

## CHAPTER 3

### 3. Compliance Audit

Compliance 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 propriety and economy. These have been presented in the succeeding paragraphs.

#### Housing and Urban Planning Department

#### 3.1 Undue favour to contractor

**Lucknow Development Authority extended undue benefit of ₹ 1.33 crore to a contractor by releasing mobilisation advance without ensuring availability of clear site and completing necessary formalities required for obtaining No Objection Certificate (NOC) from Uttar Pradesh Pollution Control Board.**

Lucknow Development Authority (Authority) awarded (February 2009) work for construction of Sewage Treatment Plant (STP) at *Basant Kunj Yojna* (launched in November 2003), Lucknow to *Jyoti Buildtech* Private Limited and Hindustan Dor Oliver Limited (JBPL and HDOL) a Joint Venture company. Agreement valuing ₹ 21.11 crore was entered on 7 March 2009 for the above work with JBPL and HDOL. Clause 8 of the agreement provided release of mobilisation advance up to 10 *per cent* of the contract value at the interest rate of 15 *per cent* against Bank Guarantee of equivalent amount valid for entire construction period of project.

As per provision contained in Environment Conservation Act 1986, Water (Prevention and Control of Pollution) Act 1974, a 'No Objection Certificate' (NOC) from the Uttar Pradesh Pollution Control Board (UPPCB) was required before commencement of construction of Sewage Treatment Plant (STP).

Audit noticed (January 2013) that prior to receipt of No Objection Certificate (NOC) from the UPPCB and ascertaining the availability of site, the Authority released mobilisation advance of ₹ 2.11 crore on 16 March 2009 to JBPL and HDOL against bank guarantee valid till March 2010 (extended up to September 2014). Further, it was noticed that the Authority failed to obtain NOC from UPPCB due to non-provision for proper disposal of effluent essentially required for obtaining NOC. As a result, even after lapse of four years, the work for construction of STP is held up (September 2014) and mobilisation advance of ₹ 2.11 crore paid to JBPL and HDOL on 16 March 2009 along with interest of ₹ 1.33 crore (**Appendix 3.1**) remained unrealised.

Thus, due to release of mobilisation advance to contractor, without ensuring availability of site and obtaining NOC from UPPCB which was the pre-requisite for commencement of the works, the Authority has extended undue favour to the contractor on account of interest of ₹ 1.33 crore and amount of ₹ 2.11 crore paid as mobilisation advance remained blocked for 66 months as of September 2014.

In reply, the Authority stated (September 2014) that Authority has applied (December 2008) for NOC to UPPCB before start of the work. But NOC was not issued by the UPPCB due to improper final disposal of effluent (treated water from STP) and work could not be started due to non-availability of site. It also stated that extension of Bank Guarantee of ₹ 2.11 crore has been obtained upto 15 September 2014.

Reply is not acceptable as the Authority released the mobilisation advance to contractor without obtaining necessary NOC from UPPCB and even before ascertaining the availability of site before awarding the work. Thus, the Authority suffered loss of ₹ 1.33 crore on account of interest as of September 2014.

Matter was reported to the Government (July 2014) and reply was awaited (October 2014).

### **3.2 Loss due to delay in releasing possession of the property**

#### **Agra Development Authority failed to provide the final area of allotted land to allottee within stipulated time and suffered loss of interest of ₹ 20.11 lakh.**

Agra Development Authority (Authority) resolved in its 85<sup>th</sup> Board meeting held on 22 January 1999 *vide* item No.32 (12) that if the allottee submits the amount required for releasing possession of the property and the Authority is not able to give possession to allottee due to some physical or legal reasons, no interest will be levied on the balance amount to be recovered from the allottee.

The Authority, through auction (February 2011), allotted (March 2011) a group housing plot of 7383.93 sqm area bearing No.G.H-4 in Sector-B-2 at *Tajnagari II* Phase scheme to *Ashoka Housing*, Agra. The total cost of plot including freehold charges at the rate of 12 *per cent* was ₹ 16.54 crore<sup>1</sup>. Conditions of the allotment included that allottee was to deposit ₹ 3.99 crore for allotment of property by 10 April 2011. Further, as per condition number 10 of the allotment letter No. 1680/D/A.E (P)/2010-11 dated 5 March 2011, allottee was to deposit full property cost without interest within 60 days from the date of allotment of property.

Allottee deposited ₹ 3.99 crore on 9 April 2011 required for allotment and requested Authority to intimate the final area of the plot for taking possession of the plot. But, the Authority did not intimate the final area of the plot timely and failed to provide the possession of plot within 60 days. Final area (7382.93 sqm) was intimated to allottee by the Authority on 6 September 2011. Due to delay on the part of Authority, balance cost of ₹ 11.08 crore could not be realised from the allottee in time. Allottee deposited the balance amount with a delay of 8 to 139 days during 11 May 2011 to 31 October 2011 without interest.

Thus, due to failure in taking timely action to provide final area as well as possession of the plot to the allottee, the Authority sustained a loss of interest amounting to ₹ 20.11 lakh at the rate of six *per cent per annum* on residual amount of ₹ 11.08 crore (**Appendix 3.2**).

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<sup>1</sup> (Plot cost ₹ 14.77 crore plus 12 *per cent* freehold charges ₹ 1.77 crore).

In reply (September 2014), the Authority accepted the delay in providing actual measurement and preparing the site plan and stated that delay was caused by unauthorised possession. Fact remains that the Authority sustained a loss of interest amounting to ₹ 20.11 lakh due to failure in providing final area as well as possession of the plot to the allottee.

Matter was reported to the Government (July 2014) and was awaited (October 2014).

### 3.3 Non-realisation of extra charges on the corner plots

**Ghaziabad Development Authority (Authority) failed to recover charges on corner plots in violation of the State Government order which resulted in short-realisation of revenue amounting to ₹ 98.38 lakh.**

As per State Government order no. G.O.780/8-1-09-16 committee/98 dated 27 February 2009, and clarification vide O.N.1762/8-1-9-16 committee/98 dated 18 June 2009, corner charges at the rate of 10 *per cent* were to be recovered from the allottees as an additional cost on the corner plots.

A three side road facing plot was developed (February 2013) by Ghaziabad Development Authority (Authority) for construction of community centre. Further, adjacent to one side of this plot of community centre, two corner plots were also developed by Authority for construction of nursing homes.

Audit noticed (March 2014) that out of the two plots so developed, one Plot no. NH-2 having area of 875 sqm was allotted (April 2013) through auction held on 29 April 2013 at the rate of ₹ 56,000 per sqm and another plot no. NH-1 having area of 823 sqm was allotted (August 2013) through auction held on 20 August 2013 at the rate of ₹ 60,000 per sqm. However, despite being situated at corner, no corner charges on both the plots were levied by the Authority. Non-levy of corner charges on above plots has resulted in loss of revenue amounting to ₹ 98.38 lakh<sup>2</sup>.

In reply, the Authority stated (July 2014) that the plots were sold to clear the un-disposed properties as per direction (July 2013) of the vice chairman and the corner charges were not recovered as the condition for recovery of corner charges was not included in the brochure published for sale/auction. The reply is not acceptable, as corner charges prescribed in the State Government order (G.O.780/8-1-09 and G.O.1762/8-1-9 dated 27 February 2009) was to be levied.

Matter was reported to the Government (July 2014) and reply was awaited (October 2014).

## Forest Department

### 3.4 Loss due to short-realisation of royalty

**Consideration of estimated production of timber in place of actual production, for royalty purpose, resulted in short-realisation of royalty amounting to ₹ 6.21 crore.**

As per para 2.7 chapter 2 of *Van Sanhita*, read with Government Order of Additional Chief Conservator of Forest (Management) U.P. Nainital 333-TC/37-

<sup>2</sup> (823\*60000\*10 *per cent*) plus (875\*56000\*10 *per cent*) = ₹ 98.38 lakh.

71(1) 26.06.1978, Uttar Pradesh Forest Corporation (UPFC) pays royalty to Uttar Pradesh Forest Department (DoF) on allotment of timber, calculated on volume factor basis<sup>3</sup>.

Audit noticed (December 2013) that after exploitation of timber lots, UPFC submits surrender letter to DoF, showing details of actual production of timber *vis-a-vis* estimated volume of timber based on which royalty is calculated. However, despite availability of data of actual production of timber, the royalty was calculated on estimated volume of timber (7111.28 cum) (**Appendix 3.3**).

Thus, consideration of estimated production in place of actual production of timber (11827.45 cum) for royalty purpose, has resulted in short realisation of royalty (4716.17 cum) amounting to ₹ 6.21 crore (**Appendix 3.3**) in six divisions of DoF.

In reply (September 2014) DoF stated that that there is no such Government order for realisation of royalty on actual production basis. Thus, royalty was realised on estimated volume of production basis.

Reply is not acceptable as Principal Chief Conservator, U.P. is the functional head of the Forest Department and issues order for fixation of rate of royalty or volume determination. Hence, it should have considered the actual production in place of the estimated production of timber, for royalty determination in the best interest of the State.

Matter was reported to the Government (July 2014) and reply was awaited (October 2014).

## Energy Department

### 3.5 Injudicious parking of surplus funds

**Uttar Pradesh Electricity Regulatory Commission (UPERC) failed to park surplus funds in higher interest bearing options and suffered a loss of interest amounting to ₹ 3.29 crore.**

As per section 3 and 5 of (Conduct of Business) Rule 2010, Uttar Pradesh Electricity Regulatory Commission (UPERC) receives miscellaneous fees and fines from electricity companies every year. As per section 33 of Electricity Regulatory Commissions Act 1998, UPERC was required to prepare the budget for estimating receipts and expenditure for each financial year.

We noticed that UPERC did not prepare the Budget as required above for the financial years 2012-14, so we examined the status of availability of funds and its utilisation. We, during audit, noticed that after incurring all expenditures, a minimum balance of ₹ 26 crore, ₹ 24 crore and ₹ 47 crore remained un-utilised in the saving bank accounts of UPERC during 2012-14 respectively. Thus, above unutilized funds were available with UPERC for investment as fixed deposits to earn interest at higher rate ranging between 9.25 *per cent* and 10.99 *per cent* during 2012-14. But UPERC failed to adopt the prudent financial management and kept the funds in saving bank account with auto sweep facility bearing interest at the rate of 6.75 *per cent* per annum during the same period.

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<sup>3</sup> Letter no. – P-398/4volume factor/Gorakhpur Region, Lucknow, Dated: July 10, 2012.

In reply, management stated (April 2014) that the funds were kept in saving accounts to meet the requirements of funds for constructing new building. The reply is not acceptable as funds remained idle for three years and no construction activity has started yet. Moreover, no budget was prepared by the UPERC to identify the un-utilised funds for better investments.

Thus, due to failure to invest the surplus funds in higher interest bearing options, UPERC sustained a loss of interest amounting to ₹ 3.29 crore (Appendix-3.4).



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Countersigned



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