

CHAPTER 3

Audit of Transactions in *Panchayati Raj* Institutions

3.1 Loss of interest

Loss of interest of ₹ 22 lakh due to non-adherence to the scheme guidelines by the Block Development Officer (BDO), KP Naugarh, Chandauli and lack of effective pursuance with the bank to allow interest on the savings bank account balances.

Government of India (GoI) launched (January 2007) Backward Regions Grant Fund (BRGF), a Centrally Sponsored Scheme, to mitigate regional imbalances, contribute towards poverty alleviation, promote accountability and accelerate the pace of development in Tribal and Backward regions. With a view to accelerate development in the Tribal regions of the State, GoI launched Integrated Action Plan (IAP) in 2010-11 under BRGF programme, which envisaged that the interest accrued on the scheme funds was to be treated as additional resource and utilised for the purpose of the scheme/project. Further, the fund was to be kept in a saving bank account in a Public Sector Bank.

Scrutiny of the records (December 2014) of *Kshetra Panchayat* (KP), Naugarh, Chandauli and information collected (May/July 2015) revealed that the KP received ₹ 6.54 crore¹ under IAP during 2012-13 and kept it in a Regional Rural Bank² (Bank) in saving bank A/c No. 618032010013622, Branch Naugarh, Chandauli. This account was opened by the Block Development Officer (BDO) in March 2012 in contravention to the guidelines which stipulated that the scheme funds should be kept in a savings bank account in a public sector bank. Further, scrutiny revealed that the bank did not credit any interest for the period of deposit i.e. March 2012 to March 2015 amounting ₹ 22 lakh³ (*Appendix 3.1*). However, no effort was made by the BDO for credit of interest till March 2015.

On this being pointed out, the BDO, KP Naugarh stated (August 2015) that letters regarding non-payment of interest have been sent to the bank in May 2015, June 2015 and July 2015. The bank indicates its contention (July 2015) to the BDO that account was opened as saving bank account but as per instructions of the head office dated 23 July 2014 the account was changed in current account plan. Therefore, process of accumulation of interest has been closed. The contention of the bank was not acceptable as the nature of the account could not be changed without the written request of the account holder. Reply of the BDO was also not acceptable as timely efforts were not made during 2012-14 to monitor the account balances and seek credit of

¹ ₹ 1.44 crore on 20 June 2012, ₹ 4.10 crore on 25 June 2012 and ₹ one crore on 25 March 2013.

² *Kashi Gomti Sanyut Gramin Bank*.

³ Calculated at the rate of four *per cent* per annum (at par with the interest rate of public sector bank).

interest from the bank. Also, he failed to exercise due care and diligence to ensure that the scheme funds were deposited in a public sector bank, as prescribed in the guidelines.

3.2 Loss of revenue

Non-fixation of rent for shops, equivalent to the rate fixed by the District Magistrate led to loss of ₹ 30.61 lakh to Zila Panchayat, Sitapur.

Government of Uttar Pradesh issued GO in December 1997 which stipulates that *Adhyaksha, Zila Panchayat* (ZP) was to fix monthly rent of shops/complexes owned by the ZP by adopting the system of public auction and to ensure that the rent fixed should not be lower than the market rate. The GO also defined market rate as the rate approved by the District Magistrate. Further, the GO states that the fixed rent should be increased by 25 per cent after every three years. Rule 4 of the Uttar Pradesh Stamp (Valuation of Property) Rules, 1997 (Rule) provides that the Collector of the District shall biennially, as far as possible, in the month of August, fix the minimum monthly rent per square metre of commercial buildings situated in different parts of the district.

Scrutiny of the records of *Apar Mukhya Adhikari* (AMA), ZP, Sitapur (September 2013) and information collected (January and June 2015) revealed that ZP, Sitapur executed rent agreements with the private parties for 98 shops in *Tehsil* Mehmudabad of district Sitapur during 2008-09 for a period of three/five years with the provision for extension of rent agreement every three/five years as per rules including revision of rent. DM, Sitapur, fixed the minimum monthly rent of commercial buildings thrice during 2008-15 in June 2008, June 2010 and August 2013, however, ZP, in violation to the provisions of the GO, did not revise the rent of the shops equivalent to the rates fixed by the DM and continued to collect monthly rent at lower rates as discussed below:

Audit examination disclosed that:

- (i) ZP, Sitapur, while entering into rent agreement during 2008-09, did not fix the initial amount of rent equivalent to the market rate fixed by DM resulting in loss of ₹ 28,447 in respect of 98 shops (**Appendix 3.2**).
- (ii) No revision in the rates of monthly rent payable by the tenants after three years of initial agreement as per terms of rent agreement/GO was carried out in respect of any of the shops during 2008-15. This led to further loss of ₹ 30.33 lakh to ZP, Sitapur (**Appendix 3.3**).

Thus, non-adherence to the provision of the GO led to loss of revenue of ₹ 30.61 lakh to ZP, Sitapur.

On this being pointed out in audit, AMA, ZP, Sitapur replied (September 2013) that rent was fixed according to the category of the shops and action would be taken to fix the rates of rent equivalent to the rates fixed by the DM. AMA further stated (June 2015) that rate of minimum

rent prescribed by the DM was not binding on the ZP because it is an Autonomous Body.

Reply is not acceptable as the GO issued by the Government required all ZPs to ensure that the rates of rent in respect of shops/complexes fixed by them are not lower than the market rates approved by DM.

3.3 Excess expenditure

Acceptance of tenders at higher rates, in contravention to the extant Government orders, resulted in excess expenditure of ₹ 19.16 lakh.

Para 364 of Financial Handbook Volume VI, GoUP states that usually the lowest tender should be accepted. As per the Government Order (June 2012), an additional security/performance guarantee was to be taken in cases where the rates being tendered below the estimated rate to prevent the contractor/firm from leaving/stopping the work midway.

Scrutiny of the records (November 2014) of *Zila Panchayat* (ZP), Ghazipur revealed that the tenders, for six test-checked works invited (June 2013) on short term notice, under Thirteenth Finance Commission grants, were received (July 2013) at the rate below the estimated cost by 13 to 19 *per cent*. Further, as per the Government Order (December 2007), in such cases, officer accepting the tender reserves the right to seek detailed explanation from bidders as to how they would execute the awarded work at such a lower rate and if it was confirmed that the bidder was deliberately quoting the lower rate, the tenders could be rejected on merit by passing an objective and speaking order in which all reasons for rejecting the tender would be recorded. During scrutiny of the records it was noticed that these tenders were rejected on the grounds of the quoted rates being lower than the estimated amount stating that the quality of work would be affected. However, neither any explanation was called from the bidders for lower quotes, before rejecting the tenders nor any opportunity was given to the lowest bidder to produce additional security/performance guarantee as per rules to secure the risk of non-performance. Hence, rejection of tender without adhering to the prescribed tendering procedures was irregular.

Further, AMA stated (July 2015) that tenders were invited for the second time in July 2013 and cancelled due to unavoidable reasons. Tenders for these works were accepted (September 2013) after third tendering either at the estimated cost or up to seven *per cent* below the estimated cost. All the six works were completed at the rate of third tender. Thus, arbitrary rejection of first tender in violation of rules and subsequent acceptance of tenders at higher rates by AMA, Ghazipur led to an extra expenditure of ₹ 19.16 lakh as detailed in *Appendix 3.4*.

On this being pointed out in audit, the *Apar Mukhya Adhikari* (AMA), ZP stated (November 2014) that tenders were rejected due to their likely apprehension of poor quality of work, as the tendered rates received were up to 19 *per cent* below the estimated cost and accepted that additional security/performance guarantee was not taken. The AMA further stated

(August 2015) that the ZP reserves the right to cancel any tender without assigning any reason and added that accepting tender at below rate of 19 per cent would definitely affect the quality of work. Reply is not acceptable as due process prescribed under rules was not followed before rejecting the tenders.

Thus, acceptance of tenders at higher rates and rejection of lower tender without following prescribed procedure, was in contravention to the extant Government orders, resulted in excess expenditure of ₹ 19.16 lakh.

3.4 Irregular expenditure

Withdrawals amounting to ₹ 53.87 lakh for works related payments without the required supporting documents led to irregular expenditure.

As per para 5 of chapter 5 of Accounts Manual for Finance and Accounts Management in *Gram Panchayats* (Manual), payments above ₹ 2,000 are to be made through account payee cheques. Para 434 of the Financial Handbook Volume VI (FHB), GoUP provides that measurement of construction work or supply exceeding ₹ 50 is to be entered into Measurement Book (MB). Further, Government Order (GO) issued in July 2011 states that “no payment would be made through bearer cheque to the *Gram Pradhan*, except for his honorarium”. The GO further limited the cash withdrawal/payment from the *Gram Nidhi* to ₹ 5,000.

Scrutiny of the records (January 2015) and information collected (August 2015) from *Gram Panchayats*, Amdaha, Pauni and Ghatampur in Block Narayanpur of district Mirzapur revealed that in violation to the GO and the Manual, *Gram Pradhans* made several withdrawals for the payments of more than ₹ 5,000 for the purpose of construction of platform on wells and cleaning of wells, construction of drain, *khadanja*, connecting roads, repair of hand pumps and sanitation works in *Gram Panchayat*, amounting to ₹ 53.87 lakh (**Appendix 3.5**) from *Gram Nidhi* during 2011-15. Out of this, ₹ 14.87 lakh (**Appendix 3.6**) was withdrawn through withdrawal forms (86 cases) and remaining amount was withdrawn through bearer cheques. Further, records such as stock books and measurement books essential to support the payments made against these withdrawals were not maintained by *Gram Panchayats*. In absence of these records, authenticity of works executed and payments made through the withdrawals could not be verified in audit.

On this being pointed out in audit, the *Gram Panchayat/Vikas Adhikaris* (Secretaries) of *Gram Panchayats*, Amdaha, Pauni and Ghatampur stated (August 2015) that stock books and measurement books are being maintained from 2015-16. Regarding cash withdrawals from *Gram Nidhi* in excess of ₹ 5,000 by the *Gram Pradhans*, the Secretaries stated (August 2015) that cash withdrawal or payment above ₹ 5,000, is not being made through bearer cheques from 2015-16. Reply is not acceptable because provisions for withdrawals from *Gram Nidhi* contained in the Manual and the GO were not adhered to by the *Gram Panchayats* and supporting records for payments, as specified in the manual and the FHB, were not maintained.

Thus, withdrawals of ₹ 53.87 lakh by *Gram Pradhans* from *Gram Nidhi*, beyond permissible limit were irregular. Further, due to non-maintenance of basic supporting records, the genuineness and correctness of payments could not be verified in audit.

3.5 Irregular expenditure

Non-compliance with the guidelines of the State Finance Commission grant led to irregular expenditure of ₹ 23.21 lakh on construction of shops in Gram Panchayat, Chherat Sudiyal, Jawan, Aligarh.

As per the Government Order⁴ (GO) issued in September 2010 regarding utilisation of Third State Finance Commission (SFC) grant by *Gram Panchayats*, the grant was to be utilised for maintenance of community assets viz *panchayat bhawans*, school *bhawans*, other community *bhawans*, public roads and other public assets.

Scrutiny of the records (April 2015) of *Gram Panchayat Adhikari* (GPA), *Gram Panchayat*, Chherat Sudiyal (GP), Jawan, Aligarh revealed that project of ₹ 25.25 lakh for construction of 15 shops⁵ was approved by the GP during 2013-14 and 2014-15. In total, 15 shops⁶ were constructed from SFC grant during 2013-15 by incurring an expenditure of ₹ 23.21 lakh (*Appendix 3.7*) against the sanctioned cost of ₹ 25.25 lakh. The construction of shops from SFC grant was in contravention to the GO as it was not permissible under SFC grant.

On this being pointed out, GPA, Aligarh stated (April 2015) that shops were constructed with an objective of enhancing income. Reply is not acceptable because objective of the SFC grant was to maintain community assets and construction of shops in the GPs for enhancing their income was not permissible under the SFC grant. Further, District *Panchayat Raj* Officer and Director, *Panchayati Raj*, Uttar Pradesh vide letter dated 25 July 2015 and 21 August 2015 respectively also accepted that expenditure on construction of shops in *Gram Panchayat* was not permissible under the SFC grants.

Thus, non-compliance with the guidelines of the SFC led to irregular expenditure of ₹ 23.21 lakh.

3.6 Non-vacation of encroached land

Non-observance of the provisions of Uttar Pradesh KP& ZP Act, 1961 and Uttar Pradesh ZP & KP Rules, 1965 by Zila Panchayat, Lalitpur led to encroachment of land worth ₹ 3.77 crore.

Rule 5 of Uttar Pradesh *Zila Panchayat and Kshetra Panchayat* (current and fixed asset) Rule, 1965 provides that *Zila Panchayat* (ZP) shall, at regular interval, at least once in every three years, get its asset register examined from

⁴ G.O. No. 1719/33-3-2010-48/2007 Dated 01.09.2010.

⁵ ₹ 9.50 lakh for construction of six shops, project of ₹ 14.00 lakh for construction of eight shops and project of ₹ 1.75 lakh for construction of one shop.

⁶ Six shops in 2013-14 by an expenditure of ₹ 8,14,712 and nine shops in 2014-15 by an expenditure of ₹ 15,06,340.

the examining officer who was to certify the accuracy of records and report to *Zila Panchayat* for further action, in case of any incorrect entry. Section 107 (A) of the Uttar Pradesh *Panchayat* Laws (Amendment) Act, 1999 provides that “whoever makes any encroachment on any land belonging to ZP in the territorial area of the ZP, shall be punishable.” Section 246 of the Uttar Pradesh *Kshetra Panchayat* and *Zila Panchayat* Act, 1961 provides for penalty against the person not complying with the notice issued to him.

Scrutiny of the records (July 2014) and information collected (May 2015) from *Apar Mukhya Adhikari* (AMA), ZP, Lalitpur revealed that in compliance to the Government Order (December 1998), for securing its financial interests, ZP decided (February 1999) to get its (*Nazul*)⁷ lands freehold. Subsequently, ZP deposited (December 1998 and March 2000)⁸, ₹ 6.26 lakh in the treasury to freehold its 4,493.64 square metres area of *Nazul* land⁹ which was made freehold in favour of the ZP (July 2000). However, out of the 4,493.64 square metres of land made freehold, 2,791.52 square metres valuing ₹ 3.77 crore¹⁰ was under encroachment (May 2015) (**Appendix 3.8**). Further scrutiny revealed that the ZP’s asset register was not examined as of 2015 and no action was taken by ZP against the responsible officers. The ZP issued notices to the concerned persons for vacating the encroached land in February 2000, but the land was not vacated by the encroachers. No further pursuance, by issuing further notices, was done by the ZP and it also did not exercise the powers vested in the provisions of the UP KP and ZP Act, 1961 and UP *Panchayat* Laws (Amendment) Act, 1999 for dealing with the cases of the encroached lands.

On this being pointed out, the AMA, ZP Lalitpur stated (July 2014) that due to shortage of staff, asset register could not be examined after 2001 and notices have been issued to encroachers. The AMA further stated (September 2015) that the issue of encroachment of land was intimated to the DM, Lalitpur from time to time but the land could not be vacated. Reply is not acceptable because the responsibility of administration of land and examination of asset register vested in the duties of AMA, ZP, was not done for the last 14 years. Further, no remedial measures were taken by the AMA, ZP under the provisions of rules and Act to vacate the encroached land.

Thus, due to non-observance of the provisions of UP KP & ZP Act, 1961 and UP ZP & KP Rules, 1965 by AMA, ZP, land worth ₹ 3.77 crore was under encroachment till date.

The matter was reported to the Government (March to June 2015), their reply was awaited (December 2015).

⁷ *Nazul* land is the land owned by the Government, local bodies were responsible for its management and the Government reserved the right of its re-occupation.

⁸ ₹ 1,36,831 vide treasury *chalan* no. T-3 dated 31.12.1998 and ₹ 4,88,683 vide treasury *chalan* no. T-9 dated 15.03.2000.

⁹ *Nazul* plot number 3747 situated at Ghusyana, Lalitpur.

¹⁰ Calculated in audit as 2,791.52 square meter @ ₹ 13,500 = ₹ 3,76, 85,520.00.