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Chapter III

Audit of Transactions

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

Housing Department

Maharashtra Housing and Area Development Authority

3.1 Deficiencies in slum improvement works carried out by Mumbai Slum Improvement Board

3.1.1 Introduction

The Government of Maharashtra formed Mumbai Slum Improvement Board (MSIB) in November 1992, under the control of Maharashtra Housing and Area Development Authority (MHADA), with the objective of slum improvement in two¹ districts of Mumbai under Clause 1 (c) of Section 18 of Maharashtra Housing and Area Development Act, 1976. The MSIB functions with a 17 member Board headed by the Chairman. The Chief Officer is the Administrative Head who manages the day to day work with the assistance of Deputy Chief Engineer and Chief Accounts Officer (CAO), through three Divisions² headed by Executive Engineers (EE).

3.1.2 Sources of funds and implementation process

The MSIB implements slum improvement works in two districts of Mumbai. Funds are received by MSIB through the Financial Controller, MHADA from the District Collector³, Social Justice and Special Assistance Department and Mumbai Metropolitan Region Development Authority (MMRDA). The slum improvement works include construction of retaining walls, toilet blocks, balwadis, samaj kalyan kendras, gymnasiums, open sheds, development of cemeteries, beautification of gardens, water connections, drainages *etc.* The position of funds received and expenditure incurred during 2010-11 to 2012-13 is shown in **Appendix 3.1**.

The MSIB follows the same procedures, accounting methods and District Schedule of Rates (DSR) as followed by Public Works Department while works are executed as per the guidelines of the respective schemes. The estimates for various works are prepared by the Divisions and administratively approved by the District Collector in case of works proposed under Members

¹ Mumbai City and Mumbai Suburban

² East, West and City

³ Funds which are at the disposal of Members of Parliament / Members of Legislative Assembly under the respective Local Area Development Schemes (MP LAD/ MLA LAD) and the District Planning Development Committee (DPDC), are released by the District Collectors

of Parliament/Members of Legislative Assembly Local Area Development (MP/MLALAD) Schemes and the DPDC. The other works⁴ are administratively approved either by the Vice President and Chief Executive Officer, MHADA or by Chief Officer⁵, MSIB, as per the delegation of powers. As majority of the works are below ₹ 15 lakh, MSIB allots works as per the ratios prescribed in the two Government Resolutions (March 2005 and November 2006) through the District Deputy Registrar to Major Sankari Sanstha Maryadit (MSSM - 33 *per cent*), through lottery to unemployed Engineers (UE-33 *per cent*) and through open tenders to registered contractors (RC – 34 *per cent*). In order to ensure the quality of the works executed, material tests are carried out by the contractors at their own cost through MHADA's material test laboratory. Inspections are carried out by the Vigilance and Quality Control (VQC) cell of MHADA, to ensure the quality of work. The completed works are handed over to the Municipal Corporation of Greater Mumbai (MCGM) or the user Societies/Chawl Committees for use and further maintenance.

3.1.3 Scope of audit

Scrutiny of records of MSIB was carried out for the period 2010-11 to 2012-13. Of the total 12,237 works awarded between 2010-13, test check of 1,270 works was conducted.

3.1.4 Audit observations

3.1.4.1 Irregular allotment of works

The scrutiny of the agreement registers relating to allocation of works for the period 2010-13 revealed that the MSIB allotted more number of works to MSSM than to the UEs and the RCs as shown in **Table 1**.

Table 1: Comparison of works allotted among MSSM/UE/RC

Year	MSSM (<i>per cent</i>)	Unemployed Engineers (<i>per cent</i>)	Registered Contractors (<i>per cent</i>)	Total
2010-11	1478 (71.82)	467 (22.69)	113 (5.49)	2058
2011-12	2618 (50.26)	1686 (32.37)	905 (17.37)	5209
2012-13	2933 (59.01)	1198 (24.10)	839 (16.89)	4970
Total	7029 (57.44)	3351 (27.38)	1857 (15.18)	12237

From the above table it may be seen that more works were allotted to MSSM *vis-à-vis* those allotted to UEs and RCs in violation of the Government directives. As against 34 *per cent* works to be allotted to RCs through open tendering, the actual work allotted was only 15 *per cent* thus, eliminating competition in 19 *per cent* of works. Further, the shortfall in allotment of works to UEs was six *per cent* thereby depriving employment opportunities to the UEs.

The EE, City Division, MSIB stated (June 2013) that urgent works suggested by the MPs / MLAs were allotted to UEs and MSSMs. The other two Divisions stated (June 2013) that the allotment of works need to be considered

⁴ For works to be executed through funds received from Housing Department, Social Justice and Special Assistance Department and MMRDA

⁵ In case of urgency or absence of Board, the Board may allow Chief Officer to exercise the Board's power to give administrative approvals

on cumulative basis against the administrative approval received / to be received in five years and the variations could be adjusted in the forthcoming works.

The replies are not acceptable as the works were to be allotted as per the ratio prescribed in the Government Resolutions which was not done.

3.1.4.2 Non-commencement of works after issue of work orders

As per the MP LAD guidelines, the works are required to be completed within one year of the date of issue of work orders. It was however, noticed that of the 29 MP LAD works approved at a cost of ₹ 1.71 crore and awarded between August 2011 and May 2012, only nine were completed as of January 2014 and in the remaining 20 works, 13 works had not commenced while seven works were incomplete (January 2014). The delays of 20 works ranged between 21 and 30 months.

The EE, West and City Divisions stated (June 2013) that works could not commence as No Objection Certificates (NOC) were not received from the owners⁶ of the land on which works were proposed.

Thus, awarding of works without obtaining the necessary NOCs from the respective land owners resulted in non commencement/delay in completion of works.

3.1.4.3 Execution of inadmissible works

MMRDA sanctioned (December 2011) an amount of ₹ 150 crore of which, MSIB was allotted ₹ 141.78 crore for carrying out 1,385 works pertaining to six categories namely public toilets, water connections, new gutters, balwadis, classrooms and welfare centres in the slums. Till December 2013, 1,198 works valuing ₹ 108.57 crore were carried out.

Scrutiny of records of West Division revealed that MSIB sanctioned 39⁷ out of 1,385 works involving construction of gymnasiums, open sheds and bore wells valuing ₹ 2.60 crore during 2012-13 which were not falling in any of the category of works stipulated by MMRDA. Joint visit of the sites done by audit with MSIB officials revealed (May 2013) that bore wells were constructed in the premises of Co-operative Housing Societies which were not slums, as indicated in the photographs below.

⁶ MCGM, MHADA and railway authorities

⁷ As of January 2014, 28 works completed costing ₹ 1.27 crore while the balance 11 works costing ₹ 1.33 crore are in progress



Borewells constructed in Co-operative Housing Societies

The EE, West Division stated (June 2013) that works were executed as per the suggestions of the MPs/MLAs. The EE further contended that gymnasiums and open sheds were more or less similar to balwadis, samaj kalyan kendras or classrooms and the construction of bore wells were similar to providing water connections.

The reply is not acceptable as the works sanctioned/executed were not covered in the category of works for which funds were made available by MMRDA. Further, borewells were got constructed in the premises of the Co-operative Housing Societies and not slums.

3.1.4.4 Improper planning in execution of works

The work for construction of 510 seated toilet blocks at various slum locations in Ramabai Ambedkar Nagar and Kamraj Nagar was awarded (June 2010) by

MSIB to M/s Computer Engineers at a cost ₹ 2.94 crore for completion by June 2011.

Scrutiny of records of EE, East Division revealed that the contractor completed only 315 of 510 toilet blocks despite repeated extensions granted to him till October 2012. The scope of work was however, restricted (October 2012) to 315 number on the ground of non-availability of sites for construction of the remaining 195 toilet blocks. The contractor was paid (January 2013) the final bill of ₹ 2.45 crore.

The EE, East Division stated (June 2013) that the Slum Rehabilitation Scheme was being implemented on the locations selected for construction of remaining 195 toilets blocks and due to high density of slum population, the remaining toilet blocks could not be completed.

The reply is not acceptable as further audit scrutiny revealed that MSIB awarded (May 2012) the work of construction of 38 seated toilet blocks in the same locality at a cost of ₹ 52.90 lakh to five contractors which were completed by April 2013. Further, the Board could have attached the new work of 38 toilets blocks with construction of 510 number awarded in June 2010 and saved ₹ 23.39⁸ lakh.

3.1.4.5 Irregular execution of works without identification of Dalit *Vastis*

The MSIB received ₹ 249.85 crore during 2010-2013 under special component plan from the Social Justice and Special Assistance Department for providing civic amenities to the dalit *vastis* situated in Mumbai. Under the scheme, the works were to be carried out in dalit *vastis* after fixing their relative priority on the basis of SC / Nav Buddha population residing in it. The MSIB attempted to identify the number of dalit *vastis* through the District Collectors and their own Divisions but, no information could be gathered. The Chief Officer, MSIB, also directed (October 2011) the EE to conduct a survey to identify the dalit *vastis*.

Audit scrutiny revealed that MSIB sanctioned 2,111 works at a cost of ₹ 166.20 crore during 2010-12 in the areas suggested by the local MLAs and completed 1,890 works during 2012-13 without identifying the dalit *vastis*. Audit therefore, could not verify whether the works were got executed only in dalit *vastis*.

The Deputy Chief Engineer, MSIB stated (July 2013) that the Honourable Minister, Rural Development and the Guardian Minister, Mumbai City district in the DPDC meeting held on 03 December 2011 directed that the works as suggested by the Honourable MLAs be considered and administrative approvals were granted immediately.

The action of MSIB was not appropriate as proper survey should have been done to identify the dalit *vastis* based on which works should have been got

⁸ Cost of each seated toilet block in June 2010 = ₹ 77,655
Cost of each seated toilet block in May 2012 = ₹ 1,39,210
Difference in cost = ₹ 61,555 per toilet block
Extra expenditure incurred = ₹ 61,555 x 38 = ₹ 23.39 lakh

executed to ensure that benefits reach the targeted beneficiaries under the scheme.

3.1.4.6 Internal controls

Inadequacies in material testing

As per clause 52 of the agreements signed with the contractors, all tests prescribed by the MSIB for testing the quality/strength and soundness of a particular component and building structure as a whole were to be carried out by the contractors at their cost in the Material Test Laboratory (MTL) of MHADA. The Chief Engineer-I, MHADA also issued (April 2011) a Circular instructing the concerned Engineers/ CAO to ensure the genuineness of the test certificates before certifying the works/payments and in case of any doubts/discrepancies, the originality of the test certificates were to be ascertained by approaching the MTL of MHADA.

In 40 out of 1,270 test-checked cases, it was observed that final bills amounting to ₹ 4.31 crore were paid to the contractors on the basis of material test certificates submitted. However, cross verification by audit from MTL revealed that none of the test certificates were issued by MTL. Further, the Divisions made final payment of ₹ 4.26 crore in 39 other test checked cases though no material test certificates were on record. In the absence of material testing, use of substandard material by contractors in execution of works could not be ruled out. This also indicated weak internal controls in the Board

The EEs stated (June 2013) that the test reports have been called for from the contractors and the payment receipts for testing charges would be submitted to the Divisions after receipt of the same from the contractors. Further, the certificates stated to be forged would also be got verified by the the VQC cell of MHADA.

Non-compliance to observations of Vigilance and Quality Control Cell

Inspections are carried out by the VQC cell of MHADA during execution of works to ensure that works are executed as per the laid down specifications and design. During inspection, observations made by the VQC cell are issued to the concerned Divisions in the form of Observation Memos (OM) for compliance and setting right the defective work *etc.* Further, with a view to improving the quality of the work, the Chief Engineer, MHADA instructed (February 2004) that the respective EEs has to certify that no OM issued by the VQC cell was pending for compliance, before releasing the final bill.

Audit scrutiny revealed that in 27 out of 1,270 test checked cases, final bills amounting to ₹ 2.60 crore were released to the contractors on the basis of the certificates issued by the EEs that no OMs were pending, despite 32 pending OMs.

The EE West stated (June 2013) that the OMs were complied with but, the closure reports were not received from the VQC cell.

Internal audit and inspections

The Internal Audit Wing (IAW) set up by MHADA in April 2011 did not conduct internal audit of MSIB or any of its unit since its inception.

The CAO agreed (June 2013) that no internal audit was conducted by the IAW of MHADA while the Deputy Chief Engineer stated that inspections were conducted. However, the Deputy Chief Engineer could not produce any evidence of inspections having been carried out.

3.1.5 Conclusion

The MSIB was not complying with the Government directives with regard to allotment of works up to ₹ 15 lakh. The prescribed system for quality control was not being adhered to. There were instances of works executed without proper survey and identification of targeted beneficiaries, irregularities in payment of final bills and execution of inadmissible works. The internal controls in MSIB was also weak.

3.1.6 Recommendations

MSIB should ensure that mandatory material tests are conducted in all the required cases. A system should be put in place to ensure that the certificates issued by the Material Test Laboratory, MHADA are received directly by the MSIB for verification at the time of payment of final bills to the contractors. MSIB should ensure that work allotment is done strictly as per the Government directives. The internal controls should be strengthened.

The matter was referred to the Government in October 2013; their reply was awaited as on January 2014.

3.2 Non-compliance with rules and regulations

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

Housing Department

Maharashtra Housing and Area Development Authority

3.2.1 Loss of revenue

The Maharashtra Housing and Area Development Authority allotted 225 tenements to a Society without capitalizing interest up to the date of actual allotment of tenements, resulting in loss of revenue of ₹ 4.32 crore. Besides, outstanding dues from the Society on account of cost of tenements along with interest totaling ₹ 14.31 crore were not recovered.

Sale of tenements constructed by Maharashtra Housing and Area Development Authority (MHADA) is regulated by Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) (MHAD) Regulation, 1981. As per Regulation 13 (2) of MHAD, housing schemes for specific category or categories should be prepared and implemented by MHADA with the approval of the Housing Department (Department), Government of Maharashtra.

Scrutiny of records of Estate Manager, Mumbai Board⁹ revealed that a housing society namely Rajyog Co-operative Housing Society (Society) approached (December 2008) the Department for allotment of 225 constructed¹⁰ tenements at Versova, Mumbai. Accordingly, the Department directed (August 2009) MHADA to allot 225 tenements (each having built up area of 965 sq ft) to the Society. The sale price per sq ft worked out by MHADA in November 2008 after capitalizing interest up to 31 March 2009 was ₹ 4,361 per sq ft rounded off to ₹ 4,400 per sq ft and accordingly the provisional offer letter was issued (August 2009) by MHADA to the Society intimating the sale price of ₹ 42.46 lakh per tenement. As per the provisional offer letter, 25 *per cent* of the total cost (₹ 95.54 crore) was payable within 30 days and balance 75 *per cent* within 90 days from the date of issue of provisional offer letter. The last date for payment was extendable up to 45 days on payment of interest at 13.5 *per cent per annum* failing which, the allotment was to be cancelled and amount already paid refunded after forfeiting one *per cent* of the total cost of the tenements.

Audit observed the following:

- The sale price of ₹ 4,400 per sq ft was worked out in November 2008 after loading interest up to March 2009, instead of till August 2009 when the tenements were actually allotted. The sale price per sq ft considering interest up to the date of allotment worked out to ₹ 4,599¹¹ per sq ft. The incorrect fixation of the sale price thus, resulted in loss of revenue of ₹ 4.32 crore¹² on allotment of 225 tenements.
- The Society paid only ₹ 89.77 crore out of the ₹ 95.54 crore between August 2009 and June 2011. Though the Society failed to honour its payment obligations, MHADA neither cancelled the allotment nor did it forfeit one *per cent* of the total cost of the tenements as per the terms and conditions of provisional offer letter. The outstanding dues from the Society was ₹ 5.77 crore towards cost of tenements along with interest of ₹ 8.54 crore for delayed payment up to September 2013.

Thus, incorrect fixation of sale price of the tenements due to non-levy of interest up to the date of actual allotment resulted in loss of revenue of ₹ 4.32 crore and non-recovery of outstanding dues of ₹ 14.31 crore including interest.

The matter was referred to the Government in June 2013; their reply was awaited as of January 2014.

⁹ Mumbai Housing and Area Development Board, a unit of MHADA

¹⁰ Out of a total 1088 tenements constructed

¹¹ Rate up to March 2009 ₹ 4,361 per sq ft x 14 *per cent* = ₹ 610.54 x 142 days (1 April 2009 to 20 August 2009) /365= ₹ 238; ₹ 4,361 + ₹ 238 = ₹ 4,599- ₹ 4400= ₹ 199 per sq ft

¹² ₹ 199/ sq ft x 965 sq ft built up area of the tenements x 225 tenements= ₹ 4.32 crore

3.2.2 Non-recovery of dues

Lack of robust internal controls in Maharashtra Housing and Area Development Authority resulted in non-recovery of dues of ₹ 3.48 crore from Meera Co-operative Housing Society and Raigad Military School and loss of interest of ₹ 5.04 crore.

Internal control is an integral component of an organisation's management process which are established in order to provide reasonable assurance that the operations are carried out effectively and efficiently so as to protect its assets and ensure recovery of its dues in time. The Maharashtra Housing and Area Development Authority (MHADA), is responsible for works like housing, development of land, distribution/allotment of tenements or plots *etc.* across the State as per the provisions in the Authority's Act of 1976. In two cases, as discussed below, the MHADA failed to recover the dues in respect of the lands leased to Meera Co-operative Housing Society at Oshiwara, Jogeshwari and Raigad Military School, Andheri due to lack of robust internal controls.

Case-I

The Housing Department, Government of Maharashtra (GoM), allotted (September 2001) land admeasuring 6,961 sqm at Oshiwara, Jogeshwari (West) to Meera Co-operative Housing Society (Society) under Regulation 16¹³ of the Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982. The Chief Officer, Mumbai Housing and Area Development Board (Mumbai Board) under MHADA intimated (20 June 2002) the Society to pay an amount of ₹ 6.71 crore towards lease premium of the land and capitalized value of lease rent payable during the lease period of 30 years. Further, the Society was also informed that in case it was not able to pay the amount within 30 days of the intimation, a further period of three months would be granted for the payment failing which, compound interest at 13.5 *per cent per annum* would be levied till the total amount was paid. The Mumbai Board further intimated (28 June 2002) the Society that the plot was reserved for municipal retail market and 40 *per cent* of the area was to be used for the construction of the municipal market and handed over to the Municipal Corporation of Greater Mumbai (MCGM) free of cost by the Society. Accordingly, the amount payable by the Society was revised downwards to ₹ 3.22 crore after factoring into the expenditure to be incurred by the Society in construction of the municipal market at its cost. The cost of construction to the Society for the municipal retail market was provisionally reckoned (28 June 2002) at ₹ 13,000 per sqm by MHADA. The Society was also directed to furnish an undertaking to pay to MHADA the difference in the lease premium in the event of any decrease in the cost of construction provisionally reckoned. The Society paid ₹ 3.22 crore and executed the lease deed on 29 June 2002.

¹³ Regulation 16 stipulates that plots reserved for amenities or for purely commercial purpose in any layout prepared by the Authority in a land situated in any of the Urban agglomerations namely Greater Bombay, Thane, Ulhasnagar, Pune, Kolhapur, Sangli-Miraj, Solapur, Nashik and Nagpur shall be disposed of in accordance with the direction the State Government. As per section 2 of Maharashtra Housing and Area Development Act, 1976, amenities include roads, bridges, educational and welfare projects *etc.*

The cost of construction of the municipal market was revised (November 2003) by MHADA at ₹ 8,608 per sqm. Accordingly, MHADA revised the amount payable by the Society to ₹ 4.32 crore and intimated (March 2004) the Society to pay the differential of ₹ 1.10 crore within 30 days of the receipt of the letter failing which, compound interest at 13.5 *per cent per annum* was payable.

Audit scrutiny revealed that as of January 2014, the Society neither paid the outstanding dues of ₹ 1.10 crore to MHADA nor the interest amounting to ₹ 2.71 crore for the period from 15 March 2004 to 31 January 2014 (almost 10 years). MHADA issued only one demand notice to the Society in May 2013 for total recovery of ₹ 3.42 crore (₹ 1.10 crore of outstanding dues plus interest amount of ₹ 2.32 crore) from 15 March 2004 to 14 March 2013. Further, though the Society failed to pay the outstanding dues of ₹ 1.10 crore, MHADA issued the 'No Objection Certificate' to the MCGM in September 2004 and October 2004, in order to enable the Society to obtain the Occupation Certificate and the Building Completion Certificate from the MCGM.

Audit also observed that the Society demanded (1 December 2003) an additional Built Up Area (BUA) of 654 sqm. Though sufficient BUA for the layout was not available, MHADA granted (22 December 2003) an additional BUA to the Society in anticipation of increase in Floor Space Index (FSI)¹⁴ by the MCGM for the layout from one to 1.2. It was also noticed that the payment for the additional BUA was made (03 December 2003) by the Society even before the grant of approval by MHADA (22 December 2003) for the additional BUA. The Society was thus, extended undue favour since grant of additional FSI in anticipation of increase in FSI was irregular. The increase of FSI for the layout was not finalized as of January 2014.

Case II

The Housing Department, GoM directed (March 2002) MHADA to allot plots reserved for secondary school (3,800 sqm) and playground (6,300 sqm) in the ratio of 60:40 to Raigad Military School (RMS) and Raj Purohit Trust (RPT) respectively under Regulation 16 of Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982.

Accordingly, MHADA issued offer letters to RMS and RPT in May 2002 for allotment of land. On final measurement, school plot admeasuring 2,400 sqm and play ground admeasuring 4,332 sqm was allotted to RMS and lease deed executed in April 2004 for a period of 30 years for an amount of ₹ 83.22 lakh¹⁵. The offer to RPT was cancelled by MHADA in August 2004 as there was no response and an area of 4,499 sqm (school plot : 1,611 sqm and play ground : 2,888 sqm) offered to RPT was offered (September 2004) to RMS for a premium of ₹ 53.61 lakh¹⁶ to be paid within 30 days from the date of receipt of the offer letter. In the event of non-payment of the dues within the

¹⁴ It is the ratio of the total built-up area allowed to be constructed on the plot to the plot area

¹⁵ ₹ 79.67 lakh towards lease premium; ₹ 3.55 lakh towards capitalized amount of lease rent; and ₹ 60 towards nominal lease rent for school and playground (₹ 30 each) for the period of 30 years

¹⁶ including capitalised lease rent and legal charges of ₹ 0.36 lakh

stipulated period, the due date was to be extended by three months with an interest of 13.5 *per cent* on the balance amount payable failing which, the allotment of land was to be cancelled.

As per MHADA's policy (August 2004), the allottee to whom plot is allotted for setting up school can use five to 20 *per cent* of the total BUA for commercial purpose provided 10 *per cent* of the revenue earned is remitted to MHADA and where more than 20 *per cent* of the total BUA is utilized for commercial purpose, 25 *per cent* of the revenue earned is to be remitted to MHADA. RMS requested (January 2005) MHADA to permit commercial use of building under construction on the school plot, which was approved (March 2005) by MHADA. Accordingly, RMS sub-leased (September 2006) the entire ground floor and first floor of the building (1,409 sqm) to M/s Invention Realtors Private Limited for commercial purpose at a lease premium of ₹ 9.51 crore.

Scrutiny of records (January 2012) of MHADA revealed the following:

- Against the total available BUA of 4,800 sqm on the school plot (considering FSI of two granted), RMS sub-leased 1,409 sqm of BUA to M/s Invention Realtors for commercial use. Since the area used for commercial purpose worked out to 29.35¹⁷ *per cent* of the total BUA, 25 *per cent* of the revenue (₹ 2.38 crore)¹⁸ was to be remitted to MHADA. Though the matter relating to recovery of ₹ 2.38 crore from RMS was discussed in the file notings between March 2007 and September 2008, no action was taken by MHADA to issue notice to RMS for recovery of revenue to be shared on account of commercial use of the plot. The inaction on the part of MHADA also resulted in loss of interest of ₹ 2.33¹⁹ crore for the period from November 2006 to January 2014.
- The permission granted (March 2005) by MHADA to RMS for commercial use of the plot provided for a tripartite agreement to be executed between MHADA, RMS and M/s Invention Realtors. However, it was observed that though RMS executed a lease agreement (September 2006) only with Invention Realtors (sub - lessee), no notice was issued by MHADA to RMS for not executing a tripartite agreement. Incidentally, while the lease agreement between RMS and the sub-lessee was valid for 28 years (September 2034), the lease deed between MHADA and RMS was valid up to April 2034.
- Of the plot area admeasuring 6,732 sqm initially allotted to RMS for which a lease deed was executed in April 2004, land admeasuring 1,212 sqm did not have a clear title in favour of MHADA.
- RMS paid only ₹ 15 lakh as against ₹ 53.61 lakh payable for the additional plot of land admeasuring 4,499 sqm on the ground that the plot was encroached upon. However, MHADA did not take any action either to remove the encroachments or to cancel the allotment of the plot.

¹⁷ Plot area – 2400 sqm x 2 FSI = 4800 sqm (total built up area)

Commercial area = 1409/4800 x 100 = 29.35 *per cent*

¹⁸ 25 *per cent* of ₹ 9.51 crore = ₹ 2.38 crore

¹⁹ (₹ 2.38 crore * 13.5%/12)*87 months

Thus, lack of robust internal controls in MHADA resulted in non-recovery of dues of ₹ 3.48 crore from Meera Co-operative Housing Society and Raigad Military School and loss of interest of ₹ 5.04 crore.

The matter was referred to the Government in July 2013; their reply was awaited as of January 2014.

3.2.3 Loss of revenue

Irregular allotment of land to a Society at the rates prevailing in 1983 instead of at the current market rates of 2009, coupled with non-recovery of premium for change in land use, resulted in loss of revenue of ₹ 85.41 lakh.

Regulation 10 of Maharashtra Housing and Area Development Authority (MHADA) Act, 1976 stipulates execution of lease deed in favour of the allottee only on receipt of full amount of lease premium and handing over possession of the land after execution of such lease deed. As per MHADA's policy of March 2000²⁰, premium at the rate of ₹ 250 per sqm was to be recovered in case an allottee changes land use from residential to non-residential. Further, as per MHADA's pricing policy of June 2003²¹, plots allotted by the Government under Regulation 16²² of MHADA Act were to be charged at the current market rates *i.e.* the rates prevailing as on the date of offer letter.

Scrutiny (March 2012) of records of the Chief Officer, Pune Housing and Area Development Board, a unit of MHADA, revealed that the District Collector, Sangli handed over (October 1966) land admeasuring five acres at Islampur to MHADA for construction of tenements. MHADA constructed (January 1969) 50 tenements for Economically Weaker Sections (EWS). However, these tenements could not be allotted to EWS due to lack of water supply.

MHADA, on request (August/September 1983) by Kasegaon Education Society²³ (KES), resolved (September 1983) to allot the 50 tenements (6,542 sqm of land) and 15,972 sqm of open land adjacent to these tenements to KES, together measuring approximately five acres. Accordingly, MHADA issued (October 1983) an offer letter to KES directing to pay ₹ 4.98 lakh towards outright sale price of the 50 tenements along with the land underneath the building and appurtenant thereto on lease for a period of 90 years. In the offer letter, MHADA indicated that the terms and conditions for allotment of the open land would be intimated separately. The then Deputy Engineer, Slum and Housing Division IV, Kolhapur however, handed over (December 1983) the provisional possession of the open land to KES.

²⁰ Decided vide resolution no 5553 dated 27 March 2000.

²¹ Decided vide resolution no 5930 dated 21 June 2003

²² Regulation 16 stipulates that plots reserved for amenities or for purely commercial purpose in any layout prepared by the Authority in a land situated in any of the Urban agglomerations namely Greater Bombay, Thane, Ulhasnagar, Pune, Kolhapur, Sangli-Miraj, Solapur, Nashik and Nagpur shall be disposed of in accordance with the direction of the State Government.

²³ KES is a Public Trust registered under Bombay Public Trust Act, 1950.

As final decision on the terms and conditions for allotment of the open land was not taken by MHADA, the then Minister of Finance and Planning requested (November 2005 and February 2006) MHADA to finalise the allotment of the balance 15,972 sqm of open land to KES. MHADA submitted (June 2008) two options before the Housing Department for approval *i.e.* (i) amend the decision taken in September 1983 and cancel the allotment of open land or (ii) to recover lease premium from KES on the basis of current ready reckoner rate or capitalise the interest on the cost of land up to date of allotment, whichever was higher. However, the Housing Department directed (June 2009) MHADA to allot the land to KES as per the rates prevailing in the year 1983 and MHADA resolved (August 2009) to recover the lease premium at the rates prevailing in 1983 along with interest at 12.5 *per cent per annum* for 26 years amounting to ₹ 6.99 lakh and the capitalized lease rent of ₹ 0.88 lakh totaling ₹ 7.87 lakh (**Appendix 3.2**), which was paid by KES in September 2009.

Audit observed the following:

- Before allotment of any land, MHADA issues an offer letter to the allottee indicating the cost of land and the lease rent applicable. In the instant case, the open land was handed over to KES in 1983 without an offer letter and without any terms and conditions. Further, handing over of land to KES without recovery of lease premium and execution of lease agreement violated Regulation 10 of the MHADA Act. Incidentally, the provisional handing over and taking over of land was made on the letterheads of KES.
- The allotment of open land at the rates prevailing in 1983 instead of the current market rates as on the date of offer in 2009, not only violated the pricing policy of MHADA, but also resulted in loss of revenue of ₹ 45.48 lakh to MHADA (**Appendix 3.2**).
- As per resolution no. 6415 (August 2009), the use of land was changed by MHADA from residential to non-residential. MHADA, however, did not recover the premium at the rate of ₹ 250 per sqm for change in land use, resulting in loss of revenue of ₹ 39.93 lakh²⁴.

Thus, allotment of land without applying the current market rates in violation of MHADA's pricing policy and non-recovery of premium for change in land use from KES resulted in loss of revenue of ₹ 85.41 lakh to MHADA.

The matter was referred to the Government in June 2013; their reply was awaited as of January 2014.

3.3 Audit against propriety/Expenditure without justification

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

²⁴ 15,972 sqm * ₹ 250 = ₹ 39.93 lakh

Home Department

3.3.1 Idling of an equipment

Failure of the Home Department to provide stabiliser, UPS and de-humidifier for the 'Raman Spectrophotometer' purchased at a cost of ₹ 1.09 crore resulted in its breakdown thus, rendering it idle for a prolonged period, besides causing a liability of ₹ 26.90 lakh towards purchase of a new spare parts.

The Director, Directorate of Forensic Science Laboratory²⁵, Mumbai (DFSL) submitted (August 2008) a proposal to the Home Department, Government of Maharashtra (Department) for purchase of 'Raman Spectrophotometer' (equipment). The equipment was intended for conducting chemical, physical and biological analysis of collected samples to facilitate comparative study of test results, trace analysis and chemical and physical examination of the samples. The equipment had a wide range of applications such as, identification of explosives, narcotic drugs, other drugs detection, ink analysis, polymer identification *etc.* The Department accorded (September 2008) administrative approval for ₹ 1.30 crore for purchase of the equipment.

Tenders were invited in August 2008 and the only bid of M/s LABINDIA Instrument Private Limited, Thane, the sole distributor of M/s Renishaw, Plc, United Kingdom (supplier) was approved (January 2009) by a purchase Committee headed by the Director, DFSL. Accordingly, a supply order was placed (February 2009) on M/s Renishaw Plc, United Kingdom for supply of one number of equipment at a cost of GBP 149,587 (₹ 1.09 crore). In September 2009, the instrument was installed and commissioned at the office of the DFSL, Mumbai. The supplier had intimated at the tendering stage that the equipment would require stable power supply of 220 volts, Uninterrupted Power Supply (UPS) of 5 KVA²⁶ capacity, controlled humidity and room temperature.

Scrutiny of records (March 2012) of DFSL, Mumbai revealed the following:

- The Indian representative of the supplier during visit (October 2009) to attend to a fault reported by DFSL, observed that the equipment could not be started as the operating voltage of 220 volts was not achieved with the existing stabilizer. The Indian representative therefore, recommended installation of a branded UPS, a digital stabilizer and de-humidifier for longer life of the filters. However, the DFSL did not procure the branded UPS and digital stabiliser as of January 2014.
- Scrutiny of log book of the equipment revealed that the equipment was used only on five occasions between September – October 2009 and February 2011 to test 18²⁷ samples. The equipment remained idle for 15

²⁵ The forensic Laboratory has been providing technical and scientific assistance to Police Department by analyzing samples received/collected from crime sites

²⁶ Kilo Volt Ampere

²⁷ 24 September 2009: two ; 25 September 2009: six; 29 September 2009: one; 01 October 2009 : two; and 22 February 2011: seven

months during the period from November 2009 to January 2011 due to shortage of manpower in DFSL.

- The equipment was non-functional since March 2011. The Indian representative of the supplier during his visit to DFSL observed (May 2011) that the charge-couple device (CCD) detector had failed probably due to power fluctuations, non-usage of the system for a long time, temperature and humidity variations in the laboratory. However, the CCD detector was sent to the supplier in United Kingdom for repairs belatedly in July 2013 at an estimated cost of ₹ 9.23 lakh. The supplier returned the CCD detector stating that it was beyond economical repairs. The DFSL approved the purchase of a new CCD detector at a cost of ₹ 26.90 lakh only in October 2013. The CCD detector was not procured as of January 2014.

Thus, failure of the Department to provide UPS, stabiliser and de-humidifier initially recommended by the supplier coupled with shortage of manpower resulted in very limited use of the equipment during the period September 2009 to February 2011 before it became non-functional in March 2011. This not only defeated the purpose for which the equipment was procured at a cost of ₹ 1.09 crore but also led to an additional liability of ₹ 26.90 lakh towards spares procurement due to non-usage of the equipment for a prolonged duration.

The matter was referred to the Government in July 2013; their reply was awaited as of January 2014.

Medical Education and Drugs Department

3.3.2 Idling of hospital equipment

Failure to synchronise the procurement of hospital equipment with the civil construction works of new hospital building of Shri Bhausaheb Hire Government Medical College, Dhule led to idling of hospital equipment valuing ₹ 1.03 crore for 40 to 50 months.

Mention was made in Paragraph 4.3.3 of the Report of the Comptroller and Auditor General of India for the year 2007-08 (Civil) regarding delay in construction of new hospital building of Shri Bhausaheb Hire Government Medical College (BHGMC) at Chakkarbardi, Dhule.

Construction of new hospital building of BHGMC comprising two 250-bedded wings was awarded (November 2006 and March 2008) by the Public Works Department (PWD) to two contractors with stipulated period of completion of November 2008 and June 2009 respectively. The construction of two 250-bedded wings was completed only in March 2011 and March 2012 *i.e.*, after a delay of 28 months and 33 months.

Audit scrutiny revealed that the Medical Education and Drugs Department administratively approved (August 2009) the purchase of various hospital equipment which *inter alia* included hydraulic tables, ceiling lamps and autoclave machines for use in the new hospital building of BHGMC. The Dean, BHGMC placed (November 2009 and January 2010) purchase orders

on three agencies for procurement of six hydraulic tables, eight ceiling lamps and 10 autoclave machines at a total cost of ₹ 1.19 crore. All the equipment were delivered between November 2009 and September 2010. However, equipment so procured could not be put to use even as of January 2014 as the new hospital building was not handed over by the PWD to the Dean, BHGMC due to pending civil/electrical works and delay in installation of lift and firefighting equipment. Consequently, seven out of 10 autoclave machines²⁸, six hydraulic tables and eight ceiling lamps valuing ₹ 1.03 crore were lying idle (January 2014) for 40 to 50 months since their procurement²⁹. Incidentally, warranty on these equipment had expired between December 2011 and December 2012.

Thus, failure to synchronise the procurement of hospital equipment with civil construction works of the new hospital building led to idling of equipment valuing ₹ 1.03 crore for 40 to 50 months.

The matter was referred to the Government in September 2013; their reply was awaited as of January 2014.

Public Health Department

3.3.3 Idling of an equipment

Non-deployment of full time permanent manpower at Regional Referral Hospital, Nashik resulted in the Brachytherapy unit purchased at a cost of ₹ 1.12 crore for treatment of patients suffering from cervical cancer remaining idle for 45 months.

Atomic Energy Regulatory Board (AERB), Mumbai regulates the installation, use and monitoring of medical equipment which involves use of radioactive source. The Hospitals procuring radiation therapy facility are required to comply with mandatory conditions laid down by AERB, before any such facility is put into operation which *inter alia* include appointment of adequate number of full time Radiation Oncologists, Medical Physicists, Radiological Safety Officers and Radiation Therapy Technologists. The AERB monitors the safety standards through annual Radiation Safety Reports which is submitted to it by all the hospitals using such facility, before 31 January every year.

Scrutiny of records (June 2013) of Regional Referral Hospital (Hospital), Nashik revealed that the Directorate of Health Services placed (March – October 2007) an order for supply of a ‘High Dose Rate Remote After Loading Brachytherapy unit’ (equipment) valuing ₹ 1.12 crore on M/s Nucletron India Private Limited, Chennai. The equipment was meant for treatment of patients suffering from cervical cancer. The equipment was delivered in October 2008 but, installed only in August 2009 as the room in which the equipment was to be installed was not complete. The equipment was commissioned in October 2009.

²⁸ Three autoclave machines were in use in the operation theatre of the old hospital building and incinerator building

²⁹ Hydraulic tables and ceiling lamps procured in November 2009 (50 months); and Autoclave machines procured in September 2010 (40 months)

As per records of the Hospital, 48 patients were referred to Brachytherapy unit for treatment of cervical cancer of which, only four patients were treated between March and April 2010. The remaining 44 patients were referred to other Government hospitals for treatment as the strength of the radioactive source (Iridium-192) used for running the equipment had decayed beyond the permissible limit.

Audit scrutiny revealed that at the time of commissioning of the equipment in October 2009, the Hospital had one Radiation Oncologist, one Radiological Safety Officer-cum-Chief Physicist and two Radiation Therapy Technologists on its roll on contract basis between July 2008 and January 2009. The Chief Physicist and one Radiation Therapy Technologist resigned subsequently in March 2010 and May 2010 respectively. With the resignation of the Chief Physicist, who was also the Radiological Safety Officer and the only authorized person to operate the equipment, the cancer department of the Hospital stopped functioning. As adequate number of trained manpower was not available in the Hospital from May 2010 onwards for the operation/activation of the equipment, the AERB did not grant permission to the Hospital to import the radioactive source. The AERB further advised (April 2012 and April 2013) the Hospital to initiate action for decommissioning of the equipment, in accordance with its present policy³⁰ on disused sources for prolonged period. The equipment was non-functional as of January 2014.

Further audit scrutiny revealed that the Public Health Department, GoM sanctioned the post of one Radiation Oncologist, one Chief Physicist and three Physicists for the Hospital way back in November 2006. However, even after more than three years of commissioning of the equipment, the Government did not finalize the recruitment rules for these specialized posts nor did it make any efforts to fill up these posts on permanent/regular basis. Consequently, the Hospital continued to fill up the specialized posts on contract basis from time to time leading to vacancies in various posts (11 to 41 months), as indicated in the **Table 2**.

Table 2: Vacancies in specialised posts

Sr. No.	Post	Period of deployment on contract basis	Vacant period (in months)
1.	Radiation Oncologist	14/07/2008 to 16/04/2011 29/03/2012 onwards	11
2.	Medical Physicist/ Radiological Safety Officer	24/09/2008 to 11/03/2010 13/03/2012 onwards	24
3.	Radiation Therapy Technologists	(i) 05/12/2008 to 11/05/2010 27/09/2013 onwards (ii) 23/01/2009 onwards (iii) 25/09/2013 onwards	41

The Government stated (November 2013) that the required staff to operate the equipment has been appointed in September 2013 and correspondence with AERB, Mumbai has been made for the procurement of radioactive source. On receipt of the same, the equipment would be made functional immediately.

³⁰ Any radioactive source/ equipment shall be deemed as disused if the source/equipment is lying in a disused state in the radiotherapy facility for more than one year, without any appropriate acceptable proposal from the user to make use of it in the near future

The Government further stated that after finalization of the recruitment rules, action will be taken to fill up the posts on regular basis.

Thus, non-deployment of manpower in the Hospital on permanent basis and subsequently, non-granting of permission by the AERB for import of radioactive source led to idling of the 'High Dose Rate Remote After Loading Brachytherapy unit' procured at a cost of ₹ 1.12 crore for 45 months (May 2010 to January 2014), besides depriving treatment to large number of patients suffering from cervical cancer. Further, due to prolonged non-use, the decommissioning of the equipment cannot be ruled out.

School Education and Sports Department

3.3.4 Nugatory expenditure

School Education and Sports Department failed to utilise the services of surplus teachers against the vacancies, resulting in nugatory expenditure of ₹ 10.34 crore towards payment of salaries.

As per the amendment made (December 1990) to Rule 7.5 of the Secondary School Code, no management shall close school or any of the recognised classes or make voluntary change in approved school subjects, which may result in any of its permanent staff being rendered surplus, without due notice to the Regional Deputy Director of Education (DDE), at least one academic term in advance and act as per his decision. An appeal on the decision of the DDE in this case shall lie with the Director of Education (DE).

Scrutiny of records (November 2011) of Education Inspector, West Zone, Jogeshwari, Mumbai and information obtained from the DDE, Mumbai revealed that Laxmi Education Society, Mumbai was running two Government aided junior colleges viz., L.U.M.V. College of Arts, Science and Commerce and Chinai College of Commerce and Economics at Andheri (East), Mumbai from 1975 onwards. The Management of the Laxmi Education Society, Mumbai (Management) decided (February 2007) to close these two junior colleges from the academic year 2007-08 on the ground of financial crunch and reduction in work load in the colleges and submitted (February 2007) a proposal to the DDE for closure of the two colleges. The DDE rejected (March 2007) the proposal considering the interest of the students and teachers and directed the Management to keep the colleges operational. However, the Management issued (June 2007) notices to all the 42 teachers terminating their services. The School Tribunal, where an appeal was filed by the aggrieved teachers against their termination, passed its operative orders (November 2007 and March 2008) against the decision of the Management and directed the School Education and Sports Department (Department) to absorb these surplus teachers in other aided junior colleges in Mumbai. The salaries of teachers of both the colleges were stopped from March 2008. The Department then filed (June 2008) a Writ Petition in the High Court, Mumbai. While admitting the petition the High Court directed that the petitioners³¹ should take appropriate decision after conducting hearing of all the concerned parties. After hearing all

³¹ Includes the State Government and Director of Education, Mumbai.

the parties, the DE concluded (July 2008) that the decision of the Management to close the colleges was not appropriate. The Management filed an appeal (2008) in the High Court against the decision of the DE. The Department, however, did not take any action to utilise the services of the 42 teachers in any of the junior colleges pending finalisation of High Court's orders.

Meanwhile, the Department directed³² (May 2009 and June 2009) the DE to disburse salaries to all the 42 teachers. Accordingly, the DDE through the Education Inspector started (June 2009) disbursing salaries with retrospective effect from March 2008. As of October 2013³³, an amount of ₹ 10.34 crore was paid to the surplus teachers towards salaries. The High Court clubbed all the petitions filed by the Management and the Department and ordered (December 2009) to reconsider the original proposal submitted by the Management on merit. The DDE heard the Management and passed a speaking order (June 2010) not to close the colleges. On an appeal filed by the Management against the order, the appellate authority *viz.*, the Director, Maharashtra State Council of Educational Research and Training upheld (July 2010) the decision of the DDE. The Management filed (2010) a petition in the High Court against this order, which was still pending (January 2014).

Audit observed that though the DDE in October 2009 requested the DE (Secondary and Higher Secondary) to deploy the surplus teachers against the existing vacancies temporarily pending decision of the High Court, the services of the surplus teacher were not utilized. This was evident from the fact that the Department recruited 246³⁴ teachers in Mumbai region during the period 2008-09 to 2011-12 and there were 22 vacancies as of March 2012. However, the services of none of the surplus teachers were utilized against the vacancies that arose during 2008-12.

The DDE, Mumbai Division stated (June 2013) that of the 32³⁵ teachers, posting of 17 teachers had been completed. Of the remaining 15 teachers, three teachers had retired in January, April and June 2013. The posting orders of the remaining 12 teachers have been issued. The Education Inspector further stated (January 2014) that only one teacher remained to be absorbed.

Thus, failure of the Department to utilise the services of surplus teachers against the existing vacancies resulted in nugatory expenditure of ₹ 10.34 crore on payment of salaries to the surplus teachers.

The matter was referred to the Government in June 2013; their reply was awaited as of January 2014.

³² As per Rule 88.1 of Secondary School Code, all recognized secondary schools including vocational secondary schools, which are under the control of the DE, are eligible for salary and non-salary grant subject to availability of funds. These grants are paid by making provision in the regular budget year

³³ No salary was paid to surplus teachers from November 2013 onwards

³⁴ Science : 116; Commerce : 81; and Arts : 49

³⁵ Out of 42 surplus teachers, there were only 32 surplus teachers (two teachers had expired and eight had retired)

3.4 Failure of oversight/Governance

The Government has an obligation of improving the quality of life of the people for which it works by fulfilling certain goals in the area of health, education, development and upgradation of infrastructure and public services *etc.* Audit noticed an instance of lack of administrative oversight, as discussed below.

Public Health Department

3.4.1 Avoidable payment of interest

Failure of the Public Health Department to challenge arbitration awards within prescribed time limit resulted in avoidable payment of interest of ₹ 1.03 crore.

According to provisions of Section 34 (3) of the Arbitration and Conciliation Act, 1996, the limitation for making an application to set aside the award passed by the Arbitrator is three months only from the date of receiving the award by the concerned party. However, it is provided under the said Section that if the court is satisfied that applicant was prevented by sufficient cause from making the application within the said period of three months, it may entertain the application within a further period of 30 days, but not thereafter.

Scrutiny of records (January 2012) of Deputy Director, Health Services, Akola and further information received (February 2013) from Director, Health Services, Mumbai (DHS) revealed that the Sole Arbitrator declared (13 June 2009) two awards totaling ₹ 3.19 crore³⁶ in respect of two works in favour of the contractor, payable on or before 15 July 2009 failing which, from 16 July 2009 till the date of actual payment, interest at the rate of 18 *per cent per annum* on the awarded amount was payable by the DHS.

Both the awards were challenged by DHS under Section 34 (3) of the Arbitration and Conciliation Act, 1996 before the Principal District Judge, Yavatmal under judicial case No. 61 and 62/2009 by applications dated 22 October 2009 stating that awards were received late on 24 June 2009. However, it was proved in the Court that the awards were actually received by the DHS on 16 June 2009. Thus, both the applications, barred by limitation, were dismissed by the Court on 23 August 2010. The Department released ₹ 4.22 crore in May 2011 towards the settlement of awards, which included an interest component of ₹ 1.03 crore³⁷. The entire payment of ₹ 4.22 crore was made to the contractor between June and August 2011. The payment of interest was avoidable had the awards been paid or challenged in time.

³⁶ (i) Improvement and extension of 30-bedded rural hospital to 50-bedded sub-district hospital at Pandharkawda, district Yavatmal (Amount of award ₹ 1.49 crore).

(ii) Improvement and extension of 30-bedded rural hospital at Digras, district Yavatmal (Amount of award ₹ 1.70 crore).

³⁷ From 16 July 2009 to 23 October 2010 : ₹ 73,41,541

From 24 October 2010 to 30 April 2011 : ₹ 29,61,824

₹ 1,03,03,365

The DHS accepted (February 2013) that there were procedural and administrative delays in challenging the awards.

Thus, failure on the part of the Department to challenge the awards within prescribed time limit resulted in avoidable payment of interest of ₹ 1.03 crore.

The matter was referred to the Government in May 2013; their reply was awaited as of January 2014.

Mumbai,
The 15 May, 2014



(MALA SINHA)
Principal Accountant General (Audit)-I,
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Countersigned



New Delhi,
The

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India