



CHAPTER-VI

Results of Compliance Audit of Urban Local Bodies

CHAPTER VI - COMPLIANCE AUDIT

URBAN DEVELOPMENT DEPARTMENT

6.1 Development and maintenance of parks

6.1.1 Introduction

In order to provide space for recreation to residents of each locality, it was necessary to preserve parks, play-fields and open spaces and to put an end to the practice of diverting such spaces for other uses, the State Government had brought out the Karnataka Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1985 (Act) and Rules thereunder.

The main objectives of the Act are:

- Preparation and submission of correct and complete list of all parks, play-fields and open spaces with plans, maps and dimensions by the local authority⁶³ to Government for approval.
- Inclusion of new lands in the lists of parks, play-fields and open spaces either *suo-moto* or at the instance of the local authority.
- Prohibition of the use of parks, play-fields and open spaces for the purposes of construction of buildings or any other structure which are likely to affect the utility of the parks, play-fields or open spaces.

The Additional Chief Secretary, Urban Development Department (UDD) is the administrative head in-charge of parks in urban areas. He is assisted by the Director, Municipal Administration, Commissioner/Chief Officers of City Corporations (CCs)/City Municipal Councils (CMCs).

Audit test-checked (April-August 2014) the records of two⁶⁴ CCs, 12⁶⁵ CMCs and three⁶⁶ zones of Bruhat Bengaluru Mahanagara Palike (BBMP) with the objective of checking compliance with the provisions of the Act and Rules thereunder and other instructions issued by the State Government and Urban Local Bodies (ULBs). Besides, 166 parks were jointly inspected with the representatives of ULBs during audit. The audit findings are discussed in the succeeding paragraphs.

⁶³ As per the Act, local authority is defined to mean a municipal corporation, a municipal council, the Bengaluru Development Authority, an improvement board, a sanitary board or a notified area committee or a town board constituted or continued under any law for the time being in force and such other authority as may be specified by the Government, by notification, as a local authority.

⁶⁴ CCs: Ballari and Mysuru

⁶⁵ CMCs: Bagalkote, Bhadravathi, Chikkamagaluru, Chitradurga, Gangavathi, Ilkal, Karwar, Kolar, Raichur, Robertsonpet, Udupi and Yadagir

⁶⁶ BBMP: Bengaluru (East), Bommanahalli and Dasarahalli zones

6.1.2 Preparation and publication of list of parks

As per Section 3 of the Act, every local authority shall prepare and submit a correct and complete list of all the parks, with plans and maps including dimensions to State Government for approval. The State Government shall publish the list to invite representations, if any, from the public before approval. According to Rule 4 of the Karnataka Parks, Play-fields and Open Spaces (Preservation and Regulation) Rules, 1985 (Rules), the authorities shall display the approved list on the notice boards, reading rooms and such other conspicuous places within the concerned local authority.

6.1.2.1 Non-publication of list of parks

It was observed that out of 14 test-checked ULBs, the State Government has published the list of parks in respect of eight⁶⁷ ULBs only. Even the published lists were incomplete as details such as name, dimensions, plans, maps, *etc.*, of parks were missing.

Estate Division of BBMP had published zone-wise list of parks, play-fields and open spaces during November 2012. However, the Horticulture Division of BBMP could not provide the details of 79 parks out of the list of 381 parks published, resulting in an incomplete list. The non-preparation of a comprehensive list of parks hampered the enforcement of provisions of the Act and Rules thereunder.

6.1.2.2 Non-submission of returns

As per Section 10 of the Act read with Rule 11, every local authority shall submit to the Government, annual returns with all the particulars in respect of the parks, play-fields and open spaces which are situated within the limits of the local authorities concerned and which are specified in the list published. The Rule, however, did not prescribe the date by which returns were to be furnished.

It was seen in audit that none of the 14 test-checked ULBs and three divisions of BBMP submitted the annual returns to the Government as stipulated. Audit called for (September 2014) the details of the annual returns received by UDD, to which reply was awaited. In the absence of details, Audit could not ascertain the status of existing parks and also new parks that had come up in the ULBs.

6.1.3 Use of parks for unauthorised purposes

As per Section 6 of the Act, no park specified in the list published under Section 4 shall be used for any purpose other than the purpose for which it was used on the date of commencement of the Act, and as per Section 8 of the Act, no person shall construct any building or put up any structure likely to affect the utility of the park, and also no park area shall be alienated by way of sale,

⁶⁷ CMCs: Bagalkote, Bhadravathi, Chitradurga, Gangavathi, Ilkal and Karwar; CCs: Ballari and Mysuru



lease, gift, *etc.* However, the Act was silent about action to be taken on the parks where unauthorised occupation or construction had taken place prior to the enactment of the Act.

6.1.3.1 Construction of unauthorised structures affecting intended utility of the parks

Even though Rule 6(2) of the Rules read with Section 8 of the Act prohibits unauthorised use of parks and the executive authorities shall not permit any construction inside the park except well, pump house and watchmen quarters, the ULBs continued to allow unauthorised usage of parks. The ULB authorities had neither identified such violations nor taken any action to remove such unauthorised structures. None of the ULBs except CC, Mysuru and CMC, Yadagir, had the details of parks which were being used for unauthorised purposes.

During joint physical verification (JPV) of 166 parks (May-July 2014), Audit found that 39 parks (23 *per cent*) were being used for unauthorised purposes including places of worship, commercial spaces, residential buildings, *etc.*, in all the test-checked ULBs except Udupi. The details of these cases are given in **Appendix 6.1**.



The executive authorities had not taken any action to remove the unauthorised usage of the park as stipulated in Section 287 of the Karnataka Municipal Corporations Act, 1976.

	
<p>Park encroached for construction of temple-Ravi Kirloskar Park, Dasarahalli, BBMP (28.06.2014)</p>	<p>Park area encroached for residential building in CMC, Gangavathi-Park near St. Paul's School, Jayanagar (01.07.2014)</p>

6.1.3.2 Construction of structures by ULBs and the State Government affecting intended utility of the parks

In contravention to Rule 6 (2) of the Rules and Section 8 of the Act, ULBs and the State Government had utilised the park area for construction of HOPCOMS outlets, Samudaya Bhavans, milk booths, office buildings, government schools, *etc.*, in 18 parks (11 *per cent*) of the test-checked ULBs as detailed in **Appendix 6.2**.

This indicated that the executive authorities had not taken proper action to safeguard the assets of the ULBs. As a result, ULBs faced the risk of losing valuable land due to encroachments.

	
<p>Nandini outlet in Taponandana Park, Mysuru (19.06.2014)</p>	<p>HOPCOMS outlet in Club House Park, Indiranagar, Bengaluru (East) (21.07.2014)</p>

6.1.3.3 *Transfer of park land to private institutions*

As per Section 72(2) of the Karnataka Municipalities Act, 1964, prior permission of Government is to be obtained before transfer of any immovable property. It was seen from the records of CMC, Ilkal that in contravention of Section 8(2) of the Act, the CMC had passed resolutions to transfer 28 sites listed as parks to private agencies for educational/religious/social activities during 1991 to 2010 as detailed in **Appendix 6.3**. The value of 15 parks proposed to be transferred works out to ₹18.62 crore (based on the guidance value of 2013-14). For another 13 parks, dimensions were not given and hence, value could not be ascertained.

The above cases indicate that the authorities were not performing their duties in safeguarding public properties and were conniving with private parties in misuse of public parks instead of enforcing the provisions of the Act.

Comments of UDD in this regard are awaited (February 2015).

6.1.3.4 *Inaction on the part of authorities to remove unauthorised structures*

According to Section 11 of the Act, penalties should be levied on whoever contravenes the provisions of Section 6 or Section 8 or throws rubbish into any park. It was, however, noticed during audit that the quantum of penalties were neither fixed nor imposed for contravening the provisions of the Act. This indicated that the authorities were not taking effective action to safeguard public properties.

6.1.4 **Development and maintenance of parks**

As per Section 7 of the Act, the local authorities concerned shall maintain all parks, play-fields and open spaces in a clean and proper condition, under their jurisdiction. The Commissioner, BBMP had issued comprehensive guidelines during October 2006 (circular) for development and maintenance of parks in Bengaluru.

ULBs and BBMP had spent an amount of ₹23.52 crore for the maintenance and development of parks during 2011-14.

The observations in respect of test-checked parks in ULBs are given in the succeeding paragraphs.

6.1.4.1 Irregularities in development works

The irregularities noticed in the development works are detailed below:

a) Wasteful expenditure of ₹42.50 lakh

As per the circular, landscaping works in BBMP had to be taken up after completing the work of fencing, pathways, etc.

On test-check of records of Horticulture Division of Bengaluru (East) Zone, it was noticed that ₹42.50 lakh was spent on landscape development works in Suvarna Mahotsava Park during December 2011. During JPV (June 2014) of the park, it was noticed that the civil works like widening of pathways, providing protective grills, gazebo, etc., were still under progress. Landscaping of the park done earlier was non-existent in half of the area. Thus, ₹42.50 lakh incurred on landscaping prior to completion of other civil works proved wasteful.

b) Unfruitful expenditure on musical fountains

The development of Kuppanna Park was taken up (February 2009) by CC, Mysuru at an estimated cost of ₹2.00 crore and an expenditure of ₹1.61 crore was incurred for improvement of landscape works (₹96.41 lakh), water cascade (₹12.61 lakh), computerised dancing musical fountain (₹51.79 lakh), etc. During JPV (June 2014), it was noticed that water cascades and fountain created in the park were not functioning. Water had stagnated in the pool created for water cascade. Moss had grown in the stagnated water of the computerised musical dancing fountain. Thus, ₹64.40 lakh incurred towards musical fountain and water cascades in the park had proved unfruitful.



Growth of moss in the stagnated water of the computerised musical dancing fountain at Kuppanna Park, Mysuru (19.06.2014)



Waste material (dried grass, etc.) dumped in the fountain pool at Kuppanna Park, Mysuru (19.06.2014)

Similarly, during JPV, it was noticed that musical fountains at Rajkumar Park, Jayamahar Park, Richardson Park, Coles Park and Chinnappa Garden Park in Project Division, Bengaluru (East) Zone were also not functioning and were filled with stagnant water and moss. The expenditure incurred on these musical fountains was not provided to Audit.

c) Delay in completion of works

It was noticed that developmental works in two parks of CC, Ballari were entrusted (February 2012) to a contractor for an amount of ₹12.90 lakh with stipulated completion time of three months. However, the works had not been completed (July 2014) even after lapse of 26 months from the due date of completion. Thus, ₹8.31 lakh paid (July 2014) towards developmental works remained unfruitful.

d) Irregular entrustment of works to Karnataka Rural Infrastructure Development Limited

As per Section 4 (e) of the Karnataka Transparency in Public Procurements Act, 1999 (KTPP Act), tenders were to be invited for all the works valuing more than ₹one lakh.

In BBMP and CMC, Bagalkote, development of parks such as providing pathways, gazebo, rain water harvesting, play equipment, etc., were entrusted to Karnataka Rural Infrastructure Development Limited (KRIDL) treating these as emergency works without inviting tenders. However, there were no specific exemptions for treating these works as emergency works. The implementing agencies had paid an amount of ₹81.11⁶⁸ lakh to KRIDL as administrative charges and also lost the opportunity of getting competitive rates.

e) Incomplete development of vacant land at Siddhivinayaka Layout, Bengaluru

The Project Division, Bengaluru (East) Zone had prepared 12 estimates for development of vacant land at Siddhivinayaka Layout for ₹76.30 lakh (March 2011) and the works were entrusted to KRIDL. Out of these, three works i.e. providing protective grills, pathways (up to 100 mtrs) and watchman's shed were completed and ₹27.25 lakh was paid. Remaining works could not be taken up due to litigation at the site (May 2012). The park was kept locked, resulting in growth of weeds and shrubs and the expenditure of ₹15.15 lakh incurred towards pathways and watchman's shed proved unfruitful.



⁶⁸ Project Division, Bengaluru (East) Zone (₹40.71 lakh), Project Division, Dasarahalli Zone (₹15.40 lakh) and CMC Bagalkote (₹25 lakh)

During JPV (August 2014), it was noticed that the park was locked and was not being used by the public. Thus, the expenditure of ₹15.15 lakh proved to be unfruitful.

The Division stated (December 2014) that remaining works could not be taken up as a portion of the park was under litigation.

f) Delay in completion of development works

Development works costing ₹2.50 crore for 10 parks in CMC, Bagalkote and ₹1.25 crore for five parks in CC, Ballari were entrusted (2010-12) to KRIDL and Nirmithi Kendra with stipulation to complete the works within 90 and 120 days respectively. The agencies were paid ₹2.50 crore (KRIDL, Bagalkote) and ₹82.50 lakh during September 2010 and March 2014 respectively as advance payment.

There were no records such as progress reports or completion reports of the works available in the ULBs to ascertain the progress of the work achieved and there was no follow-up of the works entrusted by the ULBs. Due to this, the ULBs were not in a position to assess the physical and financial progress of the works entrusted despite release of funds in advance to the agencies.

It was noticed during JPV (June 2014), that works had not been completed even after the stipulated date. No action had been taken by the ULBs for delay in completion of works and payments had been made without assessing the progress of the work.

6.1.4.2 Irregularities in maintenance of parks

Audit observed that maintenance works had been left incomplete or were being delayed beyond the contractual period leading to unfruitful and wasteful expenditure. These observations are as under:

a) Non-maintenance of parks departmentally by BBMP

As per the circular, parks which have an area of less than half an acre (2,024 square metre) were to be maintained by Horticulture Divisions of BBMP.

In contravention of instructions, the Horticulture Division, Bengaluru (East) Zone had outsourced the maintenance work of 36 parks measuring less than half an acre. An expenditure of ₹81 lakh had been incurred during April 2011 to September 2014 by the Horticulture Division.

The Superintendent of Horticulture, BBMP (East) Zone has replied (October 2014) that parks with less than half an acre area were maintained by the department. The reply is not acceptable as BBMP has incurred an expenditure of ₹81 lakh towards maintenance of 36 small parks.

b) Irregularities in maintenance contracts

In test-checked Horticulture Divisions of Bengaluru (East), Bommanahalli, and Dasarahalli BBMP, maintenance works of 199 parks were entrusted to private contractors from 2009-10 onwards. As per the agreement, maintenance operations included regular watering, weeding, manuring plant, protecting, lawn moving, pruning of small and big hedges, garden cleaning and providing round the clock security to parks. The contractors were to produce bills relating to purchase of manure while submitting their monthly claims. During test-check of records of above maintenance contracts, the following deficiencies were noticed:

- The bills were paid on the basis of certificate by the Superintendent of Horticulture. However, there were no bills indicating purchase of manure along with the paid vouchers. Thus, Audit could not confirm correctness of the payments made to contractors.
- Although providing security guards was one of the items of work in the contract, none of the 39 parks physically verified (out of the 199 parks) had security guards. It was the responsibility of the Superintendent of Horticulture Division to ensure that the required work was done by the contractor as per the terms and conditions of the contract. However, there was no indication that this was done. Thus, in many cases, the contractors were paid full amounts of the contract although they had not fulfilled all its terms and conditions. This resulted in undue benefit to contractors.
- As per Section 4 (e) of the KTPP Act, tenders were to be invited for all the works valuing more than ₹one lakh. However, in contravention of the Act, Project Division, Bengaluru (East) Zone extended 142 maintenance contracts amounting to ₹2.80 crore beyond the initial contract period (2009-10) without calling for fresh tenders.

6.1.5 Conclusion

The results of the audit on the development and maintenance of parks indicated that development and maintenance of parks in ULBs was not carried out in accordance with the Act. Six test-checked ULBs had not prepared and published a reliable and complete list of all parks within their jurisdiction with the required details such as dimensions, localities and amenities. Also, the parks were not being maintained in a clean and proper condition and there were cases of irregular and wasteful expenditure in the developmental and maintenance works in the test-checked ULBs. There were several cases of encroachment and diversions noticed in the test-checked ULBs, indicating that the assets were not safeguarded effectively. Monitoring of the functioning of the ULBs with respect to maintenance of parks was weak as the test-checked ULBs had not even submitted the annual returns to the Government.

6.2 Short recovery of labour welfare cess

Failure of Bruhat Bengaluru Mahanagara Palike to recover labour welfare cess at the prescribed rate of one *per cent* of the estimated cost of construction resulted in short recovery of cess of ₹27.32 crore in 12 cases.

In terms of Section 3 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act, 1996), a cess shall be levied and collected at such rate not exceeding two *per cent* but not less than one *per cent*, of the cost of construction incurred by an employer. The State Government, while enforcing the provisions of the Cess Act, 1996, directed (January and February 2007) all local authorities to obtain estimated cost of construction along with building plans submitted for approval and collect upfront an amount of one *per cent* of the estimated cost towards labour welfare cess (cess). The employer has to submit clearance certificate obtained from State Level Environment Impact Assessment Authority, Karnataka (SLEIAA) along with the application for plan approval.

Scrutiny of records (March and November 2014) in the office of the Joint Director (JD), Town Planning (South), Bruhat Bengaluru Mahanagara Palike (BBMP) showed that BBMP had recovered (April 2011 to September 2014) cess amounting to ₹9.36 crore from 12 employers. The labour cess was collected at the time of approving the building plan sanctions.

Instead of obtaining the cost of construction from these persons, the JD had adopted⁶⁹ ₹680/₹900/₹1,000 per square feet (sq ft) as the cost of construction and charged ₹6.80/₹9.00/₹10.00 per sq ft (one *per cent*) of built up area as cess. The basis for adopting these rates was not on record.

Audit obtained the estimated cost of construction (project cost) as stated in the environmental clearance certificates issued by the SLEIAA. It was observed that had this estimated cost of construction been adopted, the cess recoverable would have been ₹36.68 crore.

Thus, by incorrectly adopting a lower estimated cost, there was a short recovery of cess to the extent of ₹27.32 crore in 12 test-checked cases as detailed in **Table 6.1**.

Table 6.1: Details of short recovery of cess

(₹ in crore)				
Name of the developer/Licence Plan (LP) No.	Project cost as recorded in the SLEIAA certificates	Cess recoverable (@ one <i>per cent</i> of Column 2)	Cess collected	Short recovery of cess (Column 3-Column 4)
(1)	(2)	(3)	(4)	(5)
Krishna Magnum (M/s. Mohan Enterprises), JDTP(S)/LP-50/10-11	99.56	1.00	0.52	0.48
Vaishnavi Terrace, LP No. BBMP/Addl Dir/JD(S)/0106/10-11	99.00	0.99	0.43	0.56

⁶⁹ in six cases-₹680 was adopted; in five case-₹900 and in one case-₹680 and ₹1,000

Name of the developer/Licence Plan (LP) No.	Project cost as recorded in the SLEIAA certificates	Cess recoverable (@ one per cent of Column 2)	Cess collected	Short recovery of cess (Column 3-Column 4)
(1)	(2)	(3)	(4)	(5)
Kalyani Vista, (M/s. Mohan Enterprises), LP No.45/10-11	97.49	0.97	0.46	0.51
M/s. Dynasti Developers Pvt. Ltd., Bengaluru/31/2010-11	638.76	6.39	1.24	5.15
M/s. Massey Investment Pvt. Ltd./ 0176/12-13	55.00	0.55	0.21	0.34
Sri. G.R. Nataraja, 0497/12-13	99.45	0.99	0.48	0.51
Smt. Sharadamma & Others /99/12-13	48.73	0.49	0.41	0.08
Purvankara project Ltd., Magadi Road /151/12-13	93.74	0.94	0.54	0.40
M/s. S.N. Builders /34/2010-11	45.00	0.45	0.39	0.06
M/s. Nitesh Estate/012/10-11	116.00	1.16	0.62	0.54
Sri. Y. Shivananda Reddy/ 226/11-12	75.00	0.75	0.43	0.32
Palladium Construction Pvt. Ltd./20/2012-13	2,200.72	22.00	3.63	18.37
Total	3,668.45	36.68	9.36	27.32

Source: Plan approvals and certificates issued by SLEIAA

The Commissioner, BBMP accepted (September 2014) the audit observation and stated that a circular had been issued on 22 August 2014 making it mandatory to obtain the estimated cost of construction along with the building plans submitted for approval and collect cess at one *per cent* of the estimated cost. In three⁷⁰ cases, notices had been issued to builders concerned to pay the differential amounts.

The reply needs to be seen in the light of the fact that the SLEIAA gives environment clearance before the building plans are sanctioned by the BBMP. Therefore, BBMP should insist that the builders provide the same estimated cost of construction submitted to SLEIAA and accordingly calculate the labour cess recoverable.

In a subsequent reply, BBMP stated (November 2014) that since labour cess was collected by way of an advance payment, there will not be any short payment as it is subject to final assessment by the Labour Department. The reply is not acceptable as final assessments had not been done in any of the cases mentioned above (as per the information furnished (March 2015) by the Labour Department). As a result of short recovery of cess, undue advantage had been given to the employers.

The matter was referred to the State Government in September 2014 and March 2015; reply was awaited (March 2015).

⁷⁰ Kalyani Vista, Krishna Magnum and Vaishnavi Terrace

6.3 Loss of revenue

The State Government revised the consumer water tariff in the urban areas of the State with effect from 20 July 2011. However, delays in giving effect to the revised water tariff by three Urban Local Bodies resulted in loss of revenue of ₹23.54 crore.

The State Government decided to hand over the operation and maintenance of the water supply distribution system (Scheme) of three⁷¹ Urban Local Bodies (ULBs) to the Karnataka Urban Water Supply and Drainage Board (KUWS&DB) subject to the following conditions:

- The ULBs were to increase water tariff in accordance with the directions of the Government;
- The KUWS&DB was to meet the entire cost of operation and maintenance of the Scheme out of the revenue collections and the shortfall, if any, would be made good by the Government out of the State Finance Commission (SFC) grants due to the ULBs;
- The KUWS&DB was responsible for billing and collection of water charges on behalf of the ULBs.

The Government revised the consumer water tariff upward in the urban areas of the State with effect from 20 July 2011. However, the KUWS&DB continued to collect water charges at the pre-revised rates as these ULBs had not taken prompt action to increase the water tariff. Delays in recovery of water charges at revised rates by City Corporation (CC), Belagavi and City Municipal Council (CMC), Mandya and non-revision of rates in CC, Hubballi-Dharwad resulted in loss of revenue of ₹23.54 crore as detailed in **Table 6.2** below:

Table 6.2: Loss of revenue due to delay in revising water tariff

Name of the ULB	Date from which revised rates were made effective	Delay in months	Short collection (₹ in crore)	Remarks
CC, Belagavi	01.03.2013	20	7.44	Resolution was passed on 21.01.2013 to give effect to revised rates from 01.03.2013.
CC, Hubballi-Dharwad	Not revised as of October 2014	40	15.63	Subject of revising the rates was placed in the General Body Council meeting but the resolution was not passed (October 2014).
CMC, Mandya	01.01.2012	6	0.47	Commissioner, CMC had written a letter to the Executive Engineer (EE) concerned in December 2011 to revise the rates. Accordingly, the EE issued notification for revising the rates from 01.01.2012.
Total			23.54	

Source: Records of EEs, Belagavi, Dharwad and Mandya Divisions (KUWS&DB)

⁷¹ City Corporation, Belagavi (June 2006); City Corporation, Hubballi-Dharwad (March 2003) and City Municipal Council, Mandya (May 2003)

During the above mentioned period, the expenditure on operation and maintenance of the Scheme was higher by ₹7.17 crore than the revenue collections, which was reimbursable to the KUWS&DB by the Government after deducting it from the SFC grants due to these ULBs.

Thus, the ULBs lost ₹23.54 crore of the SFC grants which could have been otherwise spent on developmental activities. The delays on the part of the ULBs also deprived the KUWS&DB the amount of enhanced water charges though it had incurred more expenditure on the operation and maintenance than the revenue collected.

The EE, KUWS&DB, Belagavi stated (October 2014) that rates were revised from the date intimated by the CC, Belagavi. The EE, KUWS&DB, Mandya stated (November 2013) that the issue would be examined and detailed reply would be furnished. The EE, KUWS&DB, Dharwad division stated (October 2014) that rates would be revised once the resolution was passed by the General Body of CC, Hubballi-Dharwad.

The matter was referred to the State Government in September 2014 and March 2015; reply was awaited (March 2015).

6.4 Avoidable interest payment on electricity bills

Failure of the Government to provide funds for paying electricity bills within due dates resulted in avoidable payment of interest of ₹3.19 crore.

As per conditions stipulated in Karnataka Electricity Regulatory Commission (Electricity Supply) Code, 2004, electricity bills shall be paid by the consumers within the due date mentioned on the bill, failing which the consumer shall be liable to pay interest on delayed payment at the prescribed rates. The electricity charges pertaining to Urban Local Bodies (ULBs) are met out of State Finance Commission (SFC) grants. The Urban Development Department (UDD) allocates funds out of SFC grants and releases it to the Director of Municipal Administration (DMA), who in turn transfers the funds to accounts of ULBs. Thereafter, ULBs make the payment to Electricity Supply Companies.

Scrutiny (December 2012) of the records of Water Supply Maintenance Division of Hubballi-Dharwad Municipal Corporation (HDMC) and further information collected (October 2014) showed that payments for electricity consumption (April 2008 to September 2014) related to two pumping stations (Amminabhavi and Soundatti) were not made within the due dates. Consequently, Hubballi Electricity Supply Company Limited (HESCOM) raised a total demand of ₹90.48 crore from April 2008 to September 2014, which included interest of ₹3.19 crore on delayed payments. As of September 2014, the HDMC had paid ₹79.75 crore to HESCOM.

Scrutiny further showed that while the electricity bills were to be paid by 22nd of every month, the Government released the SFC grants for payment of electricity bills on a quarterly basis. As per information furnished by HDMC, these grants were released either at the end of the quarter or during subsequent

months, resulting in delayed payment of electricity charges by the HDMC. There was nothing on record to suggest that the HDMC had pursued the matter with the UDD to ensure timely transfer of SFC grants and claim for loss on account of interest payments. Thus, the failure of the Government in timely releasing the SFC grants led to avoidable expenditure of ₹3.19 crore on payment of interest.

The State Government stated (February 2015) that delay in release of SFC grants might have happened due to non-availability of resources with the Finance Department. The Government's reply is indicative of the casual manner in which the reply has been given without ascertaining the availability of resources for payment of the electricity bills. However, the HDMC should ensure better coordination with UDD for timely release of funds to avoid payment of penal interest.

6.5 Unproductive investment on pre-cast box segments

The expenditure of ₹2.39 crore incurred by Bruhat Bengaluru Mahanagara Palike on procurement of pre-cast box segments was rendered unfruitful as these boxes were procured without waiting for the outcome of the pilot project.

The Technical Advisory Committee of Bruhat Bengaluru Mahanagara Palike (BBMP) approved (11 May 2009) the work of providing signal free corridor from Central Silk Board to Vellara Junction along Hosur Road at a cost of ₹74.82 crore. This work, *inter alia*, involved construction of a vehicular underpass at Forum Junction. The work of underpass comprised procurement of pre-cast box segments having width of 7.5 metre (m) and height (vertical clearance) of 4.5 m and allied works such as lowering the box segments, formation of approach ramps, erection of cellular boxes, *etc.*

The Chief Engineer (Major Roads), BBMP (CE) accorded (November 2009) administrative and technical approvals for procurement of pre-cast box segments at an estimated cost of ₹2.08 crore. However, the technical approval did not take into account the Indian Roads Congress (IRC) specification which stipulated height of underpass as 5.5 m for urban areas. Audit also observed that BBMP had invited (5 May 2009) short term tenders even before obtaining the requisite sanctions. The justification and approval for inviting short term tenders were not on record.

It was seen from the file noting that a similar work was taken up (November 2009) on a pilot basis at another junction (Kendriya Sadan Junction). The pilot project was completed in August 2010 and was reviewed (September 2012) only after a lapse of two years from its completion. The review report pointed out that the underpass was substandard in quality and its height of 4.5 m was contrary to IRC specifications.

Audit scrutiny showed that BBMP, without waiting for the completion of the pilot project, entrusted (January 2010) the work of procurement of box segments for the Forum Junction to the single bidder (M/s. Poorna Enterprises, Bengaluru) at the negotiated cost of ₹2.39 crore with stipulation to complete it

within 60 days *i.e.* by March 2010. After issuing the work order, the work was stopped on the oral instructions of the CE to know the outcome of the pilot project. However, the same CE, without evaluating the pros and cons of the pilot project, approved the resumption of the work in March 2011 and gave extension of 549 days to complete the work by September 2011.

The contractor completed the work during July 2011 and part payment of ₹1.47 crore was made during September 2011. The remaining amount of ₹0.92 crore was yet to be paid (April 2014). After procurement of box segments, the Commissioner, BBMP inspected (October 2011) the site and opined that construction of underpass was not suitable and it would be ideal to construct a flyover. Subsequently, the work of constructing vehicular underpass at Forum Junction was cancelled (March 2012). As a result, the pre-cast box segments supplied by the contractor were not needed and investment of ₹2.39 crore (including pending payment of ₹0.92 crore) was rendered unproductive. The Executive Engineer, Road Infrastructure, Rajarajeshwari Nagar, BBMP proposed (October 2012) to utilise these box segments in construction of underpass near Sandeep Unnikrishnan Road in Yelahanka. However, these were yet to be utilised (August 2014).

The undue haste in approving the resumption of the work without waiting for the outcome of the pilot project was not justified. Failure of the CE to study the outcome of the pilot project before approving resumption of work in March 2011 and commencement of the work when pilot project was in progress resulted in procurement of pre-cast box segments at cost of ₹2.39 crore, which could not be utilised for the intended purpose.

The State Government stated (August 2014) that it was proposed to utilise these box segments at a suitable junction in Yelahanka. The reply was not acceptable as the utilisation of box segments of height 4.5 m in urban areas was contrary to IRC specifications. Moreover, the proposal to use these box segments at a place other than the intended one was an afterthought and the investment of ₹2.39 crore could have been avoided if there had been due diligence before taking up the work. The reply did not explain the reasons for inviting short term tenders even before obtaining the requisite sanctions.

6.6 Short payment of property tax

Incorrect declaration of zonal classification in property tax returns and failure to pay property tax for the constructed buildings resulted in short payment of tax to the extent of ₹86.87 lakh, besides non-levy of interest and penalty.

The provisions of Karnataka Municipal Corporations Act, 1976 provide for levy and collection of property tax on all buildings and vacant land coming under the jurisdiction of Bruhat Bengaluru Mahanagara Palike (BBMP). The State Government notified (January 2009) BBMP Property Tax Rules, 2009 to introduce self-assessment of property tax under Unit Area Value system. In case of short payment of property tax, the assessee was liable to pay twice the difference of tax as penalty along with interest at two *per cent* per month on the tax evaded.

During test-check of records (December 2012, January 2014 and February 2014) in offices of four Assistant Revenue Officers (Bommanahalli, Dasarahalli, Peenya and Vijayanagara), the following cases of short payment of property tax were observed:

- 1) Different rates were determined for different area or street by classifying into zones, different nature of use to which the vacant land or building is put and for different class of buildings and vacant lands. For this purpose, the jurisdictional area of BBMP was classified into six⁷² value zones and properties were categorised into 18 groups (five residential and 13 non-residential). Buildings or lands exclusively used for educational purposes by recognised educational institutions were exempted from property tax and were required to pay service charge at 25 per cent of the prescribed rates.

It was observed that M/s. Nandi Toyota, Bommanahalli had paid property tax (2011-14) at the rates applicable for 'E' zone and Oxford Dental College, Bommanahalli had paid service charges for the years 2008-14 at the rates applicable for 'F' zone. Scrutiny showed that these properties were located in 'D' zone. The incorrect classification led to short payment of property tax/service charges of ₹50.39 lakh, which was recoverable with penalty of ₹100.78 lakh and interest thereon.

The State Government accepted the audit observations and stated (September 2014) that notices had been issued in both these cases.

- 2) As per the extant provisions (Handbook on Property Tax Self Assessment Scheme), if the building is completed after 1st October of any year, property tax on constructed building is payable for the second half of the year. In respect of a building completed prior to 1st October, property tax is to be paid for the full year. Till then, the property tax is payable at the rate applicable for vacant site.

Audit observed in six⁷³ cases that property tax had been paid (2010-12) for the vacant sites though the buildings in four cases had been completed (January 2011, January 2012, February 2012 and March 2012) during second half of the year (after 1st October) and in two cases, the buildings had been completed (May 2011) prior to 1st October. This resulted in non-payment of property tax of ₹36.48 lakh on constructed buildings, besides non-levy of penalty amounting to ₹72.96 lakh and interest thereon.

The State Government stated (September 2014) that notices had been issued in four cases pertaining to Bommanahalli and Peenya. In respect of Assistant Revenue Office, Dasarahalli, it was stated that the payment of property tax on constructed building did not arise as the occupancy certificate was issued on 28 March 2012. The reply was not acceptable as it contravened the extant provisions which stipulated that property tax was

⁷² A, B, C, D, E and F zones

⁷³ Shri R Narasimha Reddy (Bommanahalli); M/s. Vaishnavi Ratnam (Dasarahalli); M/s. Sobha Developers 1st, 4th and 5th blocks, Nagasandra village (Peenya) and M/s. Gopalan Enterprises (Vijayanagara)

payable for the second half of the year if the building was completed after 1st October. In respect of Assistant Revenue Office, Vijayanagara, the reply did not address the audit issue of not paying the property tax on completed building for which the occupancy certificate was issued on 27 February 2012.

Further, it is seen that while the Act provides for detailed scrutiny of cases up to 10 per cent, no such scrutiny was undertaken in these Assistant Revenue Offices during 2008-13. Scrutiny of cases becomes all the more important under the self-assessment system of property tax as there is no provision for preliminary scrutiny.

6.7 Loss of revenue due to non-recovery of additional ground rent

Failure of Bruhat Bengaluru Mahanagara Palike to collect additional ground rent though the buildings in four test-checked cases were not completed within two years from the dates of issue of building licences resulted in loss of revenue of ₹41 lakh.

In terms of Paragraph 3.8 and note thereunder of Bengaluru Mahanagara Palike Building Bye-Laws, 2003 (Bye-Laws), ground rent for stocking of building materials on public land shall be paid by the builder at prescribed rates. The ground rent is based on the total floor area of all the floors in the building and is valid for a period of two years only. If the building is not completed and the occupancy certificate is not obtained within the period of two years, further rent is to be paid at half the rate per annum or part thereof till the building is completed.

Audit examined (March 2014) the records maintained in the office of the Joint Director (JD), Town Planning (South), Bruhat Bengaluru Mahanagara Palike (BBMP) in relation to the collection of ground rent. Test-check of four building plans approved during the period from November 2009 to November 2011 showed that additional ground rent had not been levied and collected though the period of construction in all these cases had exceeded two years. This resulted in loss of revenue of ₹41 lakh as detailed in **Table 6.3** below:

Table 6.3: Loss of revenue due to non-levy of additional ground rent (as of March 2014)

Name of the Developer/ Licence Plan (LP) No./ (Rate of Ground rent)	Total built up area (in sqm)	Date of Plan sanction	Date of expiry of Plan sanction	Date of completion	Ground rent collected (₹ in lakh)	Period for which additional ground rent was leviable / (Rate per sqm)	Non- recovery of ground rent (₹ in lakh)
M/s. G K Shelters/ JDTP(S)/LP/35/2009- 10/(₹40 per sqm)	26,847.55	09.11.09	08.11.11	14.05.13	10.74	17 months (₹20)	10.74
Valmark Ananda, Janardhan & Others, LP No.08/2010-11/ (₹40 per sqm)	25,692.00	18.05.11	17.05.13	20.11.13	10.28	6 months (₹20)	5.14

Name of the Developer/ Licence Plan (LP) No./ (Rate of Ground rent)	Total built up area (in sqm)	Date of Plan sanction	Date of expiry of Plan sanction	Date of completion	Ground rent collected (₹ in lakh)	Period for which additional ground rent was leviable / (Rate per sqm)	Non- recovery of ground rent (₹ in lakh)
Krishna Magnum (M/s. Mohan Enterprises), JDTP(S)/LP-50/2010- 11/(₹100 per sqm)	19,512.00	23.07.11	22.07.13	Not completed (March 2014)	19.51	8 months (₹50)	9.76
	38,460.00 (Modified Plan)	28.04.12	27.04.14		38.46	-	-
	9,790.00 (Re- modified Plan)	07.12.13	06.12.15		9.79	-	-
Vaishnavi Terrace, LP No.BBMP/Addl Dir/JD(S)/0106/2010- 11/(₹40 per sqm)	59,358.15	20.04.11	19.04.13	Not completed (March 2014)	23.74	11 months (₹20)	11.87
	17,474.79 (Modified Plan)	25.11.11	24.11.13		Not available	4 months (₹20)	3.49
Total							41.00

Source: Records of JD, Town Planning (South), BBMP

Thus, failure in levying ground rent for the extended period beyond two years resulted in loss of revenue of ₹41 lakh. These are only illustrative cases and the possibility of more similar cases therefore cannot be ruled out. As per the information furnished (September 2014), 41 occupancy certificates were issued during the years 2010-13. It was seen that construction period in 29 cases (71 per cent) had extended beyond two years. However, there was nothing on record to suggest that BBMP had demanded additional ground rent in these cases. It is imperative that these cases be checked again and additional ground rent recovered, wherever necessary.

The Commissioner, BBMP had initially accepted the audit observation and stated (September 2014) that notices had been issued to the builders in these four cases demanding payment of additional ground rent. It was also stated that a circular had been issued (22 August 2014) for collecting henceforth additional ground rent in cases where the buildings are not completed within two years. The reply was not fully acceptable as past cases should also be reviewed and dues recovered, wherever necessary. The status of recovery in these four cases was awaited (September 2014).

The State Government further stated (February 2015) that property owners had used their own lands for stocking of materials and public land/roads were not used. Thus, payment of additional ground rent would not arise. The reply is not tenable as there is no such exemption in the Bye-Laws and all high rise building are required to pay ground rent irrespective of the setbacks.

6.8 Excess payment of lead charges

Lead charges of ₹38.60 lakh was paid in excess as the distance between the lake bed and the dumping site was overstated by seven kilometre during the comprehensive development of Herohalli Lake.

Bruhat Bengaluru Mahanagara Palike (BBMP) took up (2009-10) a work of comprehensive development of Herohalli Lake. Executive Engineer-5, Project-2, BBMP (EE) prepared the estimate for ₹2.99 crore for phase-1 of the project. The Chief Engineer, Project-2, BBMP (CE) accorded the administrative approval and technical sanction in September 2009. The work was entrusted (December 2009) to the lowest tenderer (Shri J C Prakash) at a cost of ₹2.58 crore with stipulation for completion by June 2010.

One of the aspects of the lake development work entailed desilting of lake bed. As per the estimate, the lake bed was to be desilted for an average depth of 0.67 metre (m). When the work was nearing completion (90 *per cent*), the Commissioner, BBMP inspected (July 2010) the work and instructed for further deepening of lake bed by 1 to 1.5 m. The matter was referred (7 August 2010) to the Technical Advisory Committee (TAC). The TAC opined (17 August 2010) that there did not appear any necessity to deepen the lake bed further. The TAC further stated that based on the desire of the public and the Commissioner, deepening could however be taken up to a further extent if there was an economical method to dispose of the excavated stuff. For this purpose, the TAC recommended that quantity of earth required for embankment work at another lake (Nayandahalli Lake) be estimated first and that quantity could be removed from the lake bed at Herohalli.

It was seen that though the work at Nayandahalli Lake could not be taken up due to slushy condition and soil there being toxic, the EE proceeded with the work of further deepening of Herohalli Lake and prepared an estimate for ₹1.77 crore. A supplementary agreement was entered into (January 2011) with the same contractor, revising the cost of work (including the original cost of ₹2.58 crore) to ₹4.49 crore. The work was completed (March 2012) after incurring an expenditure of ₹4.23 crore.

As the work at Nayandahalli Lake was not taken up, the excavated earth was disposed of at Government *Gomala* (grazing) land located near Janapriya Township. The distance shown in the lead chart was 15 kilometre (km) and lead charges were to be paid at the rate of ₹123.22 per cubic metre (cum) of earth. During the course of work execution, 1,60,570.11 cum of dry silt was removed. Out of this, removal of 96,604 cum was paid at the rate of ₹123.22 per cum (quantity in excess of 125 *per cent* of original quantity of 51,172.56 cum). Audit scrutiny showed that the distance of 15 km shown in the lead chart was overstated and the actual distance on following the same route in Google map worked out to eight km only, which resulted in excess payment of ₹38.60 lakh.

The State Government stated (August 2014) that the lead route proposed by Audit was passing through Magadi main road. This route could not be used as widening and restoration work of Magadi main road (from chainage 0.0 to

5.6 km) was under progress, wherein traffic police and public objected to the movement of heavy loaded trucks which were moving slowly, thereby causing traffic jams. Instead, the competent authority had approved another lead chart during March 2011 wherein the distance was 15 km. The reply was not acceptable for the following reasons:

- (i) The lead route through Magadi main road was not proposed by Audit. Instead it was the route approved by the CE and was placed in the work file furnished to Audit. The reply did not address the audit contention as to why a distance of 15 km was shown in this lead route when the actual distance was only eight km.
- (ii) Records available with Audit showed that the work of widening and restoration of Magadi main road was completed before March 2011. Hence there was no justification for adopting an alternative route.
- (iii) There was no documentary evidence to justify that traffic police and public had objected to the movement of trucks on Magadi main road.

Thus, lead charges of ₹38.60 lakh was paid in excess due to the distance between the lake bed and the dumping site being overstated by seven km.

Bengaluru
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