 2010 that the assessment of road development tax in respect of 271 mining leases for the period April 2007 to March 2010 had not been done. This resulted in non-realisation of tax of ₹ 18.96 crore.

After we pointed out the cases, all the DMOs except Jabalpur,

Neemuch, Tikamgarh and Sagar stated (between September 2009 and December 2010) that action would be taken as per rule after scrutiny. DMOs Jabalpur and Neemuch stated (September 2009 and January 2010) that the matter was sub-judice and action would be taken after decision of the court. The reply is not acceptable because as per Government order dated 23 March 2010 the Supreme Court had not given any stay and Government is free to recover the tax as per demand. DMOs Sagar and Tikamgarh stated (between May 2011 and August 2011) that amount of ₹ 3.93 lakh had been recovered.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

⁷ Anuppur, Badwani, Chhattarpur, Damoh, Jabalpur, Jhabua, Katni, Mandasaur, Neemuch, Sagar, Satna, Shahdol, Tikamgarh and Umaria.

10.13 Loss of revenue due to irregularities in issuing temporary permits

According to Rule 68 of the MPMM Rules, the Collector shall grant permission for extraction, removal and transportation of any minor mineral from any specific quarry or land which may be required for the works of any Department and undertaking of the Central Government or the State Government subject to payment of royalty in advance calculated at the rates specified in Schedule III.

We observed during scrutiny of temporary permits issued and other records of DMOs, Satna and Chhattarpur in December 2009 and May 2010 respectively that three temporary permits for various minerals were issued to a contractor for construction of two roads between May 2008 and December 2009 which

attracted advance payment of royalty of ₹ 78.54 lakh. However, we noticed that the contractors paid ₹ 3.34 lakh only. This resulted in short realisation of revenue of ₹ 75.20 lakh.

After we pointed out the cases, DMOs, Satna and Chhattarpur stated (December 2009 and May 2010) that the transit passes for transportation of mineral were issued to the contractor against the deposited amount. The reply is not acceptable because temporary permit had to be issued only after deposit of the entire amount of royalty in advance.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

10.14 Non-imposition of penalty on non-submission of returns

According to rule 30 (20) (a) (b) (c) of the MPMM Rules, 1996, every lessee shall furnish monthly, six monthly and annual returns to the DMO in the prescribed forms on the specified dates, failing which the lease sanctioning authority may impose a penalty not exceeding double the amount of annual dead rent.

We observed during scrutiny of the case files of quarry lease of DMO, Ratlam and Chhattarpur between March 2009 and May 2010 that 17 lessees had not submitted monthly, six monthly and annual returns due for the period between April 2006 and March 2010. Submission of

returns is a vital mechanism for monitoring the working of the lessees. In the absence of these basic records, the DMOs are unable to assess the correct amount of royalty. Though the lessees did not submit the requisite returns, neither did the DMOs call for the returns nor did they impose maximum penalty of ₹ 17.40 lakh calculated at double the amount of annual dead rent.

After we pointed out the cases, DMO, Ratlam stated (July 2011) that an amount of ₹ 30,000 had been recovered while DMO, Chhattarpur stated (May 2010) that action would be taken after scrutiny of the cases.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

10.15 Non-levy of interest on belated payment

According to Rule 64 (a) of the Mineral Concession Rules, 1960, a lessee is liable to pay royalty by the prescribed date, failing which he is liable to pay simple interest at the rate of 24 *per cent* per annum from the sixtieth day of the expiry of the stipulated date till the date of payment of such royalty. Further, as per Rule 30 (d) of MPMM Rules, and conditions of contract agreement for trade quarries, every lessee of the quarry lease and contractor of trade quarry are required to pay dead rent and contract money, respectively, on or before the prescribed date failing which the lessee or contractor is liable to pay interest at the rate of 24 *per cent* per annum till the default continues.

10.15.1 We observed during scrutiny of the case files of lessees of major minerals of three DMOs⁸ between December 2009 and October 2010 that four lessees had delayed payment of royalty ranging from five days to 18 months during the year 2008-09 and 2009-10 which attracted penal interest of ₹ 43.85 lakh. However, we noticed that no action was taken by the Department to assess and recover the same. This resulted in non levy

of interest of ₹ 43.85 lakh.

10.15.2 We observed during scrutiny of case files of lessees and contractors of minor minerals of nine DMOs⁹, between December 2009 and October 2010, that 49 lessees and 32 contractors had delayed payment of dead rent/contract money ranging from three to 1,095 days during the years 2007-08 to 2009-10 which attracted penal interest of ₹ 9.10 lakh. However, we noticed that no action was taken by the Department to assess and recover the interest. This resulted in non-levy of interest of ₹ 9.10 lakh.

After we pointed out the cases, all the DMOs stated (between December 2009 and October 2010) that action would be taken after scrutiny.

We reported the cases to the DGM and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

⁸ Rewa, Singrauli and Tikamgarh.

⁹ Bhopal, Chhattarpur, Gwalior, Harda, Khandwa, Morena, Panna, Ratlam and Singrauli.

10.16 Non/short realisation of dead rent

According to section 9A (i) of the MMDR Act, every lessee of a mining lease has to pay, every year, dead rent in advance for the whole year at the rates prescribed in schedule III at the prescribed date for all the areas included in the lease. Further, according to Rule 30 (1) (a) of the MPMM Rules, 1996, every lessee shall pay dead rent for every year, except for the first year, at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the year. It is further provided in the Act and Rules that if the dues are not paid within due time, the lease may be determined and security deposit forfeited. The amount remaining unpaid can be recovered as arrears of land revenue.

10.16.1 We observed during scrutiny of the case files of lessees of major minerals in eight DMOs¹⁰ between December 2008 and December 2010 that 67 lessees had paid dead rent of ₹ 70,000 against the payable amount of ₹ 68.25 lakh for the period January 2008 to December 2010. However, the Department did not initiate action to recover the balance amount as arrears of land revenue. This resulted in non/short realisation of dead rent of ₹ 68.18 lakh.

After we pointed out the cases, DMO, Neemuch stated (November 2010)

that demand notices for the recovery of dead rent had been issued from time to time but being sick units, recovery was not possible. DMOs, Dhar and Tikamgarh stated (between May 2011 and August 2011) that an amount of ₹ 63,000 had been recovered. The reply of DMO, Neemuch is not acceptable as lease could have been determined and security deposit forfeited in terms of condition No. 2 of part IX of General Provision of Mining lease deed. Further reply has not been received (March 2012).

10.16.2 We observed during scrutiny of the case files of lessees of minor minerals in 33 DMOs¹¹ between January 2009 and January 2011 that 321 lessees of minor minerals had paid dead rent of ₹ 58.88 lakh against the payable amount of ₹ 2.58 crore for the period January 2006 to December 2010. However, we noticed that no action was taken by the Department to recover the balance amount. This resulted in non/short realisation of dead rent of ₹ 1.99 crore.

¹⁰ Anuppur, Chhattarpur, Chhindwara, Dhar, Neemuch, Satna, Shahdol and Tikamgarh.
¹¹ Anuppur, Ashoknagar, Badwani, Balaghat, Betul, Bhopal, Chhattarpur, Chhindwara, Damoh, Dewas, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Jhabua, Katni, Khandwa, Khargone, Mandsaur, Morena, Neemuch, Panna, Raisen, Ratlam, Rewa, Sagar, Satna, Sehore, Sidhi, Shivpuri, Tikamgarh and Ujjain.

After we pointed out the cases, DMOs Ujjain, Dhar, Sagar, Khargone, Indore, Dewas, Gwalior, Raisen, Mandsaur, Betul, Ratlam and Tikamgarh stated (between March 2011 and August 2011) that recovery of an amount of ₹ 40.37 lakh had been made. Further replies have not been received (March 2012).

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).



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