

CHAPTER-IV

COMPLIANCE AUDIT

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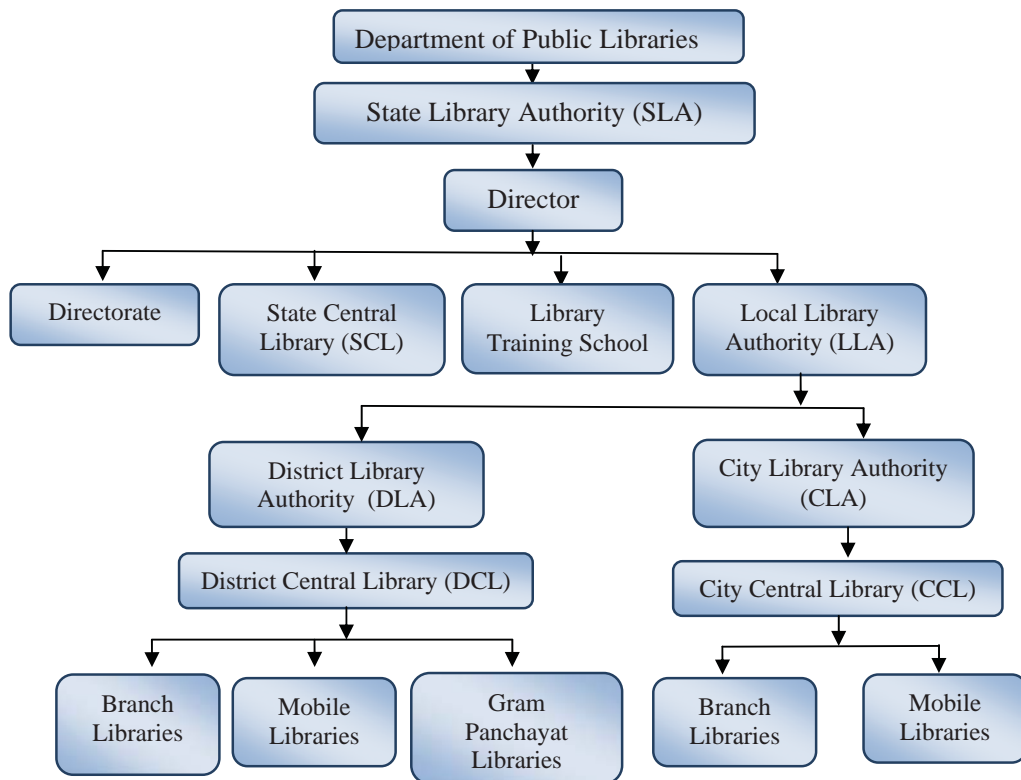
DEPARTMENT OF EDUCATION (PRIMARY AND SECONDARY)

4.1 Functioning of Public Libraries in Karnataka

4.1.1 Introduction

The Karnataka Public Libraries Act, 1965(KPLA) was enacted and the Karnataka Public Libraries Rules, 1966 (KPLR) were framed to provide for the establishment and maintenance of public libraries and organisation of a comprehensive rural and urban library service in the State. The Karnataka Public Libraries-Accounts Rules, 1975(KPLAR) were framed for maintenance of Accounts.

The Department of Public Libraries (Department) comes under the jurisdiction of Department of Education (Primary and Secondary) and is headed by a Director at State Level. The Director, who is also the State Librarian, is assisted by District Level Officers at the District Level. The organisational chart of the Department is as under:



Under the jurisdiction of LLAs, there are 15 Mobile Libraries, 442 Branch Libraries, 148 Service Centres, 79 Reading Rooms, 100 Slum Libraries, 127 Nomad Libraries, 33 Aided Libraries, 31 Community Children's Libraries and 5,766 Grama Panchayat Libraries providing library services such as reference/issue of books, news papers, periodicals *etc.*, in the State.

Audit scrutiny of records of SLA and Government/Directorate, nine out of 30 DCL, 14 out of 26 CCL, 24 Branch Libraries and 16 Gram Panchayat libraries relating to nine²³ districts test-checked for the period 2009-14 was conducted (January 2014–July 2014) to assess compliance with the provisions contained in the Acts and Rules of the Department in performing its statutory duties. The selection of districts was based on probability proportion to size with replacement method of sampling.

4.1.2 Audit findings

4.1.2.1 Constitution and functioning of various library authorities

Section 3 and 16 of the KPLA envisages constitution of SLA, CLA and DLA. The CLA and DLA together are termed as LLA. Further, as per section 10 of the KPLA, the SLA, which is the managing authority for the SCL, is required to meet at least twice a year for proper functioning of libraries. Similarly, as per section 24 of the KPLA, for the purpose of organising and administering Public Libraries in the State, the CLAs²⁴ and DLAs²⁵ are constituted which are also required to meet twice a year.

The LLA was required to provide library services to the persons residing in the area within its jurisdiction by establishing a CCL and branch libraries in every city and DCL and branch libraries in every district.

During scrutiny of the records, audit observed the following:

- The Department had not constituted the CLA in three cities *viz.*, Gangavathi, Ranebennur and Bagalkot though urban population in these cities had exceeded one lakh, thereby denying additional library services *viz.*, establishment of CCL and branch libraries to the persons residing in those areas.
- The Executive Committee, the Finance Committee and Advisory Library Committee to be constituted by the LLA for monitoring executive, financial and advisory functions as stipulated under section 28 and 29 of the KPLA, had not been constituted.

²³ Bengaluru (Urban) including five zones, Belagavi, Ballari, Dharwad, Davanagere, Kalaburagi, Mandya, Mysuru and Tumakuru

²⁴ CLA is constituted for the cities of Bengaluru, Hubballi-Dharwad, Mangaluru, Mysuru and Belagavi and for such other urban areas having a population of more than one lakh.

²⁵ DLA is constituted for each revenue district, excluding the area for which a CLA is constituted.

- The LLA had not prepared Local Library Development Plan for establishing libraries and spreading library services within the jurisdiction of such authorities though the same was required as per the stipulations under section 27 of the KPLA.
- In nine DLAs, five zones of Bengaluru and nine CLAs test-checked and SLA, it was observed that only 138 meetings were conducted out of total 240 meetings required to be conducted as per provisions of KPLA during 2009-14. This caused delay in effectively transacting the business.

The Department stated in its reply (October 2014) that it would take all necessary steps to constitute required committees and see that no shortfall arises in conducting meetings and though CLAs were not constituted in the above said three cities, there was no shortfall in providing library services as the Directorate was directly monitoring the functioning of the libraries. The reply is not acceptable as the rationale for decentralising and empowering the field authorities has been defeated by centralised control of the Director.

4.1.2.2 State Central Library

Under Section 36 of the KPLA, the SCL was to be maintained as a reservoir of books and other materials for the proper functioning of the State Library system. It was to consist of sections *viz.*, General Library, State Bureau of Copyright Collections, State Library for the Blind, State Bureau of Inter-library Loans, State Bibliographical Bureau, State Bureau of Technical Services.

The SCL, however, did not have State Bureau of Inter-library Loans for implementing schemes of inter-library loans and State Bureau of Technical Services for maintaining the centralised technical services such as acquisition, classification and cataloguing of books.

The Department stated in its reply (October 2014) that constitution of committee for performing centralised functions *viz.*, acquisition and classification of books would be implemented at the earliest.

4.1.2.3 Funding of Libraries

The Department is funded through grants from State Government and Government of India (GOI), library cess as per section 30 and grant under section 31 of KPLA. Every CLA/DLA and the SLA has to maintain a City Library Fund/District Library Fund and a State Library Fund (Fund) respectively. Apart from the State Government and GOI grants, the Funds are credited with cess and grants collected under KPLA, and contributions, gifts and income from endowments made to the Library Authorities.

The details of receipts and payments during 2009-14 are shown in the **Table-4.1** below:

Table-4.1: Receipts and Payments during 2009-14

(₹ in crore)

Year	OB of Fund Account	Receipts			Expenditure			CB ²⁶ of fund account
		GOK - Grants	GOI - Grants	Fund receipts (SCL/CCL/DCL)	GOK	GOI	Fund Expenditure (SCL/CCL/ DCL)	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	[(b)+(e)]-(h)=(i)
2009-10	6.92	32.96	3.24	70.43	31.57	3.24	69.57	7.78
2010-11	7.78	68.04	0.00	68.38	64.11	0.00	68.10	8.06
2011-12	8.06	75.64	0.00	92.38	75.27	0.00	87.48	12.96
2012-13	12.96	71.42	0.00	67.50	70.44	0.00	69.45	11.01
2013-14	11.01	112.15	0.00	58.05	84.42	0.00	56.97	12.09
Total		360.21	3.24	356.74	325.81	3.24	351.57	

(Source: Information furnished by the Department)

It is evident from the table that out of the total receipts of ₹ 720.19 crore, expenditure was to the tune of ₹ 680.62 crore leaving State Government grants of ₹ 34.40 crore to lapse, and increasing the balance of the Authority fund by ₹ 5.17 crore.

(a) Collection of Library Cess

Section 30 of the KPLA envisages collection of library cess in the form of surcharge on tax on land and buildings, tax on entry of goods into the local area for consumption, use or sale therein, tax on vehicles and tax on professions, trades, calling and employments. The cess was to be levied by the tax authorities concerned at a rate of six paise for every rupee of the taxes so levied and was to be remitted to the DLA/CLA after a deduction of 10 per cent towards cost of collection. Scrutiny of records revealed the following:

- **Non-remittance of library cess**

The cess collected on the tax on lands and buildings by the Bruhat Bengaluru Mahanagara Palike (BBMP), which was due to be remitted to the Department as on 31 March 2014, was ₹ 103.57 crore. Similarly, other Urban Local Bodies (ULBs) had not remitted cess amounting to ₹ 31.81 crore as on 30 November 2013 to the Department. The Department stated in its reply (October 2014) that all the ULBs would be requested to remit the balance amount of cess in the respective funds.

- **Non-provision for levy of library cess resulting in non-collection of library cess**

The Department of Transport and Department of Commercial Taxes had collected ₹ 6,216.44 crore towards tax on vehicles and ₹ 972.59 crore towards professional tax etc., respectively during 2009-14 in Bengaluru (Urban) jurisdiction alone. However, library cess was not being levied and collected by the departments concerned on the plea that there was no provision in their respective Acts for levy and collection of library cess. No action was taken

²⁶ This includes the closing balances of fund account as the closing balances of GoK grants would lapse at the end of the year.

by the Department of Libraries to make an amendment to the KPLA, 1965 to the effect that the levy and collection of library cess may be done by the Departments of Transport and Commercial Taxes. This resulted in avoidable loss of ₹ 388.21 crore²⁷ from Bengaluru (Urban) jurisdiction for the period 2009-14.

Further, Department of Commercial Taxes opined that the local authorities having jurisdiction over the area had to collect library cess. Hence, failure on the part of the Department resulted in loss of revenue. The Department stated (October 2014) that the matter would be taken up with heads of concerned departments.

(b) Loss of grants under section 31

State Government makes annually a grant to every DLA and CLA of an amount equal to six *per cent* of the land revenue collection of the district and compensation paid consequent to the abolition of Octroi respectively. After receipt of order of Government, the Chief Librarian of the district prefers a bill for payment of the amount due twice every year during the month of June and December respectively. During 2013-14, bill for payment of ₹ 2.21 crore in respect of the districts was preferred only in March 2014. Due to delay in preferring bill, the bill was rejected and the Department lost grants to the extent of ₹ 2.21 crore.

The Department stated in its reply (October 2014) that since the claim could be made in 2014-15, there was no loss. The reply is not acceptable as the Government had rejected the proposals submitted during March 2014.

(c) Non-utilisation of XII Finance Commission (FC) grants

During 2009-10, GOI released ₹ 3.24 crore out of XII FC grants for conservation of books/buildings. This included ₹ 1.03 crore for the nine districts test-checked. While five districts utilised the amount of ₹ 39 lakh for the purpose for which it was released, in four²⁸ districts grant to the extent of ₹ 64 lakh remained unutilised/diverted for other purposes such as authority expenses, construction of CCL *etc.* However, the Department had issued Utilisation Certificate to the GOI for total amount of ₹ 1.03 crore.

In reply, the Department stated (October 2014) that the diversion of XII FC grants was temporary and would be utilised for the intended purpose.

4.1.2.4 Irregular payments on purchase/construction

The Department and various CCLs/DCLs had made payments of ₹ 10.98 lakh towards purchase of various items and construction which did not have supporting documents (**Appendix-4.1**). Hence, the payments made were irregular.

²⁷ (₹ 6,216.44 crore + ₹ 972.59 crore) * 6 *per cent* minus 10 *per cent*

²⁸ CCL Kalaburagi and Davanagere, DCL Dharwad and Mandya

4.1.2.5 Capacity Building

(a) Manpower Management

The libraries of the Department are managed, among others, by the Deputy Directors, Chief Librarian and Assistant Librarian. The sanctioned posts and the vacancy position as of July 2014 is detailed in the **Table-4.2** below:

Table-4.2: Sanctioned posts and vacancy position as of July 2014

Year	Name of the post							
	Deputy Director		Chief Librarian		Librarian		Assistant Librarian	
	Sanctioned	Vacant	Sanctioned	Vacant	Sanctioned	Vacant	Sanctioned	Vacant
2009-10	28	21	54	20	93	21	132	48
2010-11	28	24	54	14	93	17	132	35
2011-12	28	25	54	23	93	18	132	49
2012-13	28	27	54	23	93	14	132	42
2013-14 (as of July 2014)	28	28	54	35	93	32	132	67

(Source: Information furnished by the Department)

From the table it may be seen that there was increase in vacancies on account of non-filling up of posts. This resulted in poor monitoring of various functions of the libraries which are detailed in various paragraphs of the report.

It was further observed that out of 268 branch libraries in the nine test-checked districts (12 LLAs) 45 libraries were being managed by Group D employees / daily wage workers.

Based on the proposal (August 2010) of the Department to fill up 166 vacancies across different cadres, Government gave its approval (July 2011) for only 40 posts. However, as at the end of 2013-14, Department was yet to take action in this regard.

The Department in its reply (October 2014) while accepting the fact that shortage of staff affected the functioning of the libraries to some extent stated that during 2014-15 few vacancies in the cadres of Librarian, Assistant Librarian *etc.*, were filled up.

(b) Construction and maintenance of buildings

As per Section 26 of KPLA, LLA should provide suitable land and buildings for establishing public libraries and should also provide the furniture, fittings, equipment and other conveniences necessary for the purpose. Scrutiny of records in this regard showed lacunae which are discussed in the subsequent paragraphs.

- **Delay in construction of library building**

The State Government had accorded administrative approval (March 2005) for construction of branch library at Kalyananagar, Bengaluru East at an estimated cost of ₹ 95 lakh.

The work was awarded (March 2006) to a contractor at a tender premium of 9.5 per cent with stipulated date of completion being July 2007. However audit observed that non-testing of soil at the time of preparation of estimate, inordinate delay by the department in submission of proposals to the Government and also delay in approval by the Government resulted in only partial construction of the building. Hence, the public was deprived of the library facility at Kalyananagar (October 2014).

The Department stated in its reply (October 2014) that 80 per cent of the work had been completed as on the date of reply.

- **Non-utilisation of lands reserved for construction of libraries**

As of March 2014, 78 CCLs and 72 DCLs in the State were operating from rented buildings. In the nine districts test-checked, seven LLAs possessed land/sites as detailed in the **Table-4.3** below.

Table-4.3: Non-utilisation of land/sites

Sl No	Name of the LLA	Number of land / sites remaining vacant	Period of taking possession	Number of libraries operating in rented premises as on March 2014	Rent paid during 2009-14 (₹ in lakh)	Rent due as on 31 March 2014 (₹ in lakh)
01	DCL, Belagavi	15 sites /5 guntas of land	1997-98 to 2010-11	3	5.83	-
02	DCL, Mandya	35 sites	1999-00 to 2012-13	-	1.49*	0.37
03	DCL, Ballari	23 sites	2001-02 to 2012-13	3	8.76	1.44
04	DCL, Kalaburagi	33 sites	2005-06 to 2011-12	2	1.73	0.41
05	DCL, Mysuru	11 sites	2000-01 to 2012-13	3	13.59	0.23
06	DCL, Davanagere	19 sites	2001-02 to 2012-13	1	8.05	0.40
07	CCL, South Zone, Bengaluru	1 site	2011-12	Data not available		
08	CCL, West Zone, Bengaluru	1 site	2012-13	5	48.03	4.72
09	CCL, East Zone, Bengaluru	2 sites	2000-01	7	65.54	438.85
10	CCL, North Zone, Bengaluru	1 site	2010-11	4	4.24	12.09
11	CCL, Central Zone, Bengaluru	2 sites	2012-13	1	1.29	-

(Source: Information furnished by the Department)

* Rent paid during 2009-13

In six out of nine DCLs test-checked, 12 library buildings were operating from rented buildings even though these DCLs had in their possession vacant sites for construction of library buildings and Department had not taken any action for construction. The total rent paid in these cases was ₹ 42.30 lakh (including rent due) during 2009-14.

In respect of CCLs in Bengaluru, though 17 libraries were operating from rented buildings, the Department had not initiated any action for construction of its own building in the available vacant plots.

The Department stated (October 2014) that proposals for utilisation of the land by construction of libraries had already been sent to competent authority and there was delay in according approval on account of shortage of funds.

4.1.2.6 Acquisition of books published in Press

The State Central Library serves as a permanent repository of all reading materials produced in the State. For this, it is legally entitled under the Press and Registration of Books Act, 1867 read with Section 51 of the KPLA, to receive a free copy of books from publishers within a month of the publication. The printers were also required to send a quarterly statement of details of books printed by the concerned printers. We observed that this procedure was however not complied with and the Department also did not take up the matter with the publishers for collection of the copies of books.

We further, observed that 80,000 books received from various publishers at SCL were kept at a godown in CCL, Bengaluru East zone for want of space. This deprived the readers of access to these books.

4.1.2.7 Transportation of books

The Selection Committee prepares list of books selected for purchase along with cost of each book and name of the publisher and circulates the same to all the LLAs each year. The LLAs spend 80 *per cent* of their approved budget towards procurement of books from the list of books selected. The Directorate also purchases books centrally from the same list and transports the same to the Grama Panchayat libraries through the DLAs coming under the jurisdiction of LLAs.

It was observed that the Directorate had incurred an expenditure of ₹ 2.13 crore during 2009-14 towards transportation of books to DLAs who would in turn transport it to Grama Panchayat libraries. Since the DLAs purchased the books from the same list of selected books and at the same rate which is inclusive of transportation, the Directorate could have issued supply orders to publishers to supply books to the DLAs directly. Thus, taking delivery of the books at the Directorate instead of asking the publisher to deliver them directly to the DLA resulted in avoidable expenditure of ₹ 2.13 crore towards transportation.

The Department replied (October 2014) that for the centrally purchased books, no agreement existed between the Directorate and the publisher for transportation of books to the Grama Panchayats. The reply is not acceptable as the publishers who are also supplying books to the DLAs at the same price, could be asked to deliver the books to DLAs instead of delivering to the Directorate.

4.1.2.8 Preservation of Books

Preservation connotes measures undertaken for maintaining the integrity of documents and the information contained therein.

(a) Preservation of books through chemical treatment

The guidelines issued by the State Warehousing Corporation (SWC) suggest that books/furniture of libraries need to be conserved through prophylactic treatment (spraying with chlorophyriphos), preferably done on annual contract basis. The charges fixed (July 2013) by the SWC was ₹ 80/- per 100 sq mtr.

In the nine districts test checked, we observed that the preservation work had been carried out in an *ad hoc* manner at a high cost as detailed in the **Table-4.4** below resulting in excess payment of ₹ 26.28 lakh.

Table-4.4: Cost of Preservation work

Sl No	Name of the authority	Area covered in Sq.mt. during 2009-14	Total amount paid (in ₹)	Amount payable as per SWC (in ₹)	Excess paid (in ₹)
01	CCL, Hospet	290	1,00,000.00	232.00	99,768.00
02	CCL, Mandya	145	2,14,500.00	116.00	2,14,384.00
03	CCL, South Zone	17,849	6,98,283.00	14,279.00	6,84,004.00
04	CCL West Zone	9,429	3,90,648.00	7,543.00	3,83,105.00
05	CCL Central Zone	16,812	5,87,026.00	13,450.00	5,73,576.00
06	CCL East Zone	6,609	2,92,611.00	5,287.00	2,87,324.00
07	CCL North Zone	16,837	3,99,388.00	13,470.00	3,84,918.00
	Total	67,971	26,82,456.00	54,377.00	26,27,079.00

(Source: Information furnished by the Department)

The Department in its reply stated (October 2014) that since the area of each library was less than 100 square metres, the work was not entrusted to SWC. However, the reply is not acceptable as the tender rates were higher than the rates of SWC and the Department by not negotiating the rates comparable to the rates of SWC incurred excess expenditure towards preservation of books.

(b) Digitising the collections

The Department had a collection of 3.41 crore books as on 31 March 2014. Though, the Department had undertaken digitisation of 17,000 books prior to 2008-09, it had been stopped midway due to lack of funds and manpower. Further, the four scanners, which were procured for digitisation work, remained idle in the godown of Bengaluru West Zone for more than six years. The Department had not prepared any action plan to conserve the old, rare and brittle books through digitisation.

The Department in its reply stated (October 2014) that on account of non-availability of qualified staff and lack of funds, the scanners remained idle. It was further stated that on availability of funds, the work would be undertaken by employing qualified persons on contract basis. The reply is not acceptable as the budgetary allocation amounting ₹ 34.40 crore for the period 2009-14 were allowed to lapse.

4.1.2.9 Purchase of furniture, fittings, equipment etc.

(a) Purchase of furniture

The Department procures library furniture annually for SCL and various DCL/CCL and sub-ordinate libraries under its control centrally on tender basis. In nine districts test-checked, furniture worth ₹ 71.91 crore was purchased during 2009-14. On scrutiny of the procurement files of the Directorate and CCL, Bengaluru zones, we observed that there were variations in price for the same specification of furniture (detailed in **Table-4.5**) resulting in excess expenditure of ₹ 16.57 crore.

Table-4.5: Details of variations of rate

Sl. No.	Type of furniture	Procured by LLA		Department procurement during 2009-14	
		Place	Rate (in ₹)	Rate (in ₹)	Number
1	Cushion chair with full back rest	CCL-Mysuru at DGS&D Rates	1,965	5,500-7,600	33,158
	Table		11,530	9,990-13,900	3,295
2	Steel racks enclosed	DCL-Kalaburagi	7,844	9,545-16,250	4,520

(Source: Information furnished by the Department)

The Department in its reply stated (October 2014) that the purchase was made after calling for tenders. The fact, however, remains that the Department procured furniture of same specification at different cost.

(b) Purchase of other equipment

The Department had purchased various equipments, such as computers, generators, lightings *etc.*, for use in libraries. The discrepancies observed in purchase of the equipment are discussed below:

- The Directorate, including various DCL and CCL, had procured various items through tender without ascertaining the market value of the product procured, thereby incurring extra expenditure to the tune of ₹ 37.89 lakh as detailed in **Appendix-4.2**.

The Department stated in its reply (October 2014) that the purchases were made after following tender procedures. It further stated that at the time of negotiations, the lowest quoted supplier had refused to bring down his rate to the market value. The reply is not acceptable as the market value already included all the relevant margin of the dealer.

- On successful completion of installation of Touch Screen Information Kiosks in SCL, Bengaluru and DCLs of Mysuru, Belagavi and Kalaburagi, the Department placed (March 2011) further orders for their installation in six²⁹ CCLs at a cost of ₹ 88,600 each along with Software costing ₹ 70,950/- and UPS costing ₹ 2,462 each. The Kiosks were to provide information about the State, District and also about the Department to the public. In two CCLs at Davanagere and Dharwad,

²⁹ Davanagere, Gadag, Haveri, Dharwad, Shivamogga and Tumakuru

though, payment was made (March 2011), the Kiosks were not supplied. On account of this, an amount of ₹ 3.24 lakh was lying unrecovered with the supplier besides defeating the purpose for which the amount was spent.

- In nine districts test-checked, it was observed that though Kiosks were installed in five districts (Mysuru, Belagavi, Kalaburagi, Bengaluru and Tumakuru), these were not put to use due to lack of training of staff to operate them.

The Department stated in its reply (October 2014) that the users of the Kiosks were mostly public from areas who did not know how to operate the Kiosks and hence they were not put to use. It was also stated that it would take action to get the departmental staff trained in the use of the Kiosks.

4.1.2.10 Control Mechanism

(a) Stock verification

Rule 55 and 57 of KPLAR stipulates physical verification of stock of library books to be conducted annually while verification of stores to be conducted half yearly.

In the nine test-checked districts, it was seen that no SLA /LLA had conducted annual physical verification as required under KPLAR. It was noticed that various items worth ₹ 166.23 lakh were purchased and payment of the said amount was made without ascertaining the stock certificate. However, on physical verification by the Audit along with the staff of Department, it was observed that items worth ₹ 52.03 lakh only were available and hence the Department had incurred an excess expenditure of ₹ 114.20 lakh (**Appendix-4.3**).

The Department stated (October 2014) that due to huge vacancies, periodical stock verification was not conducted and action would be taken to get the stock verified by employing staff on contractual basis. It also stated that the items were available for verification. The reply is not acceptable for the reason that the items were not physically available at the time of audit and the same was confirmed by the officers in-charge.

(b) Cataloguing

Cataloguing is the process of listing information on books such as name, title *etc.*, typically through the creation of bibliographic records.

In the nine districts test-checked, it was observed that cataloguing was not undertaken in any of the CCL / DCL and its branches. However, in SCL and CCL, Bengaluru Zones, cataloguing was undertaken partially and out of 88.12 lakh books, only 9.38 lakh books were catalogued. Further, there was

no centralised catalogue and hence, the users were unable to ascertain what was available in all the other libraries and also in other reading rooms.

The Department stated (October 2014) that action would be taken to centralise the cataloguing process.

4.1.3 Conclusion

The Department did not amend its KPLA, 1965 in order to enable the levy and collection of library cess. Further, the Department failed to monitor the collection and remittance of library cess by the Urban Local Authorities. Despite availability of land, the Department had no action plan for construction of its own buildings although 78 CCLs and 72 DCLs were operating from rented buildings. The books acquired from publishers, which were required to be kept in the SCL as reference books, were kept in godowns for want of space thereby depriving the readers of their usage. Procurement of various equipments had been made at rates which were much higher than the market rate. No plans were conceived to preserve and protect the life of precious books. Periodic physical verification of books was not conducted and hence category-wise actual number of books in possession of libraries was not known. No centralised digital catalogue existed to enable efficient direct search.

4.1.4 Recommendations

- Department of Library needs to amend the provisions of its Act in order to levy the library cess. Also, a system to monitor the remittance of cess collected by the ULBs is required to be put in place.
- Action plan should be prepared by the Department for construction of libraries now housed in rented buildings and also to provide adequate space for books which are stored in godowns.
- The preservation and conservation practices including digitisation are required to be stepped up significantly in order to preserve and protect the life of the books.
- Physical verification of stock of library books and other equipments are to be conducted annually.

The matter was referred to Government in September 2014; reply was yet to be received (October 2014).

DEPARTMENT OF MINORITY WELFARE

4.2 Property Management by Karnataka State Board of Auqaf

4.2.1 Introduction

The concept of Waqf³⁰ was introduced in India with the establishment of Muslim rule. Since 1913, a number of Acts have been passed by the Central and State legislatures. For better administration and supervision of Auqaf³¹, the Waqf Act, 1954 was enacted by the Parliament and was subsequently amended four times. The need for further amendments and consolidation necessitated the passing of the Waqf Act, 1995 (Act), which was again amended as the Waqf (Amendment) Act, 2013.

The Karnataka State Board of Auqaf (Board) is a statutory body established during 1961 under the Waqf Act with the objective of supervising, safe-guarding and administering the Auqaf and properties in Karnataka. In exercise of the powers conferred by Section 109 of the Waqf Act, 1995, the Government of Karnataka framed the Karnataka Waqf Rules, 1997.

The Board headed by a Chairperson along with four members is functioning under the administrative control of the Department of Minority Welfare, Government of Karnataka. The Chief Executive Officer (CEO) appointed by the State Government, in consultation with the Board, is the executive head and *ex-officio* Secretary of the Board.

The Compliance Audit on the Management of Waqf properties in Karnataka covering the period 2009-14 was conducted during March to July 2014 with the basic objective of assessing whether the Board had inventorised its properties, drawn up strategic plan for their effective administration, guarded against encroachments/unauthorised use and whether a system existed for optimal generation of revenue. The methodology adopted for audit included scrutiny of files and documents, issue of audit enquiries/questionnaires, examination of records and discussion with the officers/officials at various levels. Besides, joint inspections along with the Officers of the Board were also conducted to ascertain the factual position related to the Waqf property and verification of initial records maintained.

There were 29,044³² Waqf institutions across the State with 33,420 properties which were classified district-wise, according to the annual income generated (**Appendix-4.4**). Multi-stage stratified sampling was adopted for selection of the districts whose Waqf institutions annual income exceeded ₹ Five lakh and

³⁰ Waqf – permanent dedication by a person professing Islam, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable.

³¹ Auqaf – plural of Waqf

³² As furnished by the Board

simple random sampling method adopted for selection of the institutions, within the selected districts.

To discuss the important audit findings, a meeting was held with the CEO on 17 November 2014.

4.2.2 Registration of Auqaf

4.2.2.1 Irregularities in registration

Section 36 of the Act envisages registration of every Waqf, whether created before or after the commencement of the Act, at the office of the Board. Application for registration is to be made by the Mutawalli³³ which should be accompanied by a copy of the Waqf deed. Where no such deed has been executed or a copy thereof cannot be obtained, the application should contain full particulars as far as they are known to the applicant, of the origin, nature and objects of the Waqf.

On receipt of an application for registration, the Board may, before registration of the Waqf make such inquiries as it thinks fit in respect of the genuineness and validity of the application and correctness of any particulars therein. In the case of Auqaf created before the commencement of the Act, every application for registration is to be made within three months from such commencement and in the case of Auqaf created after such commencement, within three months from the date of the creation of the Waqf. The Board has to maintain a register of Auqaf which should contain in respect of each Waqf, copies of Waqf deeds when available and other particulars prescribed by the regulations including particulars of all title deeds and documents relating thereto.

Audit observed that 33,420 Auqaf had been registered with the Board as of March 2014. Scrutiny of the registration process at the office of the Board showed the following:

- The Board had not framed Regulations for registration of Auqaf so far (June 2014). The CEO stated (November 2014) that a committee had been formed to frame regulations.
- None of the applications made for registration of Waqf contained complete set of documents (Waqf deed and other related documents such as copies of the sale deed, Record of Rights, Tenancy & Crops (RTC) and Mutation extract *etc.*). In the absence of these particulars, it was not verifiable whether the Waqf institutions had absolute title over the properties. Instances of these are given in **Table-4.6** below:

³³ Mutawalli – any person appointed, either verbally or under any deed or instrument or competent authority for managing or administering of any Waqf or Waqf property.

Table 4.6: Irregular registration of Waqf properties

Property No. with measurement	Structures existing on the land	Records relied upon and what it infers	Remarks
GP 139, 99'x24' at Hirehattiholi, Belagavi District	Masjid	Extract of the tax paid receipt dated 10 April 2013 issued by the Gram Panchayat (GP), Hirehattiholi showed that it was for public use by the muslims.	Extract issued by the GP also stated that mere payment of tax would not confer the right of ownership on the property to the tax payer.
GP 140 99' x 24' at Hirehattiholi, Belagavi District			
Sy No 53 1 Acre-36 Guntas at Hirehattiholi, Belagavi District	Khabrastan	RTC, which indicates that the land was Government land	-
Sy No 91/10 3,534 sq mtr at Baikampady, Mangaluru	Masjid	Lease-cum-sale deed issued by Karnataka Industrial Areas Development Board	Lease was for a period of thirty years and hence Board had irregularly registered properties granted by Government Authority which also did not possess absolute right over the property.
92/P and 93/P 5 acres at Mattadakurubarahatty, Chitradurga	Idgah	Deputy Commissioner (DC) order (January 2009) and Office Memorandum (April 2008) reserving land for the purpose of Idgah	The land however was not granted in favour of the Waqf institution. Hence, Government land was irregularly registered.
Sy.No. 539 2 acres 14 guntas at Yadravi Village, Savadatti Taluk, Belagavi	Muslim burial ground	Application submitted by Khabrasthan & Idgah Committee (April 2013)	Primarily it was Government land hence it was irregularly registered without title deed.
Five CA site one in Block II, 118, 4/1, 3A of various dimensions at Bengaluru Urban (Jayanagar, Austin Town, RT Nagar, Bommanahalli, Indiranagar)	Muslim Institutions	Lease deed issued by Bangalore Development Authority for 30 years	The lease deed issued by BDA was for a specific period and could be either terminated or renewed. Hence, the Lessee was not the title holder of the property. However, Board based on such lease deed registered the Civic Amenity (CA) sites valued at ₹ 13.99 crore which was irregular.

The CEO stated (November 2014) that he agreed that the prior sanction of competent authority was not taken before registering Government land as Waqf. Further, with respect to registering of CA sites, CEO accepted the following audit observations and stated that the matter would be examined.

- Irrespective of the date of making the application for registration, the properties were being registered without verifying the actual date of creation of the Waqf by condoning the delay in submitting the application.

- The Board had maintained an individual register of Auqaf (*Kitabul Auqaf*) for each of the districts, wherein the details of Auqaf registered from time to time were entered sequentially. However, at the end of each financial year, no abstract was drawn. While the number of registered Auqaf reported by the Board to the State Government in the Annual Report for 2013-14 was 28,672, details furnished to Audit showed that 29,044 properties had been registered as of March 2014. Hence, the information on registered Auqaf available with the Board was, therefore, not reliable. CEO replied (November 2014) that the issue would be addressed during computerisation of Auqaf which is under progress.
- The total extent of land involved in Waqf properties and information on the number of applications pending with the Board for registration was not available with the Board which indicated that there was no system in the Board to track the disposal of applications received for registration. The CEO stated (November 2014) that the Board does not have the exact information and the same would be known only after completion of the survey.
- According to Section 41 of the Act, the Board is empowered to direct a Mutawalli to apply for registration of a Waqf or to supply any information regarding a Waqf or to cause the Waqf to be registered *suo moto*. It was seen that the Board registered only those Waqf properties for which applications had been made by Mutawallis and did not take effective action to identify unregistered Waqf properties and register these. Further, it was observed that during 2009-14, the Board had *suo moto* registered only five institutions in Bengaluru Rural. It was also observed that Bengaluru Urban district had 207 unregistered mosques. Thus, the Board's effort to register all the Auqaf in the State was slow. The CEO attributed (November 2014) the reason for shortfall to the shortage of manpower. Regarding the unregistered Auqaf, he confirmed the audit findings.

4.2.2.2 Updation of records of Auqaf

In terms of Section 37 of the Act as amended in 2013 read with Rule 6 of the Karnataka Waqf Rules, 1997, the Board and Mutawalli are to forward the details of properties entered in the register of Auqaf to the concerned land office having jurisdiction of the Waqf property for updating the property records. The Mutawalli/CEO should follow up the matter with the authorities to whom the application for updating the records is made and get the records of each property updated by entering in the relevant columns of the records the words 'Waqf property' followed by the name of the Waqf.

It was, however, observed that the Board had not complied with these provisions and failed to get the land records updated from time to time. This resulted in sale or transfer of Waqf properties long after their registration by the Board. It was seen in Bengaluru Urban and Rural districts that the title of 145 properties (valued at ₹ 609.91 crore) registered by the Board as Auqaf stood in the name of several individual persons and the Board had not taken

any action to update the land records in favour of the Waqf institutions and restore the properties to them.

Section 5 of the Act envisages publication in the Official Gazette with the prescribed particulars, a list of Auqaf in the State, whether in existence at the commencement of the Act or coming into existence thereafter, based on the report of the Survey Commissioner.

Scrutiny of Gazette notifications published between October 1964 to July 1990 pertaining to 14 districts covering 3,105 properties revealed the following deficiencies in the published information related to Auqaf. No Gazette notification had been issued after July 1990.

- The boundaries of the properties were not stated in the notification. The details of village, khata numbers, survey numbers were missing in many cases.
- No provision had been made in the gazette notification for inclusion of the details of the deed (name of the donor *etc.*) and the date of creation of the Waqf. These particulars were subsequently made mandatory as per Rule 5 of the Karnataka Waqf Rules, 1997.
- Out of 3,105 total properties situated in 14 districts notified in the gazette, 745 properties (24 *per cent*) did not have information on the extent of land. While Chitradurga district had maximum number (91 *per cent*), Ramanagara had minimum (one *per cent*) of properties with no information on the extent of land. Further, in terms of amended Section 4(6) of the Act, the properties already notified shall not be reviewed again in subsequent survey except where the status of such property has changed in accordance with the provisions of any law. As all the above properties had already been notified, the scope for resurveying these properties was limited. The CEO confirmed (November 2014) the audit observations and stated that the updation process would be completed shortly.

4.2.2.3 Sale and alienation of Waqf property

Land bearing revenue survey No. 245 measuring 8 acres 18 guntas belonging to New Riyazul uloom Arabic Madrasa, Khanapur Taluk, Belagavi (Institution) was donated on 24 July 1963 to the Institution. Though the property was registered as a Waqf in October 1967, the said property was updated as a Waqf in the revenue records only during May 1971. Meanwhile, taking advantage of delay in updating the revenue records, the owners sold (April 1971) the above property to a third person. Thereafter, a suit was filed by the Institution and it was pending disposal as of May 2014. Further, scrutiny of the records showed that apart from the above, the Institute had in its possession land measuring 76 acres 09 guntas in different survey numbers of Gollehalli village, Khanapur taluk, Belagavi and out of this, 53 acres 17 guntas of land were alienated. The CEO (November 2014) assured that action would be initiated against all these cases.

4.2.3 Survey of Waqf properties

4.2.3.1 Survey

In terms of Section 4 of the Act, the State Government has to appoint a Survey Commissioner and as many Additional or Assistant Survey Commissioners as may be necessary, for the purpose of making a survey of Auqaf existing in the State as on the date of commencement of the Act (1 January 1996). The Survey Commissioner has to submit the report in respect of the Auqaf to the State Government which in turn, has to forward it to the Board for publishing it in the official Gazette.

The Government appointed (August 1997) the Secretary, Revenue Department as the Survey Commissioner and several Additional/Assistant Survey Commissioners to conduct survey of Auqaf. However, the survey commenced only during 2001 and as of April 2014, only 19,721 (60 per cent) out of 33,420 Waqf properties had been surveyed. The Board attributed shortage of surveyors for the delay in completing the survey. The CEO stated (November 2014) that 15,182 Waqf properties as of August 2014 were yet to be surveyed and that the survey process would be completed at the earliest. Non-completion of survey resulted in alienation as well as encroachment of Waqf properties which are discussed in the succeeding paragraphs.

4.2.3.2 Tardy action to remove encroachment of Waqf properties

Section 54 of the Act, read with the Waqf Amendment Act, 2013 empowers the CEO of the Board to remove any encroachment of Waqf property and also order the encroacher to deliver possession thereof to the concerned Mutawalli, within 45 days from the date of such order. If the encroacher fails to hand over possession by removing such encroachment within the specified period, the CEO may apply to the jurisdictional Sub-divisional Magistrate (SDM) under Section 55 of the Act, who shall cause to remove the encroachment and deliver possession thereof to the Mutawalli concerned by taking such police assistance, as may be necessary.

Audit observed that encroachments of Waqf properties had been reported in 21 out of 30 districts and there was delay in referring the cases of encroachments to the SDM even after the encroachers failed to remove the encroachments within 45 days from the date of order of the CEO. In 133 out of 252 cases of encroachments reported to the Board, the delay in referring the cases to the SDM ranged from 14 days to 12 years. While 64 cases had been referred to the SDM after a delay of less than six months, in 53 cases, the delay was for more than a year but less than five years. In nine cases, the delay was more than six years. In seven other cases³⁴, though orders for eviction had been passed by the CEO between 2001 and 2012 and the

³⁴ One case each reported during 2001, 2008 and 2012 and two cases each during 2009 and 2011

encroachers had not removed the encroachments, these cases had not been referred to the SDM so far (June 2014).

Audit further observed that at the SDM level, 150 cases for eviction of encroachments were pending in 21 districts. While 28 cases were pending for more than five years, 63 cases were pending between one and five years and 59 cases were pending for less than a year. Sixty properties were involved in these 150 cases and the aggregate extent of encroachments was 597 acres and 23 guntas valued at ₹ 74.80 crore.

Further, in five districts, no action was taken in respect of 28 properties measuring 213 acres which were reported as encroached. The value of these properties was ₹ 1,138.75 crore. The CEO replied (November 2014) that despite regular follow up with the authorities concerned, the issue had not been resolved. He also stated that staff shortage was the main reason for not taking timely action against encroachments. As this is a serious matter which gets aggravated with delay, staff shortages should not be allowed to affect timely action.

Joint verification by Audit and the officers of the Board of the Waqf properties showed that in five out of 20 districts, the Waqf property was encroached upon by making residential houses and commercial buildings as detailed in **Appendix-4.5**.

4.2.3.3 Incorrect withdrawal of proceedings initiated for eviction of encroachments

After ordering (August to November 2010) eviction of seven encroachments (1,367.04 sq ft) of a Waqf property in Vijayapura, the CEO dropped (July to November 2013) the eviction proceedings on the ground that the respondents in all these seven cases had passed away before the encroachments had been reported by the Mutawalli concerned. It was seen that the CEO did not subsequently obtain the status report in respect of these encroachments from the Mutawalli to decide upon removal of encroachments, if any, by the legal heirs of the deceased or others. Also, the Board did not continue the proceedings by making accountable the legal heirs so as to reach finality on the issue and resume the encroached property. The CEO assured (November 2014) that all cases pointed out would be re-examined afresh and action taken against the legal heirs of deceased respondents.

4.2.4 Loss of right on Waqf properties

The Karnataka (Religious and Charitable) Inams³⁵ Abolition Act (KIA), 1955 was enacted (September 1955) by the State Legislature to provide for the abolition of Religious and Charitable Inams in the State. Subsequently, it

³⁵ Inams – grant of village, portion of a village or land entered in the register of inams, quit-rent register, alienation register or any revenue account maintained by or under the authority of the Government as Devadaya Inam or Dharmadaya Inam, as the case may be.

enacted another act *viz.*, The Karnataka Certain Inams Abolition Act, 1977 to provide for abolition of all Inams.

The provisions of the KIA Act, 1955 do not make any exception in case of Inams attached or dedicated to Muslim institutions and no distinction had been made in the Act, saving such category of Inams. The Board had also not initiated legal action challenging the provisions of the KIA Act, 1955 or the notification issued during January 1960, as per which the lands stood vested in the State Government. This resulted in extinguishing the right in respect of land measuring 57,043 acres 02 guntas across the State which stood transferred to the State Government. However, the Board even as on date (August 2014) continued to show the said property as Waqf property in its gazette which was incorrect.

Further, test-check of records of seven districts revealed that an extent of 17,310 acres 02 guntas was lost under KIA Act, 1955 which constituted 0.16 *per cent* to 93.57 *per cent* of total Waqf land in each of these districts.

The CEO replied (November 2014) that:

- The Inam lands had been granted by the erstwhile Maharajas several years back and no documents / title deeds were available now. These properties were shown as ‘Waqf’ in the gazette for documentation purpose under the principle, ‘once a Waqf is always a Waqf’.
- The Waqf Act being a Central Act would prevail over the State enacted KIA Act, 1955.
- Though the lands had been gazetted during 1965, the revenue authorities had not updated the land records by entering the name of Waqf.

The fact, however, remains that these lands are no longer in the possession of the Board and for a resolution of this contradiction in the provisions of KIA, the records maintained by the Board and the physical situation on the ground, the Board needs to take appropriate action in the matter.

4.2.5 Property Management

Section 32 (4) of the Waqf Act, 1995 states that where the Board is satisfied that any Waqf land, which is a Waqf property, offered potential for development as a shopping centre, market, residential flats and the like, it may serve upon the Mutawalli of the concerned Waqf a notice requiring him within such time, but not less than 60 days, as may be specified in the notice, to convey its decision whether he is willing to execute the development works specified in the notice.

In order to develop Waqf property, the following procedures were being followed:

- Finances for development of Waqf properties were to be arranged through availing loans from the Central Waqf Council (CWC), a statutory body established by the Government of India (GOI) for the purpose of advising it on matters pertaining to the working of the State Waqf Boards and through special grants received from the State Government to selected institutions for specific purposes.
- The Board stood guarantee for the loans availed from CWC and was responsible to monitor their recovery. The institutions receiving special grants had to submit utilisation certificates and also had to maintain separate accounts to be made available for verification by the statutory authorities.
- Bridge loan was sanctioned to these institutions, if required, to serve as seed money from Karnataka State Waqf Council (KSWC).

The observations in this regard are brought out in the subsequent paragraphs.

4.2.5.1 Sanctioning of loans from CWC/bridge loan

With a view to protect vacant urban Waqf properties from encroachers, to develop the same on commercial lines for generating more income and in order to widen welfare activities, CWC formulated a development scheme with annual grant-in-aid from the Central Government. Under this scheme, interest free loan was sanctioned to various Waqf institutions in the country through the State Waqf Boards, for taking up economically viable buildings on Waqf land such as commercial complexes, marriage halls, hospitals, cold storage *etc.*, subject to the following:

- Loanee should pay six *per cent* donation on the loan outstanding from time to time to the Education Fund, to be utilised for educational up-liftment of poor Muslims.
- On repayment of loan, the Waqf institutions were to spend 40 *per cent* of their enhanced income on the education of Muslims, particularly on technical education.
- State Waqf Boards have to furnish a guarantee to the CWC for the fulfilment of the obligations of the borrowers.
- Constitution of Project Development Committee (PDC) was mandatory before release of the development loan.

The loan amount was to be repaid to the CWC within a period of 10 years, excluding the moratorium period of two years. The amount received back was to be credited to a revolving fund which was to be utilised for granting further loans. In addition, KSWC sanctioned bridge loan³⁶ to Waqf institutions to serve as seed money for commencement of development works. The loan was repayable with a welfare cess @ five *per cent* per

³⁶ Type of gap financing arrangement wherein the borrower gets access to short term loans for meeting short term liquidity requirement.

annum. The Board was responsible to deduct the bridge loan together with welfare cess while releasing the first instalment of development loan sanctioned by CWC to the concerned Waqf institution.

Lapses on the part of the Board in this regard are detailed below:

- While the total amount of loan released to 35 Waqf institutions, period during which it was released and the date from which the amount was overdue was not available as at the end of March 2014, an amount of ₹ 5.53 crore was shown as outstanding from these 35 Waqf institutions **(Appendix-4.6)**.
- As the Board had stood guarantee to the loan amount of ₹ 5.53 crore, in order to discharge its commitment given to CWC, the Board was required to maintain a Demand, Collection and Balance (DCB) register to watch disbursement, recovery of loan and outstanding balance against each institution. However, the Board had neither maintained a DCB register nor had evolved any mechanism to watch prompt and full recovery of loan sanctioned. The CEO cited (November 2014) shortage of manpower as the reason for non-maintenance of DCB register.
- It was observed that certain Waqf institutions had remitted loan instalments directly to the CWC without routing it through the Board. But, the Board had neither issued any instructions in this regard nor had any information on its repayment. Hence, it did not exercise any control over recovery of loan and therefore the information on outstanding loan produced was unreliable.
- The proposals seeking sanction of loan were required to be accompanied by an estimate and sanctioned plan which were to be verified for its accuracy and authenticity by the Board before recommending the same to CWC. Since the post of Assistant Executive Engineer sanctioned for the purpose was vacant and in the absence of technical expertise, the Board accepted the estimates furnished by the Waqf institutions and forwarded the same to the CWC without any scrutiny. Further, it was observed that the utilisation certificates furnished by the institutions were forwarded to the CWC without verification. Hence, the Board lacked control mechanisms for monitoring the utilisation of these loans.
- Due to non-availability of periodical progress report and failure to evolve suitable monitoring mechanism, the Board did not have information about the number of works completed, copies of completion certificate/ utilisation certificates and inspection reports in case of all completed works, the amount spent on educational schemes out of the enhanced income, year-wise increase in Waqf fees³⁷, etc. The CEO (November 2014) confirmed the audit observation.
- The Board had not devised any mechanism to recover the bridge loan and remit the same to the KSWC. Further, it did not have any database

³⁷ Commercial development of property will increase in the revenue of the Waqf institutions which in turn results in increase in Waqf contribution payable to the Board (seven per cent).

on the number of institutions which had availed the bridge loan from KSWC and the amount which was recovered from these institutions except for ₹ 69 lakh released to 13 institutions prior to November 1995. The CEO confirmed (November 2014) that the KSWC had directly released the loan to the concerned institutions without furnishing necessary information to the Board.

- Instances of mis-utilisation of loans released to three institutions are brought out in the **Appendix-4.7**.

The CEO accepted (November 2014) all the observations made by Audit and stated that the DCB register had been maintained by the CWC. The reply is not tenable as the Board being a guarantor to the loan was required to monitor the repayment by maintaining a DCB register.

4.2.5.2 Release of Special Grants

During 2009-14, State Government had released ₹ 3.95 crore as special grants for six³⁸ Waqf institutions without technical scrutiny and detailed project report. Moreover, there was no system to ascertain the utilisation of special grants.

Joint inspection of three institutions revealed that the works were incomplete in all cases and the institutions had not maintained any separate accounts for the special grants.

4.2.5.3 Grants-in-aid (GIA) from the State Government

With a view to safeguard the Waqf properties from the encroachment and unauthorised possession and also to provide financial assistance for construction of new Waqf buildings, to carry out repairs, renovation/improvements to the existing buildings, the State Government released grant-in-aid to the Board both under Plan and Non-plan heads. GIA Code (Code), exclusively applicable to the Waqf institutions in the State of Karnataka was approved during August 1979, wherein detailed guidelines had been issued prescribing the conditions of Grant, procedure for release and utilisation of Grant, eligibility criteria *etc.*

Test-check of files related to release of GIA to the Waqf institutions revealed that none of the conditions laid down in the said Code had been put into practice resulting in large scale deviations and violations, which are as detailed below:

- While the rules under Code made it mandatory to route all the applications for grants through the Board with its recommendations, it

³⁸ Dargah Hazrath Tawakkal Mastan, Bengaluru (₹ 45.05 lakh), Dargah Hazrath Tippu Sultan (₹ 50 lakh), Dargah Hyder Wali Baba, Mulbagal (₹ 50 lakh), Dargah Hazrath Kambal Posh, Bengaluru (₹ 50 lakh), Dargah Hazrath Mardhan-E-Ghaib, Shivanasamudram (₹ 50 lakh), Dargah Hazrath Fakhi Shah Wali, Murugamalla (₹ 150 lakh)

was observed during 2009-14 that out of 4,572 Waqf institutions which had been sanctioned GIA, only 718 Waqf institutions had been recommended by Board. Remaining 3,854 Waqf institutions had been sanctioned grants directly by the Government without recommendations from the Board.

- Further, the Code prescribed grantee to furnish a copy of the duly audited annual statement of accounts of the institution to the Board before the 1st day of May of the following year. However, the Board did not have any mechanism to watch the prompt receipt of audited annual accounts from the grantee institution.
- The Board had not obtained and kept on record completion certificate to ensure whether the project, for which the GIA had been released, was duly completed in all respects, as per the project estimate and plan. Moreover, though, these institutions were to maintain separate accounts for the GIA received, it was observed from the accounts furnished and also during the joint inspections that there was no system of maintaining separate accounts.
- Though the grant was to be released in two instalments, the second being released only on receipt of a report from the Waqf Officer on satisfactory progress of work and submission of a Utilisation Certificate (UC) in respect of the first instalment of the grant, within six months from the date of release, the Board had released the second instalment of the grant, despite the Waqf institutions not adhering to this condition. This reflected lack of suitable monitoring mechanism at the Board level.
- Consolidated UC for the total amount of grant released was also not monitored and the Board did not have information on the number of grantees, who were yet to submit final UC. Deficiencies noticed in the test-checked 776 cases are as shown in **Table-4.7** below:

Table-4.7 : Deficiencies noticed in test-checked cases

	Instalment	No of cases	Percentage to test checked cases
Delay in receipt of UCs	I	170	21.91
	II	37	4.77
Delay for more than one year	I	146	18.81
	II	36	4.64
Non-receipt of UC	I	275	35.44
	II	120	15.46
II instalment released without UC for the I instalment	--	82	10.57

- The Grants sanctioned and released by the Government were to be paid by the Board to the Waqf institutions, immediately and also within the financial year, in which it was released. However, it was observed in the 776 cases test-checked that grants had been released to the grantee institutions by the Board with delays ranging from six months to one year in 100 cases (13 per cent) and with a delay of more than one year in 101 cases (13 per cent). In three cases, the grants were not released by the Board even after four years. The CEO stated (November 2014) that

grants were directly released by the Government in certain cases even when the violation of the GIA was repeatedly brought to notice and at times, this resulted in sanctioning grants to ineligible institutions also. He also quoted manpower constraints as the main reason for the control failures pointed out by Audit.

- The Board had invested ₹ 1.50 crore (May 1999) in Bangalore Mercantile Co-operative Bank Ltd for the initial period of four months on the directions of Minister of State for Tourism, Infrastructure Development and Waqf. Similarly, it also invested ₹ 15 lakh in Al-Iqra Credit Co-operative Society, Davanagere (January and September 1997) for a initial period of seven months. The amounts deposited were out of GIA released by the State Government. However, both the institutions had failed to refund the principal amount even after maturity. On issue of several showcause notices, the principal amounts were received during September 1999 to February 2010. Since the GIA were meant to be released by the Board to the beneficiary for utilisation for a specific purpose, the irregular investment of ₹ 1.65 crore by the Board during 1997-99, not only resulted in denying the Government assistance to the concerned Waqf institution, but also in locking up of Government funds up to February 2010. The CEO stated (November 2014) that the Government had initiated inquiry in this regard and the same was in progress.
- The Government of Karnataka released a sum of ₹ 11.75 crore during 2011-14 to the Board for implementation of the “Scheme of remuneration to Imams and Muezzins, 1995.” Since the Board was yet to finalise the modalities of implementation of the scheme, it invested the plan grants in term deposits of different banks. On review of cash book and bank pass sheet related to administration of this grant showed that there was considerable delay in the investment of funds in term deposits and huge amounts were retained in the saving bank (SB) account for periods ranging from six to 199 days. Since SB account earns a lower interest of four *per cent* per annum as compared to 9 to 9.5 *per cent* interest, fetched by term deposits, intermittent delay in transfer of funds from SB account to term deposits resulted in a loss of ₹ 23 lakh. The CEO stated (November 2014) that the scheme had since been approved during July 2014 and the payment was under process.

4.2.5.4 Leasing of Waqf properties

Section 56 of the Act lays down certain restrictions on power to grant lease of Waqf property. As per the provisions, while the lease or sub-lease for any period exceeding three years of any immovable Waqf property would be void and have no effect, the lease or sub-lease for any period exceeding one year and less than three years would be void and have no effect unless made with the previous sanction of the Board. Further, in Waqf (Amendment) Act, 2010 the Waqf properties could be leased or sub-leased upto 30 years. Irregularities in this regard are brought out in the succeeding paragraphs:

- Contrary to the above provisions, two Waqf properties were leased for more than three years which are detailed in **Table-4.8**. This resulted in loss to the concerned Waqf institutions as they lost opportunity to earn income according to the prevailing market rates.

Table 4.8: Waqf properties leased

Name of the lessee institution	Name of waqf institution	Period of lease	Date of lease execution	Remarks
Al-ameen Educational Society, Bengaluru	Dargah Ataullah and Wadi Sha	99 years	October 1976 with registered lease agreement in February 1987	The lease deed was executed for 99 years even when there was no provision for the same in the Waqf Act.
Central Muslim Association of Karnataka	Hameed Shah & Haz. Muhib Shah Khadri Dargah	35 years	October 1985	The lease deed was executed for 35 years even when there was no provision for the same in the Waqf Act.

- Though lease deed was executed by the Board, there was no system in place to obtain the accounts of these institutions to ensure that the income derived out of commercial exploitations were utilised for educational purposes only.
- M/s. Pioneer Power Corporation Limited (Company) requested (February 2005) the Board to lease out four acres of land in Sy.no.2, Sathegala village, Kollegal taluk, Chamarajnaragar, a notified Waqf property for setting up of a power plant for generation of 24.75 MW power. Based on the recommendation of the sub-committee, the Board approved (February 2006) leasing of 10 acres of land for a period of three years for a lease amount of ₹ Two lakh per annum with an increase by five *per cent* every year. The lease deed was executed during July 2006 and was operative for three years and was renewed twice (June 2009 and June 2012). Since the land was leased for an infrastructure project, Board was aware that the lease was for long term and could not be terminated in the near future. Therefore action of the Board in leasing out Waqf property, which involved, indirectly granting right of a long term nature, was in direct violation of the provision 56 of the Waqf Act, 1995. Further, the lease amount which was determined at ₹ Two lakh and subsequently renewed as ₹ 7.5 lakh (June 2009) and ₹ 15 lakh (June 2012) was not based on any scientific method but was fixed arbitrarily.
- Scrutiny of files/records and during joint inspection of Waqf properties, it was noticed that the Waqf institutions had let out their buildings to commercial establishments. However, while fixing rent, the rent was fixed arbitrarily without ascertaining prevailing market value, rent fixed by other owners in the vicinity *etc.* Such fixation had not only resulted in loss to the Waqf institution but also to the Board. Some of the cases are brought out in **Appendix-4.8**.

Hence, failure on the part of the Board to review periodically the rent fixed by the Mutawalli, so as to ensure fixation of fair rent in these case reflected that

the Board did not satisfactorily discharge the duties assigned to it under Section 32 of the Act. Also, the Board had not evolved any mechanism to review the reasonableness of the rent fixed by Mutawalli of various Waqf institutions in the State and had also not taken action to streamline the process relating to fixation of lease/rent for Waqf property, on the basis of the market value of the property in question.

The CEO stated (November 2014) that the leasing of properties were now being made in accordance with the Lease Rules 2014 which stipulates fixation of lease rent at five *per cent* of the guidance/market value. Hence this confirms audit observations.

4.2.6 Waqf Contribution

Section 72 of the Waqf Act, 1995 stipulates recovery of annual contribution payable by the Mutawallis to the Board. It states that the Mutawalli of every Waqf, the net annual income of which is not less than five thousand rupees, shall pay annually, out of the net annual income derived by the Waqf, such contributions, not exceeding seven *per cent* of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the Waqf.

As at the end of February 2014, ₹ 4.16 crore was due towards Waqf contribution. Of this, ₹ 2.14 crore was due from Bengaluru (U) alone. In the absence of budget estimates, annual accounts and audit report, the figures reflected in the DCB were not reliable. The CEO stated (November 2014) that the demands for Waqf contribution were based on the budget estimates furnished by the Waqf institutions. He also quoted shortage of staff and absence of monitoring mechanism for non-recovery of Waqf contribution.

4.2.7 Administration and Accounts

4.2.7.1 Administration

In accordance with the provisions contained in section 69 of the Waqf Act, 2013, it was necessary for the Board to frame a scheme for the proper administration of the Auqaf, after consultation with the Mutawalli, in the prescribed manner. In pursuance of the above provision, the Board approved (March 2013) the Model Scheme of Administration for implementation by all the Waqf institutions. The Waqf institutions were required to frame their own scheme of administration on par with the Model Scheme of Administration, in order to suit their individual needs/objectives. The scheme so framed was to be approved by the Board.

Out of 28,672 registered Waqf institutions existing in the State as of November 2014, the Board had approved the Model Scheme of Administration only in respect of 250 institutions, which constituted a meagre 0.87 *per cent*.

4.2.7.2 Accounts

Under various provisions of the Waqf Act, 1995 and Waqf (Amendment) Act, 2010, every Mutawalli of a Waqf is required to prepare and submit budget estimates every year. Similarly, Waqf institutions are required to prepare and furnish annual accounts before 1st day of July every year. Further, these institutions were required to be audited periodically in the manner prescribed by the Internal Audit Wing of the Board.

Test-check of 144 institutions in 22 districts having an income of more than ₹ Five lakh revealed the following:

- Out of 144 institutions, only five institutions had submitted budget estimates for all the five years, 11 institutions had submitted for four years, 21 institutions for three years, 12 institutions for two years and 16 institutions for one year. Seventy-nine institutions which had not submitted the budget estimates during the last five years included Waqf institutions which were directly managed by the Board which indicated that there was no system to watch the receipt of the budget estimates from the institutions.
- Out of 144 institutions, only 45 had submitted annual accounts during 2009-14. Of this, only one institution had submitted accounts for all the five years.
- Board had neither drawn an annual audit plan to implement the provisions laid down in the Waqf rules nor had it conducted any internal audit of the Waqf institutions. Further, it was observed that the Board had not appointed panel of auditors for auditing the institutions and also the records did not reveal whether audit had been conducted by Waqf inspectors. Hence, Board did not have any mechanism to monitor the activities of the Waqf institutions.

The CEO stated (November 2014) that the shortcomings pointed out by Audit would be addressed once the vacant posts had been filled up.

4.2.7.3 Findings of Joint Inspection

As the Board did not carry out internal audit of the Waqf institutions, maintenance of mandatory records by the institutions was not ascertainable. Hence, joint inspection of 47 Waqf institutions with the District Waqf Officer concerned was conducted and the results of which are detailed below:

- None of the records prescribed under the Waqf Rules were maintained except for cash book.
- Cash book was maintained only in 23 out of 47 test-checked Waqf institutions. Two out of 23 institutions had not maintained the cashbook in prescribed format.
- Two Waqf institutions had maintained the accounts for the Ramzan period instead of financial year.

- The Waqf institutions which had maintained cash book, however, had not conducted bank reconciliation.

Individual findings in respect of three Waqf institutions are brought out in the **Table-4.9** below:

Table-4.9: Individual findings of Waqf institutions

Name of the Waqf institution	Audit findings
Mohiydeen Jumma Mazjid Mulim Jamaath, Baikampady	State Government had sanctioned an amount of ₹ 70 lakh in the form of grant and loan for construction of Shaadi Mahal during November 2008 to March 2009. As per the request of the institution, the Government sanctioned additional loan of ₹ 30 lakh which was released in two instalments (May 2011 and July 2011). Scrutiny of the estimate for the additional loan revealed that it included works amounting to ₹ 27 lakh which had already been completed. Further, it was observed that the Shaadi Mahal had been completed in all respects and was generating income from January 2011 itself. In view of the above facts, proposal for seeking additional loan was false and misleading.
Muslim Orphanage, Bengaluru	Scrutiny of the records of Muslim Orphanage revealed that ₹ 84 lakh was kept in the Amanath Co-operative Bank. (₹ 65 lakh as fixed deposit and ₹ 19 lakh in various accounts). Since the bank had ceased its operations owing to financial irregularities, the auditor had termed the realisation as doubtful. Further, investment of the said amount was irregular as the bye-laws of Waqf institution had stated that the bankers were to be nationalised banks only and entire transactions were to be made through them. Hence, failure of the Board as monitoring authority resulted in loss of ₹ 84 lakh.
Gulistan Shaadi Mahal, Bengaluru	Gulistan Shaadi Mahal established during 1965 was managed by a panel of members (trust) upto April 2003 independently until Administrator was appointed by the Board (September 2003). Scrutiny of records revealed that the then trust had entered (September 1998) into a Memorandum of Understanding (MOU) with Madani Education Trust for extending interest free loan of ₹ 60 lakh. It was observed that, against the MoU of ₹ 60 lakh, the trust had released ₹ 80 lakh to Madani Education Trust, of which ₹ 50 lakh was released (December 1996 and August 1998) prior to entering into the MoU. The members of this trust and Madani Education Trust were one and the same. However, this fact was not considered when the Board had decided to take action against the institute. Except for issuing notices (first notice issued in September 2004) no other action was taken by the Board and the fact remained that the amount was yet to be recovered even after ten years from the date of first action initiated.

The CEO replied (November 2014) that ₹ One crore was earmarked for the training of management committees of Waqf institutions scheduled to commence from December 2014, as the persons managing the Waqf institutions were either unqualified or illiterate and did not possess knowledge of accounts or the provisions of the Waqf Act and Rules.

4.2.8 Monitoring

Karnataka Waqf Regulations, 2010 envisaged constitution of District Waqf Advisory Committee (DWAC) for every district in the State for supervision of Auqaf. However, the DWACs constituted in pursuance of the provisions contained in the Waqf Act, 1995 did not lay down detailed guidelines to ensure its effective functioning. Further, full fledged DWACs were not constituted in 14 districts. Also, the regulations prescribed periodical and regular meetings of the DWAC. However, no information was available with regard to the number of meetings conducted by each of the DWACs during each financial year, agenda for the meetings, proceedings of the meetings, specific subjects referred, if any, to the DWAC by the Board *etc.* Thus, the Board did not exercise any superintendence and control over the DWAC, which reflected the absence of requisite monitoring and internal control mechanisms.

A special study conducted by the Karnataka State Minorities Commission on the protection of Waqf properties had recommended constitution of 'Waqf properties task force'. Government constituted (May 2013) two Waqf properties task forces *viz.*, State Level Waqf Properties Task Force (SLWPTF) and District Level Waqf Properties Task Force (DLWPTF) laying down a six-point programme and also guidelines for functioning of these task forces. However, it was observed that the DLWPTF did not meet at prescribed intervals due to which the SLWPTF was also unable to perform its duties.

Thus, the monitoring as well as internal control mechanism in the Board was deficient. This was accepted by the CEO (November 2014).

4.2.9 Conclusion

The Board had not framed regulations for registration of Auqaf. The Board did not follow the procedures for updating the records in the concerned land office having jurisdiction of the Waqf properties. This resulted in sale/transfer of Waqf properties after their registration by the Board.

The survey of Waqf properties was commenced only during 2001 and as of April 2014, only 60 *per cent* Waqf properties had been surveyed. Further, non-completion of survey resulted in alienation as well as encroachment of Waqf properties.

By not initiating legal action challenging the provisions of the KIA Act or the notification issued during January 1960, as per which the lands stood vested in the State Government and the land had been granted to eligible persons under the Land Grant Rules, 1969, the Board does not have a 'right' in respect of 57,043-02 acres of land across the State.

There was an outstanding loan of ₹ 5.53 crore pending against 35 Waqf institutions. Due to non-availability of information on number of works completed, copies of completion certificate/utilisation certificates and inspection reports in case of all completed works, the amount spent on educational schemes out of the enhanced income, year-wise increase in Waqf fees, *etc.*, whether, the Waqf institutions which had availed loan from CWC, fulfilled the conditions stipulated was not ascertainable. Contrary to the existing provisions, there were a number of transgressions in respect to period of lease fixation and recovery of lease rent, even with reference to commercial establishments. Also, the monitoring and internal control mechanism in the Board was ineffective.

4.2.10 Recommendations

- Board may take action to complete the survey of Waqf properties in a time bound manner for having complete picture for planning and management of its property including avoidance of encroachment.
- Board may take action to comply with the provisions stipulated in Section 37 of the Waqf Act, 1995 and get the land records updated from time to time by pursuing the matter with the revenue authorities for updation of land records.
- The Board should strictly implement the provision of Waqf rules to obtain the accounts of Waqf institutions to ensure that the income derived out of commercial exploitations were utilised for educational purposes only.
- Board may constitute full fledged DWAC prescribing their duties and responsibilities and also should strive towards effective functioning of State Level and District Level Waqf Properties Task Force to strengthen the monitoring system of the Board.

The matter was referred to Government in October 2014; reply is yet to be received (October 2014).

DEPARTMENT OF COLLEGIATE EDUCATION

4.3 Irregular retention of tuition and laboratory fees

Fifty one Grant-in-aid colleges irregularly retained tuition and laboratory fees of ₹ 23.97 crore collected from students without remitting it to the joint accounts with Director of Collegiate Education. The Commissioner, Collegiate Education routinely released grants to these colleges without adjusting the amounts retained by the colleges against the grants.

The Karnataka Educational Institutions (Collegiate Education) Rules, 2003 (Rules) under Rule 18 permits the managing committee of the Grant-in-aid colleges to collect tuition and laboratory fees from the students at rates not exceeding twice the standard rates fixed by the Government or as fixed by the Government from time to time. The fees so collected are to be remitted to the joint account³⁹ on the same day. In case of failure to do so, the Commissioner of Collegiate Education is either to direct that all the fees and other dues shall be paid by students directly to the joint account or to reduce the salary grants to these Grant-in-aid colleges by the amount of fees not remitted. However, prior to 2003, the management of the colleges was required to remit only the standard rates of fees fixed by the Government.

We observed that during 2004-14, against ₹ 47.87 crore collected as tuition and laboratory fees, ₹ 23.97 crore had been retained by 51 Grant-in-aid colleges and no information was available in respect of the remaining 12 Grant-in-aid colleges. The colleges stated (January 2014) that they were awaiting the Government's decision on their representation requesting to revert back to the earlier system of remitting only the standard rates of fees to the joint account.

Though the Rules empowered the Commissioner to reduce the salary grants by the amount of fees remaining to be remitted to the joint account, the Regional Joint Director, being the monitoring authority for these Grant-in-aid colleges, had not taken any action except for issuing show cause notices/reminders in 2013-14. Further, the Commissioner routinely released the salary and other grants amounting to ₹ 670.12 crore during 2009-14 to these 51 Grant-in-aid colleges without taking cognizance of the non-remittance of fees collected by the colleges to the joint account.

Thus, failure to track the collection and remittance of fees by the Grant-in-aid colleges facilitated continued retention⁴⁰ of fees of ₹ 23.97 crore by the colleges, which was yet to be refunded to the Government.

³⁹ The Director of Collegiate Education opens a Joint Account in the Bank in the names of the Director and the Principal duly authorised by the Managing Committee of the Educational Institution for which the Grant-in-aid is paid under the Rules.

⁴⁰ Retention figures were as on May 2014.

The Department stated (November 2014) that action would be taken to recover the said amount.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

DEPARTMENT OF HOME

4.4 Avoidable payment of interest

The Government delayed the decision to swap higher interest bearing loans with HUDCO resulting in payment of higher rate of interest for more than two years and avoidable additional interest payment of ₹ 4.77 crore.

The Karnataka State Police Housing Corporation (Corporation), the nodal agency for implementation of Accelerated Housing Schemes I and II, availed loans of ₹ 80 crore and ₹ 45 crore (May 2001 and March 2005) from Housing Development Finance Corporation Limited (HDFC) in three tranches for construction of 10,100 residential houses for police personnel. The loans which carried interest (floating) at the rate of 12.5 *per cent* and 10.25 *per cent* per annum, respectively, were to be repaid in 60 equated quarterly instalments. The State Government had stood guarantee for these loans and provided budget provision for their repayment.

The Corporation noticing that the interest rate had increased upward to 14 *per cent* and 12.25 *per cent* per annum, respectively, based on the prime lending rate, requested (September 2008) the Departments of Home and Finance to provide funds for pre-closure of loans. However, the State Government took 19 months to inform (March 2010) the Corporation to examine the feasibility of swapping the loans at lower rates of interest as it was not in a position to finance the proposed pre-closure due to lack of fiscal space.

The Corporation then approached the Housing and Urban Development Corporation Limited (HUDCO) for taking over the loan outstanding with HDFC. HUDCO agreed (May 2011) to take over the outstanding loan at the interest rate of 11.5 *per cent* per annum (fixed) subject to guarantee from the State Government and execution of the loan agreement within a period of four months. The Corporation referred (June 2011) the matter to the State Government.

When the State Government approved (July 2011) swapping of the outstanding loan of ₹ 62.83 crore (1 July 2011) with the loan obtained by the Corporation from HUDCO, its interest rate had increased to 12 *per cent* per annum. Further, the delay on the part of the Government in communicating its decision resulted in payment of interest to HDFC at a higher rate on the

outstanding loan. The interest rate charged by HDFC had increased to 17 per cent per annum at the time of swapping the loan.

Thus, delay on the part of the Government in taking decision on swapping of loans led to payment of interest at higher rates to HDFC for 32 months from September 2008 to July 2011, resulting in avoidable additional interest payment of ₹ 4.77 crore.

Government replied (September 2014) that due to swapping, there was a saving of ₹ 8.34 crore to the State Exchequer. The fact, however, remains that had the Government taken timely decision, it could have resulted in additional savings of ₹ 4.77 crore.

4.5 Locking up of Government funds

An effective emergency responsive system to handle public distress could not be established due to entrustment of the project to the Karnataka State Police Housing Corporation which lacked the expertise in the field and resulted in blocking of funds of ₹ 3.66 crore for over three years.

The Director General and Inspector General of Police (DG &IGP) entrusted (January 2009) the procurement of GPS based vehicle monitoring and Dial 100 system and communication equipment along with other infrastructure facilities to the Karnataka State Police Housing Corporation (Corporation) for which ₹ Eight crore was provided between January 2009 and March 2010 out of XII Finance Commission Grants released for Modernisation of Police Force.

The Corporation invited (August 2009) Expression of Interest (EOI) for the setting up of an effective emergency response system to handle public distress for Mysuru, Hubballi-Dharwad, Belagavi and Kalaburagi. Further, the Corporation issued (12 May 2010) request for proposal to five shortlisted bidders fixing the last date for submission as 13 July 2010. Meanwhile, on being directed by the High Power Committee of the XII Finance Commission (19 May 2010) to refund the entire unutilised grant on grounds of delay in implementing the project, the Corporation remitted (July 2010) ₹ Eight crore to Government account.

The DG&IGP again sought (January 2011) funds for implementation of the scheme and the Government while according (February 2011) administrative approval for implementation of the project in three districts Mysuru, Hubballi-Dharwad and Mangaluru at a cost of ₹ Five crore, released (March 2011) ₹ 3.66 crore. The amount was deposited with the Corporation in April 2011.

The Corporation, after finalising the techno-commercial evaluation of the proposals already received in July 2010, sought (November 2011) Government approval for the tender evaluation statement and permission for

negotiating with the lowest bidder. Meanwhile, the Corporation had sought extension of validity period twice⁴¹ from all the bidders. When requested (December 2011) to extend the validity for another two months, except for one bidder, all the other bidders refused to extend the validity period. The Government, therefore, directed (April 2012) the Corporation to re-tender the work. In response, the Corporation pleaded its inability to take up the work on the grounds that it lacked the qualified experts who were earlier involved in the project.

Further, the Government while issuing (January 2012) directions for constitution of tender scrutinising committee and designating various authorities in the Department of Home for procurement of goods and services observed that the practice of authorising the Corporation to call for tenders, approve them and procure goods was improper. No further action was taken till December 2013, when the DG&IGP stated that tenders for procurement of the system would be invited after identifying a consultant for implementation of the project. Consequently, the deposit of ₹ 3.66 crore remained un-utilised with the Corporation for over three years.

Thus, entrustment of the project to the Corporation which lacked the expertise in the said field resulted not only in locking up of Government funds and non-establishment of the said system for more than three years but also hampered the communication infrastructure aimed at improving the delivery of the police services.

Government replied (November 2014) that action would be taken to float the tender and utilise the amount. The fact however remains that the effective emergency response system to handle public distress was not established.

DEPARTMENT OF HIGHER EDUCATION

4.6 Violation of codal provisions resulted in escalation of cost and stoppage of work

Inordinate delay in handing over site and issuing structural drawings for the Post Graduate Centre, Kolar led to stoppage of work by the contractor midway and cost overrun of ₹ 1.59 crore apart from depriving the students of intended facilities.

Karnataka Public Works Departmental Code stipulates that before inviting tenders for a work, Department should ensure availability of site and other requisites such as sanctions from appropriate authorities, design and drawings and provisions of funds.

⁴¹ 1st extension: from 26-05-2011 to 25-09-2011
2nd extension: from 26-09-2011 to 25-12-2011

The Bangalore University (University) accorded administrative approval (March 2008) for construction of a Post-Graduate Centre at Kolar on 30 acres of land granted (April 2007) by the State Government. However, the land was transferred to the University only in August 2008 due to delay in acquisition of land by the Deputy Conservator of Forest. The new Post-Graduate Centre comprised an administrative block, classrooms, library and seminar hall with a total area of 53,241 sq ft. Even before the site was available, the work was tendered and awarded (April 2008) to a contractor at a tendered cost of ₹ 11.27 crore which was 5.4 *per cent* above the estimated cost based on Schedule of Rates of 2007-08 (₹ 10.85 crore). The stipulated date of completion of work was 24 months from the date of handing over the site.

We observed that the site was handed over (September 2008) to the contractor after a delay of five months. Further, the structural drawings were issued to the contractor between September 2008 and June 2010. After receiving payment of ₹ 3.93 crore, the contractor stopped (June 2010) the work after the contract period and requested for extension of time and revised rates based on Schedule of Rates 2009-10. At the time of stoppage of work, the administrative block had been almost completed while classrooms had been only partially completed.

Meanwhile, in the meeting (August 2012) under the Chairmanship of Vice Chancellor, Bangalore University, the contractor agreed to resume the work subject to issue of revised work order at revised rates and also an advance payment of ₹ 25 lakh. Subsequently, a revised work order for ₹ 8.93 crore (2.5 *per cent* above the Schedule of Rates of 2011-12) was issued (August 2012) and ₹ 25 lakh was paid (September 2012) as advance to be adjusted in the next running account bill. However, the contractor failed to resume work even after the payment of advance. Further, no action was initiated by the University to re-tender the work or to get the work completed at the risk and cost of the contractor.

The University accepted (December 2013) that at the time of inviting tenders, the site was not available. However, tenders were invited since it was anticipated that the University might be able to get the land immediately. It was further stated that classes were being held in the newly constructed administrative block. The reply does not address the fact that the administrative block which had not been handed over yet by the contractor lacked basic facilities such as doors, windows, electricity, water and sanitation.

Thus, the University though well aware of the fact that the site was not available and drawings were not ready, had awarded the work in violation of codal provisions. This not only resulted in stoppage of work but also cost overrun of ₹ 1.59 crore. Further, it deprived the students of intended facilities.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

DEPARTMENT OF HOUSING

4.7 Irregular investment in equity based funds

Disregarding the directions of the Government, the Karnataka Housing Board formed a Trust to invest its Gratuity and Pension Fund (₹ 30 crore) in equity based funds which were inherently risky. This resulted in loss of interest of ₹ 79 lakh.

Section 50 and Section 87A of the Karnataka Housing Board (KHB) Act, 1962 stipulate the following:

Section 50	All moneys and receipts forming part of the fund of the Board are to be deposited in the Reserve Bank of India or in any Scheduled Bank or invested in such securities as may be approved by the Government.
Section 87A	Confers overall control and supervision of all the activities and affairs of the Board to the State Government and empowers the State Government to call all the records of the Board for satisfying itself as to the correctness, legality and propriety of the activities and affairs of the Board.

Further, the Karnataka State Bureau of Public Enterprises in its guidelines (April 2009) directed that every investment decision was to be approved by the Board of Directors or Finance / Investment Committee constituted by the Board and that no investment should be made in public and private mutual funds where there were equity based operations.

KHB invited (June 2010) proposals from Life Insurance Companies for management of Gratuity and Pension Funds of its existing employees and pensioners including family pensioners. On evaluating the proposals received, KHB shortlisted (August 2010) two insurance companies for obtaining commercial proposals from them. The Evaluation Committee evaluated the commercial proposals received and recommended (28 August 2010) the proposal submitted by the ICICI Prudential Life Insurance Company (Company). The Evaluation Committee also urged KHB to invest before 31 August 2010 to avail of the incentives offered by the Company. Accordingly, Controller of Finance invested (31 August 2010) a token amount of ₹ 0.50 lakh each in two Insurance products pending approval by the Board.

In the 426th Board's meeting (September 2010), the representative of Finance Department suggested the following:

- The Management of the Gratuity and Pension Fund was to be given to more than one organisation;
- The Committee headed by Secretary, Department of Housing was to study and analyse the issue in detail;
- The management of the said funds by other organisations such as Bangalore Water Supply and Sewerage Board, Karnataka Power Transmission Corporation Limited, *etc.*, was to be studied; and

- To cancel the current tender process and call for new tenders in order to have more transparency.

Further, the Finance Department after reviewing the concerned files of the KHB observed (December 2010 and May 2011) that the minimum qualification criteria for fund management and the table for evaluation had not been firmed up prior to opening of the bids, notings in the file had been reconstructed and technical parameters seemed to be set in a manner that precluded wide competition.

Meanwhile, the Board resolved to drop the proposal in its meeting held during February 2011 and withdrew (September 2011) the amount invested. Further, the KHB constituted (September 2012) a Trust under the chairmanship of the Commissioner without approval of Government and applied (September 2012) for recognition from the Department of Income Tax. The Employees Gratuity Fund and Pension Fund created under the Trust was recognised by the Department of Income Tax with effect from 24 January 2013. Even before obtaining recognition from the Department of Income Tax, ₹ 30 crore was invested (September 2012) again in the two insurance products of the Company which had already been rejected by the Finance Department without calling for fresh tenders. As the insurance products were market-linked, KHB found the investment risky and earning less interest and decided to pre-close (December 2013) the investment and re-invest the amount received (₹ 32.64 crore) in a nationalised bank.

It is apparent, however, that KHB while deciding to invest in the market linked insurance products did not comply with the Finance Department's directions and:

- Management of Gratuity and Pensions funds were given to single organisation.
- No committee was formed to study and analyse the issue in detail.
- The investment in the fund was made based on the earlier tender process.

These not only resulted in lower yield but also loss. The loss suffered by the KHB in comparison to fixed deposit rate of 8.75 *per cent* per annum offered by nationalised banks during that period worked out to ₹ 79 lakh⁴².

The KHB stated (August 2014) that the amount has since been withdrawn and has been deposited in a fixed deposit of a nationalised bank.

The matter was referred to Government in August 2014; reply was yet to be received (October 2014).

⁴² For a principal value of ₹ 30 crore for a period of 15 months in the regular fixed deposit earnings at 8.75 per cent would be ₹ 3.43 crore. Against this KHB earned only ₹ 2.64 crore. The difference of ₹ 79 lakh is taken as loss of interest.

DEPARTMENT OF HORTICULTURE
4.8 Continued release of funds for a project which was not taken up

M/s.Greenlife International, a society registered for establishing an International Agricultural Trade Fair Centre at Poojenahally received grants from the Government year after year even though it had huge unspent grants(₹ 8.38 crore). The project also failed to take off due to unresolved land disputes. Further, investment of unutilised amount in low yielding savings account led to potential loss of ₹ 1.95 crore.

To enhance the livelihood of those directly or indirectly dependent on Agriculture and Allied sectors, the State Government approved (August 2007) a project for establishment of an International Agricultural Trade Fair Centre (Project) at Poojenahally. The main objectives of the project were to:

- Provide single window platform for dissemination of information on Global trade and technological advances in the field of Agriculture and allied activities.
- Provide linkages to the Agricultural producers of the State with rest of the world.
- Create world class facilities for producers and buyers to meet and exchange their ideas and requirements.
- Create state-of-the-art facilities to conduct international trade exhibitions involving producers and buyers.

The project was to be setup over 53 acres of land in possession of the Department of Horticulture at Poojenahally. The operational features included information desk, crop showrooms, technical and consultancy cell, business centre, exhibition pavilions, seasonal stalls, convention/training centre, international hostels and business incubation and laboratory. The Government constituted (August 2007) an Empowered Committee chaired by the Additional Chief Secretary and Development Commissioner and an Executive Authority chaired by the Secretary, Department of Horticulture for establishing and managing the project. The project was scheduled for completion during 2008-09.

Further, Government had accorded (August 2007) approval for registering a society for implementing the project and M/s. Green Life International (Society) was registered as a society during October 2007.

The Government, while releasing (March 2008) a grant of ₹ Five crore, to the Society, had earmarked the expenditure towards construction of compound wall, water and electric supply, rain water harvesting, contour survey/ground plan/consultancy charges, civil works and staff expenses. However, the

expenditure incurred was only ₹ 0.42 lakh, mainly on legal services. Though the society had huge unspent grants, the Government released further grant of ₹ 3.70 crore to the Society during 2009-14 routinely without monitoring the utilisation of the grants previously provided. As of March 2014, against receipt of ₹ 8.70 crore, the Society had incurred expenditure of only ₹ 32 lakh.

The Department in its reply stated (July 2014) that against 77 acres of land granted (May 1972), it had only 52.09 acres of land in its possession. It was further stated that civil works had not been taken up as the remaining land was under litigation. The reply was not acceptable as the Department not only had sufficient land in its possession, but also funds to start off the project. Further, continued funding of the Society through Government grants only resulted in parking of huge funds outside the Government Account.

In addition, we observed that the Society had kept the Government grants in a savings bank account which had earned interest of ₹ 1.42 crore during 2007-08 to 2013-14. Parking of funds in a low interest yielding savings bank account for periods ranging from one to six years instead of high interest yielding fixed deposit was imprudent as it resulted in potential loss of interest of ₹ 1.95 crore.

Thus, failure on the part of Empowered Committee to monitor the project resulted in non-commencement of the project which was intended to create a state-of-the-art centre for global competence in agriculture and allied activities even six years after its initiation. Further, the funds released by the Government for the purpose remained unutilised in low interest yielding savings bank account, leading to potential loss of interest of ₹ 1.95 crore.

Government replied (November 2014) that the project was delayed on account of land disputes. Further, it stated that it would take necessary action to refund the grant released. However, the reply is not acceptable as the Department had in its possession required extent of land for implementing the project.

DEPARTMENT OF KANNADA & CULTURE

4.9 Delay in completion of a project

The project 'Kalagrama' remained incomplete even after incurring an expenditure of ₹ 10.25 crore over the period 2000-2014. This resulted in non-achievement of objectives and rendered the expenditure already incurred unproductive.

With the objective of developing a cultural centre in Bengaluru, Government of Karnataka initiated the project 'Kalagrama' in the year 2000-01 to act as a focal point for bringing together craftsmen, artisans and performers in the State. The project was to provide enriching experience to tourists/visitors, by highlighting the cultural traditions of Karnataka.

The project was approved (August 2004) under the Government of India (GOI) scheme 'Assistance for large revenue generating projects'. The cost of the project was to be shared by the State and Central Governments in the ratio of 75:25.

The project comprised an Amphitheatre, Auditorium, Handicrafts Centre, Studios, Cottages, Museum, Information Centre, Library, Guest Rooms, Administration Block, Exhibition and Sales Centre, Food Court, Staff Quarters, Garden and Lake, Parking areas and other supporting facilities to be built at a cost of ₹ 20 crore on 10 acres⁴³ of land donated by the Bangalore University. The Department of Kannada and Culture commenced implementation of the project by entrusting the works to the Public Works Department. The project, targeted for completion by October 2006 was still in progress (March 2014) even after incurring an expenditure of ₹ 10.25 crore. Component-wise progress is given in **Appendix-4.9**.

It was seen that funds released for the project were grossly inadequate to complete it by October 2006. Against the estimated cost of ₹ 20 crore, funds released during 2001-14 aggregated only ₹ 10.51 crore (53 *per cent*). As a result, only two out of 14 components had been completed as of March 2014 and the project was at the risk of witnessing huge cost overruns due to the inordinate delay. The Government stated (May 2014) that the Department of Kannada and Culture had been conducting programmes by utilising the completed components. However, we observed that only 13 programmes had been conducted in eight years (one in 2006, three in 2010, two in 2012, three in 2013 and four in 2014). Further, joint inspection (October 2013) of the project showed the deteriorating condition of the components completed as shown in the following photographs.



In addition, the State Government made no efforts to obtain the approved contribution of ₹ Five crore from the GOI. Government stated (May 2014) that despite taking up the matter on several occasions, GOI did not release funds. However, we observed that no correspondence had been made with the Government of India since 2005.

⁴³ Out of 20 acres of land initially donated by Bangalore University in July 2001, 10 acres was set aside for setting up of Indira Gandhi Kala Kendra.

The State Government had constituted a Trust (September 2003) for the regular monitoring and periodic evaluation of the project. The Trust consisted of constitution of Board and Working Committee. However, the Committee which was to meet once a month had met only twice since its formation which evidenced poor monitoring.

Thus, inadequate release of funds by State Government, non-receipt of funds by GOI and poor monitoring by Working Committee not only resulted in partial completion (two components) of the project but also in non achievement of the intended objectives.

DEPARTMENT OF MEDICAL EDUCATION

4.10 Unproductive investment

Effluent Treatment Plant constructed by the Raichur Institute of Medical Sciences in its campus at a cost of ₹ 1.12 crore could not be used due to non-completion of its underground drainage system.

All components of a public work need to be dovetailed into an integrated programme for optimal utilisation of the infrastructure created and also to guard against unproductive and wasteful expenditure.

The Karnataka State Pollution Control Board (Board) had noticed (May 2008) that the Raichur Institute of Medical Sciences (Institute) with a hospital of 1,000 beds had not complied with the requirements of the pollution control laws. The Board, therefore, directed (May 2008) the Institute to construct and commission a liquid waste treatment plant by August 2008.

After issue of several show cause notices by the Board, the Institute requested (December 2009) the Government for issue of administrative approval for setting up of 600 kilo litre per day Effluent Treatment Plant (ETP) at a cost of ₹ 1.30 crore. The Government accorded sanction in February 2010.

The Institute invited (March 2010) tenders for the construction of ETP and entrusted (December 2010) the work to M/s Laras Environ Private Limited (Agency) at a negotiated cost of ₹ 1.17 crore. The scope of the work included supply, construction and commissioning of ETP by May 2011. The agency completed the work (November 2011) within the contract period and was paid ₹ 1.12 crore. The balance ₹ 0.05 crore was to be released after commissioning and handing over the ETP to the Institute. However, the agency while requesting for the balance payment stated (November 2011) that due to non-availability of underground drainage connection to the inlet of ETP, the plant could not be commissioned.

We observed that the initial project proposal for ETP did not include the component of underground drainage. Further, while the Institute requested for Government sanction for setting up of ETP in December 2009, it sought Government sanction for construction of underground drainage only in October 2011. The underground drainage work was entrusted to Karnataka Urban Water Supply and Sewerage Board and an amount of ₹ 0.65 crore was deposited (June 2012) to its account. The work which commenced in October 2013 remained incomplete (May 2014). As a result, the ETP, which had been completed earlier, remained idle.

Thus, Institute's failure in synchronising completion of the underground drainage work with ETP led to unproductive expenditure of ₹ 1.12 crore for more than three years and also defeating the very objective of keeping the environment clean.

The Government stated (November 2014) that the delay was due to tenders being called for second time as there was no response for the tenders called (March 2013) in the first instance in respect of underground drainage. The reply was not acceptable as it did not address the reason for not taking up the drainage work along with the ETP.

DEPARTMENT OF PRIMARY AND SECONDARY EDUCATION

4.11 Delay in implementation of the project resulted in locking up of Government funds and cost overrun

Incurring of expenditure to the tune of ₹ 89.52 crore towards procurement of UPS, LCD Projector and Mini MFD Printers even before setting up of site or procurement of computer resulted in locking up of Government funds. Besides, delay in the implementation of the ICT Phase III resulted in cost overrun of ₹ 60.56 crore apart from denying computer education to the students for five years.

The Department of State Educational Research and Training (DSERT) in continuation of Information and Communication Technology in School Education (ICT) - Phase I and II, a Government of India sponsored scheme, took up Phase III (Scheme) during 2008-09. Government of India had approved (August 2009) implementation of the scheme in 4,396 secondary schools (1,763 Government secondary schools and 2,633 Government aided secondary schools) at a cost of ₹ 426.68 crore (excluding site preparation).

Based on the decision of Government of Karnataka (February 2010) to entrust the implementation of the Scheme to M/s. Karnataka State Electronics Development Corporation Limited (KEONICS), DSERT requested (February 2010) KEONICS to quote their rates. Since KEONICS did not respond in spite of several reminders, DSERT decided (November 2010) to

procure Uninterrupted Power Supply (UPS) Batteries, LCD projector and Mini MFD Printers from DGS&D rate contract holders. Further, as per the directions of the Government, DSERT entrusted (July 2011) the implementation of the scheme to KEONICS (excluding the component of work already taken up) at a cost of ₹ 412.04 crore. Meanwhile the project cost was revised (July 2011) to ₹ 515.84 crore including site preparation. In this regard, audit observed the following:

- Even before the site was prepared and an agency to implement the scheme was identified, DSERT procured (from September 2010 to March 2011) Uninterrupted Power Supply Batteries, LCD projector and Mini MFD Printers in advance at a cost of ₹ 89.52 crore.
- The supply was accepted with the condition that the guarantee would be effective from the date of installation and on failure of any battery on account of delay in installation, the firms were to arrange to replace the same at their own cost. However, the life of the batteries was 90 days without charging. The condition of the batteries as on date *i.e.*, after 3 to 4 years was not known.
- A writ petition was filed against selection of KEONICS during implementation of the scheme.
- On disposal (March 2012 and August 2013) of the same, Government issued (January 2014) order after a delay of five months to implement the scheme.
- Expenditure incurred towards site preparation, networking and purchase of hardware components was ₹ 73.64 crore.

Thus, procurement of UPS batteries and also LCD Projectors and Mini MFD Printers much in advance of implementation of other components of the scheme resulted in locking up of Government funds to the tune of ₹ 89.52 crore. Besides, delay in fixing the implementing agency resulted in cost overrun of ₹ 60.56 crore and also denied computer education to the students for five years. The condition of the batteries at the time of installation is not known and is likely to involve extensive replacement due to lapse of time resulting in further delays. The project was still not implemented.

Government stated (August 2014) that in order to achieve the objectives of the project, the above mentioned items were procured in advance. It further stated that due to unavoidable reasons which were beyond the reach of the Department, the implementation of the project was delayed. Government also stated that all necessary steps were being taken to implement the project without any further delay.

The reply is not acceptable as incurring expenditure of ₹ 89.52 crore towards procurement of UPS, LCD Projector and Mini MFD Printers prior to setting up of site or procurement of computers indicated lack of planning by the Government.

DEPARTMENT OF REVENUE
4.12 Sub-division of Government land for which records did not exist

Government land measuring 18 acres 20 guntas and valued at ₹ 22.20 crore was bifurcated from Survey No.49 of Anjanapura Village, Bengaluru South in favour of six persons. However, files relating to the bifurcation were not available with the jurisdictional revenue officer.

Section 109 of the Karnataka Land Revenue Act, 1964 permits division of survey numbers of land into sub-divisions from time to time in view of the lawful acquisition of rights or for any other purpose. Where Government land is granted under the Karnataka Land Grant Rules, 1969, such sub-divisions may be necessary.

The Government in Revenue Department issued (October 2002) instructions for bifurcating the survey number into sub-divisions in respect of Government lands granted to various persons where the original grant file was found missing. The detailed procedure prescribed for rebuilding the missing file before bifurcation is given in the **Appendix-4.10**.

We observed that 18 acres 20 guntas of Government land valued at ₹ 22.20 crore had been bifurcated between 2006-07 and 2008-09 from survey No.49 of Anjanapura village, Bengaluru South in favour of six persons and new survey numbers from 124 to 129 had been assigned to these sub-divisions. These bifurcations were done after the concerned land grant files had gone missing. However, the jurisdictional Tahsildar, Bengaluru South did not have the rebuilt files in these cases to justify the bifurcations. Instead, Tahsildar, Bengaluru stated (June 2014) that all the records of office had been indexed and catalogued and none of the files pertaining to bifurcation of survey number 49 were available in the records room.

No records in support of the bifurcations were also available in the office of Additional Director Land Records (Office of the Deputy Commissioner, Bengaluru) who was the jurisdictional officer till May 2005.

Thus, the bifurcation of the survey number 49 of Anjanapura Village which was valued at ₹ 22.20 crore had been done without evidently following the prescribed procedures and the possibility of creation of fake records through fraudulent means cannot be ruled out. The matter therefore calls for investigation by Government.

The matter was referred to Government in September 2014; reply was yet to be received (October 2014).

DEPARTMENT OF URBAN DEVELOPMENT

4.13 Excess payment of salary to Junior Engineers of Urban Local Bodies

Irregular promotion of Junior Engineers of Urban Local Bodies (ULBs) to the cadre of Assistant Engineer resulted in excess payment of ₹ 1.15 crore towards salary.

As per the Karnataka Municipalities [Absorption of the employees appointed under the scheme of Swarna Jayanthi Shahari Rozgar Yojana (SJSRY) in ULBs] Rules 2005, the Department of Municipal Administration had absorbed (October 2005) several contract employees working under SJSRY in ULBs. The employees so absorbed in the post of Junior Engineers carrying a pay scale of ₹ 4,575-8,400 included 64 engineering graduates/diploma holders. Of these, Government promoted (November 2007) 25 Junior Engineers to the post of Assistant Engineers carrying the pay scale of ₹ 6,000-11,200 with retrospective effect from October 2005.

However, these promotions were irregular as the Karnataka Municipalities (Recruitment of Officers and Employees) Rules 2004 mandate that 75 per cent of the sanctioned strength of Assistant Engineers is to be filled by direct recruitment and the remaining 25 per cent by deputation from Department of Public Works or other Departments. Further, direct recruitment was to be done on the basis of competitive examination. The number of sanctioned posts in the cadre of Assistant Engineer was 44 (33 through direct recruitment and 11 through deputation).

Though there was no provision for filling up of the post of Assistant Engineer by promotion from the lower cadre of Junior Engineer, 25 Junior Engineers were promoted irregularly with retrospective effect from October 2005 with arrears of pay. Further, six of these newly promoted engineers started functioning as Assistant Engineers only during the period 2008-11 as there were no vacancies in the cadre of Assistant Engineer.

Thus, wrong action of the Government to promote Junior Engineers as Assistant Engineers resulted in excess payment of ₹ 1.15 crore by way of salary and allowances disbursed for the higher post from October 2005 to March 2014.

While admitting the audit observations, the Director (August 2014) stated that a proposal for recovery of excess payment of ₹ 1.15 crore by way of salary and allowances has been forwarded to Government for its approval. Audit however observed that no responsibility has been fixed for irregular promotions.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

4.14 Avoidable excess payment to contractors

The Karnataka Urban Water Supply and Drainage Board irregularly adopted an inappropriate price index to regulate price adjustment for steel and other components of work other than specified materials resulting in avoidable excess payment of ₹ 1.40 crore to the contractors.

The Karnataka Urban Water Supply and Drainage Board (Board) implements several water supply schemes in the urban areas of the State. The contracts for water supply schemes entered into by the Board include a price adjustment clause⁴⁴ to regulate the price adjustment on account of changes in cost during the execution of these schemes. The Government had also issued (November 2004) guidelines for regulating price adjustment.

Audit scrutiny (June 2014) of the records of the Board showed that the Board had overlooked the guidelines in two schemes while regulating the price adjustment, resulting in avoidable excess payment of ₹ 1.40 crore. The details are as under:

(i) Remodeling of water supply distribution network to Mysuru city

Mild steel (MS) pipes are used by the Board for water transmission in the water supply schemes. The Government had prescribed (November 2004) adoption of price index relevant to the raw materials while regulating price adjustment. The Finance Department (FD) had further clarified (October 2010) to the Board that price adjustment for fluctuations in price of steel used in water supply schemes was to be regulated by adopting wholesale price index of the sub-group “Steel : Pipes and Tubes”, as published by the Reserve Bank of India. We, however, observed that despite FD’s clarification, the Board had adopted the wholesale price index of the sub-group “Steel Flats” while regulating the price adjustment of steel in the case of work of remodeling of water supply distribution network to Mysuru city under JNNURM, resulting in excess payment of ₹ 89 lakh as shown in **Table-4.10** below:

Table-4.10: Excess payment due to irregular price adjustment of steel

(₹ in crore)

Package	Contract Amount	Price adjustment amount paid	Price adjustment amount payable	Excess amount paid
Package I	53.11	0.64	0.09	0.55
Package II	28.55	0.37	0.03	0.34
Total	81.66	1.01	0.12	0.89

⁴⁴ In respect of works where the estimated cost put to tender is ₹ 0.50 crore or above and the period of completion is more than 12 months in terms of Government order of November 2008.

(ii) Water supply scheme to Vijayapura city

The Government had also prescribed (November 2008) adoption of star rates⁴⁵ for only certain specified materials (cement, steel and bitumen) on the basis of the All India average wholesale price index in respect of works costing more than ₹ 50 lakh and period of execution being more than six months but less than or equal to 12 months. However, we observed that the Board disregarded the Government instruction and provided price adjustment for all the components of work instead of allowing star rate only for the specified materials, in respect of water supply scheme to Bijapur city. The period of completion of the work stipulated in the contract was only 12 months. Such incorrect regulation of price adjustment resulted in excess payment of ₹ 51 lakh as detailed in the **Table-4.11** below:

Table-4.11: Excess payment due to incorrect adoption of star rates

(₹ in lakh)	
Name of the component of work	Price adjustment provided
Labour	32
Fuel and Lubricant	05
Plant and Machinery	01
Other Materials	13
Total	51

The matter was referred to Government in August 2014; reply was yet to be received (October 2014).

4.15 Delay in finalising tender procedure leading to avoidable extra expenditure

Failure of the Bangalore Development Authority in finalising the tender within the validity period resulted in re-tendering and extra cost of ₹ 1.98 crore.

The Bangalore Development Authority (Authority) invited (January 2012) tenders (two bid system) for nine packages to provide metalling and asphaltting of roads in Sir M. Vishweshwaraiah Layout at an estimated cost of ₹ 12.97 crore based on Schedule of Rates of 2009-10. The validity period of the tender was 90 days from the last date for receipt of tenders (27 January 2012).

The Tender Scrutiny Committee opened the technical bids on 1 February 2012 and finalised their recommendations after a delay of two months (5 April 2012). As per the recommendations, only four tenderers were qualified. Subsequently, the financial bids of all the qualified tenderers were opened on 15 April 2012. A single contractor had quoted the lowest offer for all the nine packages, and the Authority approved (16 July 2012) the award of

⁴⁵ Star Rates are used to price work where the unit rates in the contract cannot fairly represent the work done exactly.

contracts to the lowest tenderer after the expiry of the validity (delay of 80 days).

The contractor did not agree to take up the work and expressed his unwillingness (September 2012) to extend the validity period for the above work. The work in all the nine packages was, therefore, re-tendered (November 2012) and awarded (February 2013) by Commissioner without the approval of the Authority to the successful tenderers. It was seen that the cost of work awarded in respect of all the nine packages was higher than the initial offer received.

Thus, inordinate delay (six months) in finalising the tenders by the Executive Engineer and tender scrutiny committee members resulted in non-availment of the competitive offers received. Since, re-tendering fetched higher bids, it resulted in extra cost of ₹ 1.98 crore as shown in **Table-4.12** which was avoidable.

Table-4.12: Avoidable extra cost due to delay in re-tendering

(₹ in lakh)

Details of package	Estimated cost of original tender	Cost of work as per		Difference
		Original tender	Re-tender	
136	138.64	129.15	163.60	34.45
137	163.49	129.45	156.15	26.70
138	145.13	142.04	163.50	21.46
139	146.80	141.54	165.99	24.45
141	137.72	134.18	147.94	13.76
144	127.96	122.89	137.02	14.13
157	150.24	139.76	161.90	22.14
169	145.07	143.63	164.91	21.28
170	141.53	137.60	157.60	20.00
Total	1,296.58	1,220.24	1,418.61	198.37

The Authority in its reply (August 2014) stated that on re-tendering the work, the rates quoted by the lowest bidders were below the Schedule of Rate of 2012-13 and hence there was no loss. The reply is not correct because due to delay in finalising the initial tender called for, the Authority had to re-tender and finalise the bid amount based on the schedule of rates of 2012-13 which resulted in extra expenditure of ₹ 1.98 crore (paid between May 2013 and December 2013) to the Authority.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

4.16 Loss of revenue due to poor estate management

Failure of the Bangalore Water Supply and Sewerage Board to renew the expired lease agreements of its tenants and non-revision of rent resulted in loss of ₹ 2.03 crore.

The Bangalore Water Supply and Sewerage Board (Board) had let out surplus office space available in the Administrative Block of its office on K.G.Road,

Bengaluru to nine organisations including banks, State Government Departments and private organisations. The Board had entered into individual agreement with each organisation fixing the rent payable and setting out the terms and conditions of occupation. The details are indicated in **Table-4.13** below:

Table-4.13: Details of let out space by the Board

Name of the tenant	Date of agreement	Expiry date of agreement	Area in square feet	Rent/square feet (₹)
Karnataka Contractor Sahakara Bank Niyamita	01-12-2003	30-11-2006	1,445.00	13.83
Coffee House	03-01-2003	02-1-2008	150.00	6.66
State Bank of Mysuru	01-12-2003	30-11-2006	2,244.90	13.68
Karnataka Gazetter	01-12-2003	30-11-2006	3,534.00	15.00
Unit Trust of India	13-06-2003	12-06-2012	1,125.00	18.00
Housing Development Finance Corporation	03-05-2002	02-05-2011	1,751.50	18.00
Drought Monitoring Cell	01-12-2000	30-11-2003	3,439.00	16.00
State Accounts Department	31-10-1989	NA	6,062.00	15.00
DVBV Consultant	01-08-2006	NA	800.45	19.50

The agreements had been entered into during May 2002 and January 2006 for lease periods ranging from three to nine years which included a provision for increasing the lease rentals. We observed that though the lease period had expired in all the cases, the Board allowed the occupants without renewing the lease agreements. Further, it was observed that Karnataka Housing Board, located adjacent to the Board, had fixed (May 2005) a rent of ₹ 25 per sq ft for their office space let out with retrospective effect from April 2003. Evidently, the properties let out by the Board also had the same rental potential. However, the Board continued to collect rent at the rates ranging between ₹ 7 to ₹ 19.50 per sq ft. Non-execution of fresh agreements and non-revision of rent⁴⁶ resulted in loss of ₹ 2.03 crore to the Board.

Thus, the Board lost ₹ 2.03 crore due to failure to renew the lease agreements with the tenants from time to time.

The Government in its reply (August 2014) while agreeing to the fact that they had not renewed the rental agreements stated that they are taking measures to enter into fresh agreements with the tenants after ascertaining the rate of rent prevailing in the area.

⁴⁶ Comparing the rates fixed by KHB from May 2005 to May 2014

4.17 Excess payment of salary to Officers of Bangalore Development Authority

Irregular appointment of Officers by Bangalore Development Authority in excess of sanctioned strength in various cadres resulted in excess payment of ₹ 3.56 crore.

The Bangalore Development Authority (BDA) (Cadre and Recruitment and Conditions of Service) (Amendment) Regulations, 2004 (Regulations) specified the sanctioned strength and method of recruitment in respect of the posts borne on the establishment of the BDA. Further, Section 49 of the Bangalore Development Authority Act, 1976 requires the Authority to prepare and submit for the sanction of Government a schedule of staff of officers/officials along with salaries, fees and allowances and no alterations to the schedule are to be made without the sanction of the Government.

We observed during audit that without approval of the Government, the BDA had engaged 45 Officers in the cadre of Engineer Officer, Executive Engineer, Assistant Executive Engineer and Assistant Engineer in excess of sanctioned strength.

The method of appointment/engagement for each cadre, the sanctioned strength and men-in-position as of 31 March 2014 are shown in **Table 4.14** below:

Table-4.14: Sanctioned strength and men-in-position

Cadre	Method of Recruitment	Sanctioned strength	Working strength		Excess staff	Period ranged from
			Appointment/Promotion	Deputation		
Engineer Officer	By deputation from Public Works Department of State Government	02	-	05	03	July 2011 to January 2013
Executive Engineer	Four posts by deputation and two posts through promotion of Assistant Executive Engineer	06	-	13	07	July 2009 to September 2013
Assistant Executive Engineer	75 per cent by deputation from Public Works Department and 25 per cent by promotion of Assistant/Junior Engineers	29	03	40	14	June 2011 to December 2013
Assistant Engineer	70 per cent by deputation from Public Works Department, 10 per cent by promotion of Junior Engineer and 20 per cent by direct recruitment	45	01	65	21	May 2010 to October 2013

BDA not only violated the Regulations in filling-up the posts under these four cadres but appointed staff in excess of the sanctioned strength without the sanction of Government in disregard of the provisions of BDA Act, 1976.

Thus, the irregular appointment of 45 officers resulted in unauthorised expenditure of ₹ 3.56 crore on salaries.

BDA replied (September 2014) that temporary posts were created in order to regulate and monitor the infrastructure works undertaken by them. The reply of BDA was not correct as apart from existing staff, consultants were engaged by BDA to provide technical expertise and monitor execution of infrastructure works. Moreover, the temporary posts were created without the approval of the Government. Further, BDA did not bring this to the notice of the Government till date *i.e.*, even four years after creation.

The matter was referred to Government in September 2014; reply was yet to be received (October 2014).

4.18 Compensation to persons who did not establish title to acquired land

Bangalore Development Authority awarded compensation of ₹ 2.42 crore to 10 land owners of Survey No.49 of Anjanapura Township. However, at the time of payment of compensation, documents necessary to ensure that compensation was disbursed to legally entitled persons had not been obtained.

Section 94 A and 94 B of Karnataka Land Revenue (KLR) Act, 1964 read with Rule 108CC of Karnataka Land Revenue Rules, 1966 permit grant of Government land to eligible persons. The Deputy Commissioner is empowered to grant land subject to such terms and conditions as may be agreed upon with the grantee. On the basis of the order granting land, the name of the grantee is entered in the revenue records as per Section 128 of KLR Act, 1964 and a Grant Certificate/Saguvali chit is issued to the grantee. Further, under Rule 64 of KLR Rules, 1966, Tahsildar is responsible for necessary mutation entries in the revenue records which are updated thereafter in the Record of Rights, Tenancy and Crops as per Rule 70 of KLR Rules, 1966.

Bangalore Development Authority (Authority) had issued (28 August 2000) preliminary notification for acquiring 459 acres 24 guntas of land located in the Bengaluru South Taluk for establishing the Anjanapura Township. The land included 69 acres 2 guntas in Survey No. 49 of Anjanapura village classified as Government Gomala land⁴⁷. Out of the said 69 acres 2 guntas, the Authority had acquired 34 acres 26 guntas of land after setting aside 10 acres of land to be handed over to NICE Limited for formation of Express Highway to Mysuru. The Authority had made payment of ₹2.42 crore (between September 2002 and December 2002) to 10 grantees towards compensation.

⁴⁷ Land earmarked for grazing purposes

Our scrutiny showed that the Special Land Acquisition Officer of the Authority while issuing award notice under Section 12(2) of the Karnataka Land Acquisition Act, 1894 had requested the grantees to furnish the documents listed in **Appendix-4.11** appended to the notice to facilitate payment of compensation. The documents, *inter alia*, included succession certificate, certificate of pendency of land disputes, if any, no objection certificate from banks for the loans, if any, availed of by the grantee *etc.*

We observed from the file notings that the Authority had repeatedly requested (November 2000 and April 2002) the Revenue Department to confirm the grant of land to the ten grantees and furnish relevant supporting documents. In the absence of response from the Revenue Department, decision was taken by the Authority to pay compensation to the claimants on the basis of available revenue records submitted by them. However, the revenue records submitted to the Authority by the claimants did not include the original grant certificate. Further, the copies of the letters stated to have been addressed to Revenue Department were available neither on the files of the Authority nor in the Revenue Department. Hence, in the absence of confirmation by the Revenue Department about the grant of land and the requisite documents to establish the claimants' land title, payment of compensation had been evidently made to persons who did not have all the requisite documents.

Audit also examined the authenticity of the payment of compensation by reviewing revenue records maintained by the Tahsildar, Bengaluru South. It was seen that none of the persons who had received compensation could be traced to either the Grant Register or Mutation Register (**Appendix-4.12**). Further, verification of the Mutation Register showed that 52 acres 20 guntas of land in Survey No.49 had been sold/bought/pledged by various persons who were not original grantees.

Thus, compensation of ₹ 2.42 crore had been disbursed by the Authority to persons without verifying all the requisite documents.

The matter was referred to Government in September 2014; reply was yet to be received (October 2014).

4.19 Unproductive investment in commercial complex

Even five years after its completion, the built up office space at Banashankari II Stage, Bengaluru at a cost of ₹ 2.81 crore remained largely un-allotted, rendering the expenditure incurred unproductive.

Citing heavy demand for commercial space in Banashankari, Bengaluru, Executive Engineer, South Division of Bangalore Development Authority (Authority) submitted a proposal (April 2007) for construction of the second floor on the existing shopping complex at Banashankari II Stage, Bengaluru. On receipt of administrative approval (April 2007) from the Commissioner of the Authority, the work was tendered (April 2007) and entrusted

(October 2007) to a contractor at a cost of ₹ 2.66 crore. The work was completed (March 2009) at a total cost of ₹ 2.81 crore.

The second floor of the complex consisted of six blocks with a carpet area of 1,670.31 sq mtr and the Authority had allotted (May 2009) Block 'A' measuring 333.26 sq mtr to Department of Excise at ₹ 203.05 per sq mtr. In order to rent out the remaining blocks (except block C and D), the Authority issued (December 2009) tender-cum-auction notice fixing the minimum allotment price at ₹ 200 per sq mtr. In response, the Authority received bids ranging between ₹ 322 per sq mtr and ₹ 448 per sq mtr. However, the tender process was cancelled (September 2010) by the Authority after forfeiting the earnest money deposit of the successful bidders as the bidders did not execute the rental agreements.

It was seen that no efforts were made by the Authority subsequently to allot the vacant blocks. As a result, the second floor constructed at a cost of ₹ 2.81 crore remained largely unutilised even five years after its completion. Notional loss by way of rent worked out on the basis of rent fixed by the Authority for Block A worked out to ₹ 1.63 crore.

The Authority replied (August 2014) that floor area measuring 745.48 sq mtr was occupied and the balance floor area measuring 924.93 sq mtr was proposed to be utilised by the various sections of Authority themselves. On joint inspection (November 2014), it was observed that except for Excise Department occupying 333.26 sq.mtr, rest of the floor area was occupied by the Authority themselves. It was stated that due to absence of lift facilities, there was no demand for the second floor.

Thus, despite construction of the second floor of complex by the Authority on grounds of heavy demand for commercial space, the Authority had to occupy 80 *per cent* of the floor area themselves. Hence, failure by the Authority to take action to rent out the unoccupied space rendered the investment unproductive.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

4.20 Non-revision of water rates for commercial/industrial connections

Karnataka Urban Water Supply and Drainage Board continued to provide water supply at pre-revised rates to industrial organisations inspite of the State Government revising the water tariff in July 2011. This resulted in loss of revenue of ₹ 17.06 crore in respect of water supplied to three industries.

The Karnataka Urban Water Supply and Drainage Board (Board) supplies water to all the urban areas of the State except Bengaluru city for domestic,

non-domestic and commercial/industrial purposes. Under Section 28B (2) of Karnataka Water Supply and Drainage Board (KUWS&DB) Act, 1973, water supply for commercial/ industrial purposes is supplied on such terms and conditions as agreed upon with the consumers. Section 31A of the KUWS&DB Act, 1973 empowers the Board to levy rates on supply of water and revise such rates from time to time to generate sufficient revenue to cover operating expenses, taxes, interest payments, maintenance, depreciation *etc.*, to make repayment of loans and to finance improvements.

As overheads on maintenance of potable water supply such as salary of the maintenance staff, power charges, cost of chemicals, repair charges, *etc.*, had increased exorbitantly, Government revised the water tariff in July 2011. The revised rates for commercial/industrial purpose were as detailed in **Table-4.15** below:

Table-4.15: Revised rates for water supply for commercial/industrial purpose

Consumption of water in kilolitre (KL)		Consumption charges (₹/KL)
Minimum	Maximum	
0	8	28.00
8	15	36.00
15	25	44.00
25 and above		52.00

While revising the rates, the Government had prescribed that the rates were required to be reviewed and adopted once in three years based on electricity tariff.

Scrutiny of records relating to three organisations that had entered into agreements with the Board for supply of water for industrial use showed the following:

- Though the agreements were valid only for a predetermined period, the Board had failed to renew the agreements with the organisations after their expiry.
- As per the terms of the agreements, the Board could review the rates of water supply in case of increase in power tariff, establishment charges or raw material charges. Even though the State Government had revised the water tariff in July 2011, the Board had continued to supply water at the pre-revised lower rates entered in the agreement.

The loss of revenue in three test-checked cases are as detailed in **Table-4.16** below:

Table-4.16: Details of loss of revenue in test-checked cases

Name of the commercial / industrial establishment	Period of agreement & quantity of water supply as per agreement	Rate of water supply (₹/KL)	Amount paid for the period from July 2011 to October 2013 at the agreement rate	Amount as per the Government order dated July 2011	Loss of revenue
			(₹ in crore)		
M/s. Senapathy Whiteley Private Limited, Ramanagara	12.09.2008 for five years 1 MLD/month	18.00	0.90	2.61	1.71
M/s. Solaris Chemtech Limited, Karwar	27.10.2004 for three years 66,000 KL/month	18.40	2.27	6.43	4.16
M/s. Hindustan Aluminium Company Limited, Belagavi	Yet to enter into an agreement	23.20	9.09	20.28	11.19
Total			12.26	29.32	17.06

Thus, failure of the Board to recover the water rates as per the revised rates resulted in loss of revenue of ₹ 17.06 crore.

The matter was referred to Government in July 2014; reply was yet to be received (October 2014).

**DEPARTMENT OF REVENUE &
DEPARTMENT OF URBAN DEVELOPMENT**

4.21 Irregular allotment of land to Indian Institute for Human Settlements

Government allotted 54 acres 20 guntas of land to Indian Institute for Human Settlements at a concessional rate disregarding the provisions of various Acts and Rules. This irregular allotment resulted in undue benefit of ₹ 30.98 crore to the Institute.

Provisions for granting land under Karnataka Land Grant Rules, 1969 (KLGR) and Bangalore Development Authority Act, 1976 (Act) are as follows:

Rule 10(2) of KLGR	No land within the municipal limits of the city of Bengaluru and in any village situated within the radius of 16 kilometers from the municipal limits of the city of Bengaluru shall be granted for agricultural purpose and for non-agricultural purposes without the approval of State Government.
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Rule 21 of KLGR	While fixing the price of land to be granted by the Government to religious and charitable institutions for non-agricultural purposes, no concession in the price of land should be given except in the case of those which do not collect any fee or service charges. Further, such institutions are granted land at 50 per cent of the market value or guidance value, whichever is higher.
Rule 27 of KLGR	If the State Government is of the opinion that if it is just and reasonable to relax any of the provisions of the KLGR, it may, by order, direct such relaxation, recording the reasons for such relaxation and thereupon, subject to such conditions as may be specified, land may be granted in accordance with such direction.
Sec 38 (B) of Act	The Bangalore Development Authority, subject to any restriction, condition and limitation as may be prescribed, may make bulk allotment by way of sale, lease or otherwise of any land which belongs to it or acquired by it for the purpose of any development scheme to a trust created wholly for charitable, educational or religious purpose with the prior approval of Government.
Rule 3 of the Bangalore Development Authority (Bulk Allotment) Rules, 1995	Due publicity in respect of land offered for bulk allotment specifying all particulars considered necessary is to be given by affixing a notice on notice board of the Office and by publishing in at least two daily newspapers. It also stipulates that the value of the land so offered is to be fixed having regard to the prevailing market value.

The Indian Institute for Human Settlements (Institute), a company incorporated under Section 25 of the Companies Act, 1956 with the stated objective of providing education and training, undertaking research and consultancy, requested (November 2009) the State Government for allotment of 50 acres of land. The Institute was allotted 54 acres 20 guntas of land as shown in **Table-4.17**.

Table-4.17: Allotment of land to the Institute

Allotment date	Area of land in Acres and Guntas	Allotted by	Remarks
June 2010	07-07	Department of Revenue (Department)	Government Kharab land converted – Survey Number. 180 Block 13, Bheemanakuppe, Kengeri Hobli.
January 2013	47-13	Bangalore Development Authority (Authority)	Land at Survey Number 2 of Bheemanakuppe Ramasagara, Survey Numbers 198, 199, 200 and 180 at Bheemanakuppe

Department of Revenue while approving grant of 07-07 acre of land to the Institute at 50 *per cent* of guidance value by invoking Rule 27 of KLGR, 1969 and relaxing Rule 10(2) of KLGR, 1969 did not state the reasons as to why it found it just and reasonable to grant land at a concessional price to the Institute which was neither religious nor charitable and was collecting fees. The market value and guidance value of the land was ₹ 60 lakh and ₹ 40 lakh per acre respectively. Instead of granting the land at market price which was higher, the Department granted the land at 50 *per cent* of the guidance value and the Institute remitted ₹ 1.43 crore in June 2010. This resulted in loss of ₹ 2.87 crore⁴⁸.

In addition, based on the State Government's directions (December 2009), the Authority allotted (January 2013) 47 acres 13 guntas of land in Bheemanakuppe-Ramasagara and Bheemanakuppe to the Institute. The Authority sought (August 2012) Government's approval for recovering 100 *per cent* of land cost (₹ 80 lakh per acre) and 50 *per cent* of development cost (₹ 160 lakh/acre) from the Institute as it would avail of all the benefits from the infrastructure provided to the layout surrounding the allotted land. However, Government decided (November 2012) to allot 46 acres 18 guntas of land at a cost of ₹ 99.46 lakh/acre assuming that the Institute would reserve 50 *per cent* of seats to local students and would create employment in the State. Subsequently, the Institute remitted (May 2013) ₹ 47.07 crore to the Authority and executed the sale deed (October 2013).

We observed that the Authority while allotting the land to the Institute under Section 38B of the Act had violated the existing norms prescribed both under the Act as well Rules as detailed below:

- At the time of allotment of land, the Institute did not fall into any of the categories listed under Section 38B.
- Land was allotted on request without publishing in newspapers.
- The said allotted land was not reserved for the purpose of bulk allotment.
- The cost of the land was not fixed with regard to prevailing market price.

Though the Authority had recommended allotment of land at a cost of ₹ 160 lakh/acre, the Government by reducing the cost to ₹ 99.46 lakh per acre extended unauthorised benefit of ₹ 28.11 crore to the Institute.

Thus, land measuring 54 acre and 20 guntas had been allotted to an Institution at a concessional rate irregularly, in disregard of the provisions of applicable Act/Rules. This resulted in undue benefit of ₹ 30.98 crore to the Institute/Trust.

⁴⁸ Market value = ₹ 60 lakh per acre, land granted at ₹ 20 lakh per acre (50 *per cent* of guidance value of ₹ 40 lakh per acre). Loss = ₹ 40 lakh x 7 acres & 7 guntas = ₹ 2.87 crore

The Authority replied (August 2014) that as no developmental works were being taken up inside the IIHS campus, the said land was allotted on concessional rate. However, the reply is not acceptable as the Institute set up on the land was collecting fees from the students /participants and hence was ineligible.

The matter was referred to Government in June 2014; reply was yet to be received (October 2014).

**BENGALURU
THE**

**(SUBHASHINI SRINIVASAN)
Principal Accountant General
(General & Social Sector Audit)**

COUNTERSIGNED

**NEW DELHI
THE**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**