

Chapter III

Compliance Audit

Labour & Employees' State Insurance Department

3.1 Implementation of safety standards in factories and boilers

3.1.1 Introduction

The Factories Act, 1948 and the Orissa Factories Rules (OFR), 1950 stipulate various regulatory functions on safety, health, welfare, *etc.* of workers working in factories. The Labour and Employees' State Insurance (L&ESI) Department, headed by the Secretary, is the nodal agency for enforcing the provisions of the Act and is assisted by the Director of Factories & Boilers (F&B). The Director is assisted by two Joint Directors, one Deputy Director (Safety) and three Assistant Directors in Headquarters office at Bhubaneswar. At field level, there are seven divisions, further divided into 22 zones. While each division is headed by a Deputy Director, a zone is headed by an Assistant Director (Inspector of Factories). Directorate of F&B is responsible for enforcing the safety norms by conducting regular inspections, monitoring and initiating prosecution against violators.

As of December 2014, there were 4,848 factories functioning in the State under different categories (Major Accident Hazard (MAH) factories: 24; Factories under Section 2(cb)¹: 582; and others: 4242 factories). In these factories, 895 accidents occurred during 2012-15, including 196 fatalities, as shown below:

Table 3.1.1 Showing year-wise position of accidents occurred during 2012-15

Year	Nature of accidents			Total
	Fatal	Serious injury	Others	
2012	78	31	332	441
2013	58	27	165	250
2014	46	29	115	190
2015 (Up to March)	14	0	0	14
Total	196	87	612	895

(Source: Records of Directorate of Factories and Boilers)

In order to ascertain whether the Department enforced various provisions of Acts/ Rules/ Regulations effectively and monitored corrective actions taken by the factories to ensure safety, Audit was conducted during June to August 2015 covering the period 2012-15 through test check of records of L&ESI Department, Directorate of F&B, one division (Angul) and three zones (Balasore, Dhenkanal and Jeypore), selected through Stratified Random Sampling Without Replacement. Joint physical inspections were also conducted by the Directorate in the presence of Audit in 19 out of 28 factories, selected from 553 registered factories within the sampled units.

During Audit, it was noticed that safety norms of workers in the factories,

¹ Factories, having hazardous processes which would cause material impairment to the health of the person engaged in or connected therewith or result in the pollution of the general environment

prescribed under the Act were not adequately enforced by the Directorate as discussed in the following paragraphs:

3.1.2 Ineffective enforcement of safety norms

The provisions in the Factories Act, 1948 prescribe installation/ availability of different equipment/ articles for health, safety, *etc.* of the workers. The Factory Inspectors are required to inspect the factories to ensure availability and functioning of the prescribed safety equipment/ articles for safety of the workers.

Audit noticed that 540 accidents had occurred in 37 factories (MAH: 4; Section 2(cb): 22 and others: 11) of four test checked units due to violation of safety standards in which 57 workers lost their lives and 32 were seriously injured. Records of 28 factories under the jurisdiction of four sampled units and joint physical inspections of 19 factories conducted by Assistant Directors in presence of Audit, revealed deviations in safety standards in 16 factories as per the provisions of the Act as detailed at **Appendix 3.1.1**.

As may be observed from the Appendix, 9 out of 16 factories did not have fully equipped Emergency Control Centres (ECC). Due to non-provision of Personal Protective Equipment (PPE) and non-adherence of Standard Operating Procedure (SOP), 12 accidents occurred in seven factories during 2012-15 claiming four lives and injuring 10 other workers. Though these deficiencies were pointed out during 2012-15 by the Factory Inspectors in their inspection reports, the factories did not take corrective action and the Directorate did not prosecute the violators. One such serious case is discussed below:

3.1.2.1 Repeated accidents due to wilful disregard to safety standards

In Bhushan Steel Limited (BSL), Dhenkanal, 30 accidents occurred during 2012-15 claiming lives of 22 workers due to persistent failure in maintaining safety standards. Examination of the inspection reports submitted by the Assistant Directors, after their routine inspection during the period 2012 to 2015, revealed the following:

- In the inspections conducted during March 2012 to October 2013, Assistant Directors pointed out the deficiencies like non-adherence to traffic control guidelines, speed limit, *etc.* However, BSL did not take corrective measures to adhere to the recommendations immediately. Lack of effective enforcement by the Assistant Directors and not taking corrective action by BSL resulted in six vehicular accidents during June 2012 to December 2013 which caused death of five workers and serious injury to one worker.
- Non-use of personal protective equipment like safety shoes, helmets, goggles, gloves, non-preparation of accident prevention plan, non-practice of height permit system, *etc.* resulted in five accidents (May 2012 to January 2014), involving death of three workers and causing serious injury to two workers.
- Further, during the inspections conducted during March 2012 and February 2013, deficiencies in adherence of SOP and safe maintenance practice were pointed out. However, BSL did not operationalise the

SOP which resulted in an accident (November 2013), claiming three lives and injuring six workers.

- Recommendations/ suggestions² of Safety Audit conducted (November 2013) by IIT, Kharagpur and National Safety Council, Mumbai were also not followed by the factory.

Audit observed that the Assistant Director had not filed prosecution cases against BSL immediately for not taking corrective measures against the violations pointed out in the inspection reports as required under Section 92 of the Factories Act. Instead, prosecution cases were initiated only after occurrence of fatal accidents. Thus, the Department did not enforce the prescribed safety norms to check accidents in this factory despite occurrence of 30 accidents during 2012-15 which claimed 22 lives and injured 21 workers.

The Department assured (November 2015) that it would improve enforcement to minimise the loss of human lives. As regards wilful disregard to safety standards, the Department stated that it would initiate suitable action prior to occurrence of accidents by way of effective implementation of safety standards in the factory.

3.1.2.2 Non-approval of appointment of Safety Officers

As per Rule 61-A (1) (c) of Orissa Factories Rules, 1950, a person possessing qualification required under clauses (a) and (b) of sub-rule (1) shall only be appointed as Safety Officer on acceptance by the Director of F&B on submission of details of his/ her qualification and experience. The Safety Officers are to advise and assist the factory management in fulfilment of its obligations concerning prevention of personal injuries and maintenance of safe working environment.

While examining records of four sampled units, Audit noticed that in 28 factories, only 91 Safety Officers were appointed by the factory managements, against the requirement of 106 Officers as of March 2015. The Directorate of F&B did not ensure appointment of required number of Safety Officers by the factories despite occurrence of regular accidents. Audit also noticed that the Directorate had accepted appointment of only 11 Officers out of these 91 Safety Officers and no action was taken on appointment of others. Audit verified nine applications relating to three factories and noticed that appointment of only three Safety Officers were accepted and other six were pending for examination since 2013. These six Safety Officers were continuing in the factories since the Directorate neither accepted nor rejected their appointments.

Thus, the purpose of advising and assisting the factory management by Safety Officers for prevention of personal injuries and maintaining safe working environment remained largely unfulfilled as is evident from the fact that 508

² (i) Carrying out periodical training/ refresher training/ retraining of workers at regular intervals; (ii) Develop a standard site specific safety audit check to identify unsafe acts and unsafe conditions on regular basis; (iii) Strict enforcement of use of PPEs by the Management and Safety Officers; (iv) Mention the tenure of the safety committee as two years; (v) Implementation of permit to work requiring electrical isolation, etc.

accidents occurred in these factories during 2012-15 which claimed 43 lives and injured 30 workers seriously.

The Department stated (November 2015) that applications received for acceptance of Safety Officers were being disposed off after scrutiny of documents and proper assessment.

3.1.2.3 Inadequate training on safety to the workers

As per Section 111A of Factories Act, 1948, every worker shall have the right to get trained within the factory wherever possible, or to get sponsored by the occupier for getting trained at a Training Centre or Institute, duly approved by the Director of F&B, where training is imparted for workers' health and safety at work. Details regarding the training imparted to workers in respect of 17 out of 28 factories under the four sampled units are in *Appendix 3.1.2*. Audit noticed that:

- In the four sampled units, only 16,103 out of 43,761 workers were trained on safety standards, which constituted 37 *per cent* coverage as of March 2015.
- Only four out of 17 factories could impart training to all the workers. Even 33 *per cent* of the regular workers of five factories of MAH category were not trained despite the fact that 53 accidents occurred in these factories during 2012-15 which claimed 14 lives of workers and injured 15 workers seriously.
- Only 22 *per cent* of (5,034 out of 23,101) workers were imparted training in the five MAH factories.
- In 12 factories coming under Section 2(cb) having hazardous processes, only 11,069 (54 *per cent*) out of 20,660 workers were trained on safety standards, even though 433 accidents occurred during 2012-15 which claimed 12 lives and injured 16 workers in these factories.
- Even in the four³ factories of two Public Sector Undertakings, trainings on safety standards were not imparted to all the workers. The percentage of trained workers in PSUs ranged between 8.7 and 85.3.

Despite shortfall in training, none of the Assistant Directors of sampled units had pointed out the same in their inspection reports. Further, no target or schedule was fixed for ensuring training to all the workers in a time bound manner.

The Department stated (November 2015) that it was the responsibility of the management of the concerned factories to impart training to its workers. However, it is the responsibility of the Department to direct the factories to train its workers as per the Act which it failed to do.

³ Captive Power Plant, NALCO, Angul (32.15 *per cent*); Smelter Plant, NALCO, Angul (85.3 *per cent*); Hindustan Aeronautics Limited (HAL), Sunabeda (8.7 *per cent*) and NALCO (M&R), Damanjodi (19.2 *per cent*)

3.1.3 Inadequate action against the violators

As per Section 92 of the Factories Act, 1948, if the owner or occupier of a factory contravenes any of the provisions of the Act, then he or she is to be held guilty of an offence and is punishable with imprisonment for a term, which may extend to two years or with fine which may extend to rupees one lakh or with both.

The Assistant Director, after approval of the Director (F&B), files prosecution case against violators before the concerned Sub-Divisional Judicial Magistrate (SDJM). Prosecutions were to be filed within three months of the date on which the offence came to the knowledge of the Assistant Directors. The deficiencies in initiating prosecution against violators are discussed in the following paragraphs:

3.1.3.1 Non-filing of prosecution cases for accidents

As per Section 106 of the Factories Act, 1948, no Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector.

Examination of records of four sampled units revealed that 540 accidents occurred in 37 factories during 2012-15 and prosecution cases were filed only in 88 accidents (16 per cent) by the Assistant Directors. No action was taken on the remaining 452 accidents as summarised in the following table:

Table 3.1.2 Showing number of accidents vis-à-vis prosecution cases in the factories of four sampled units

Year	Number of accidents				Number of prosecution cases filed				Number of accidents against which no case filed
	Fatal	Serious injury	Others	Total	Fatal	Serious injury	Others	Total	
2012	20	14	237	271	18	7	2	27	244
2013	22	7	136	165	19	6	10	35	130
2014	12	11	71	94	12	9	1	22	72
2015 ⁴	3	0	7	10	3	0	1	4	6
Total	57	32	451	540	52	22	14	88	452

(Source: Data furnished by Assistant Directors of Factories and Boilers of sampled units)

Reasons for non-filing of cases within three months against the violators were not on record. The Directorate could not initiate the prosecution proceedings in case of 452 accidents as the same were barred by limitation of time. In 89 fatal and serious accidents, prosecution was filed only in 74 cases which are yet to be disposed off. Even in 5 death and 10 serious injury cases, the Directorate did not file prosecution cases within the timeframe. Two such instances of non-filing of prosecution cases against repeated violators are discussed below:

- Two workers died in accidents on 28 January 2012 at Bhushan Steel Limited, Dhenkanal and at BILT Graphic Paper Products Limited (BGPPL), Jeypore on 14 October 2012. However, no action was taken to file prosecution cases against the occupiers. The Assistant Director

⁴ Up to March 2015

(F&B), Jeypore stated (September 2015) that cases were not filed against the occupiers due to non-receipt of instructions from the Director.

- One accident occurred on 4 March 2013 at Bhushan Steel Limited, Dhenkanal injuring two persons. Investigation report was prepared by the Assistant Director and sent (April 2013) to the Director of F&B for approval for filing prosecution case. However, approval for the same was received only on 4 June 2013 *i.e.* after three months of reporting of accident. Therefore, prosecution against the occupier could not be filed as it was barred by limitation of time.

Thus, the Director of F&B failed to comply with the provisions of Factories Act in both these cases. The Department stated (November 2015) that utmost care was being taken to file prosecutions in almost all fatal cases. However, the Department had not filed prosecution cases against 452 accidents including five fatal cases.

3.1.3.2 Non-pursuance of prosecution cases

The Department instructed (April 2010) the Deputy Directors to conduct periodical review of prosecution cases with the District Magistrate (DM) involving concerned Superintendent of Police, Public Prosecutor to enable the DM to take up the pendency of cases in the police-magistracy meeting. The year-wise pendency of prosecution cases in four test checked units as of March 2015 is depicted in Table 3.1.3:

Table 3.1.3 Showing pendency of prosecution cases in the test checked units

Year	Number of prosecution cases ⁵ pending			Total
	Fatal	Serious injury	Others	
Up to 2011	79	13	146	238
2012	17	6	26	49
2013	20	9	22	51
2014	11	9	13	33
2015 ⁶	4	0	1	5
Total	131	37	208	376

(Source: Compiled by Audit from records of Assistant Directors)

Despite having 131 deaths in 376 cases of pending prosecution, the Directorate did not pursue the same with the Public Prosecutor to dispose off the cases at the earliest. The instructions of the Department to pursue the matter through the DM were not followed. As a result, 376 prosecution cases remained undisposed as of March 2015 including 54 cases pending for more than 20 years.

It was noticed that 2,137 cases were pending for prosecution at various zones of the State. In the sampled units covering 553 registered factories, repeated accidents occurred in 37 factories and the Directorate could not enforce the preventive measures against the violating factories. Thus, the Department failed to pursue the prosecution cases effectively.

⁵ Prosecution cases include accidents, non-registration of factories, *etc.*

⁶ Up to March 2015

3.1.3.3 *Withdrawal of prosecution cases*

Audit noticed that two prosecution cases were withdrawn by the Directorate, as discussed below:

- A fatal accident occurred on 3 October 2009 at chlorine washer screw conveyor at BILT Graphic Paper Products Limited, Jeypore in which one contractual worker died. Both preliminary and final investigation reports (October/ December 2009) of the Assistant Director, Jeypore indicated that adequate precaution was not taken, while starting screw conveyor and the victim was allowed to stand near the vat wall⁷ during rotation of the conveyor causing the accident. The Assistant Director filed (December 2009) a prosecution case⁸ before the Hon'ble SDJM, Jeypore. But, the Director citing the instructions of Government to withdraw the case on the ground of good record of the management on safety and rehabilitation of the family of the deceased person, instructed (April 2010) the Assistant Director to withdraw the case. Subsequently during 2011-15, six accidents occurred in this factory in which three workers died and one worker was seriously injured.
- Another fatal accident (toppling of hydra crane⁹) occurred on 23 January 2008 at Mining & Refinery Complex of National Aluminium Company Limited, Damanjodi, Koraput in which one contractual worker died. The Investigation Report (March 2008) of Deputy Director, Rayagada suggested that the accident occurred due to unsafe position of hydra crane deviating SOP. The prosecution was filed (April 2008) before the Hon'ble SDJM, Koraput. But, the Assistant Director withdrew (October 2010) the prosecution case as Government directed (April 2010) to withdraw the same on the ground that adequate steps had been taken for rehabilitation and ensuring safety at the work place. Six accidents have occurred subsequently during 2011-15 in this factory in which one worker died.

Audit observed that there was no provision for such withdrawal of prosecution for the violations within the framework of the Factories Act, 1948. The Department stated (November 2015) that it would prevent such withdrawal of cases in future.

3.1.4 **Factories operating without addressing environmental issues**

Section 12 of the Factories Act, 1948 provides that arrangements should be made in every factory for treatment of wastes and effluents and for their effective disposal. As per Sections 25 and 26 of Water (Prevention & Control of Pollution) Act, 1974 and under Section 21 of Air (Prevention & Control of Pollution) Act, 1981 and Rules framed thereunder, every factory should obtain Consent to Operate (CTO) from State Pollution Control Board (SPCB) before commencement of operation of the factory.

⁷ Retaining wall of a tank containing liquid material

⁸ Case No. 2 (C) CC-01/2010

⁹ A vehicle used for lifting and carrying heavy goods

Audit noticed, in two out of four test checked units, that 399 factories were operating under four zones as of March 2015 without obtaining CTO from SPCB as detailed below:

Table 3.1.4: Showing number of factories running without obtaining CTO from SPCB

Name of the Region	No. of factories	Number of factories running without obtaining CTO
Balasore	365	297
Rayagada	139	102
Total	504	399

(Source: Data furnished by the Regional Offices of State Pollution Control Board)

Out of 399 factories running without obtaining CTO, 191 factories had not submitted applications for obtaining CTO. The other factories were not given CTO by the SPCB for want of documents, fees, etc. Audit further noticed that environmental issues were not properly addressed by the factories as is evident from the following two cases:

- Sai Rameswara Solvents (P) Limited, a solvent extraction plant for processing of rice bran oil obtained (December 2005) CTO which was valid up to 31 March 2012. SPCB did not issue CTO for subsequent periods due to non-deposit of prescribed fees and the factory continued to run without obtaining CTO since April 2012. Besides, the license of the factory was not renewed after December 2011 and it was functioning without a valid license under the Factories Act, 1948.
- BILT Graphic Paper Products Limited, Jeypore, a Pulp and Paper manufacturing unit was discharging its effluents (treated/ untreated) to the river (Kolab) through open drain. Due to breach of the channel, the effluents of the factory ran through nearby paddy fields causing damage to the crop and creating skin diseases to the farmers working in the field.

Though the factories were running without environmental clearance, the Directorate had not taken action against these factories and renewed the licenses without insisting for the same though prescribed in the Forms for registration/ renewal.

The Department stated (November 2015) that it would examine the issue and bring it to the notice of SPCB for taking necessary action. However, the Department failed to insist on clearance from SPCB during registration/ renewal of licenses.

3.1.4.1 Non-functioning of Industrial Hygiene Laboratory

An Industrial Hygiene Laboratory (IHL) functions in the Directorate for priority inspection of MAH factories, conducting air monitoring studies in hazardous factories to assess the level of chemical pollutants and other physical parameters like heat, noise, etc. in work room and conducting training programmes, workshops, seminars, etc. for industrial workers.

GoI released ₹ 28.69 lakh (November 2006 and August 2008) for strengthening of infrastructure of Directorate of Factories. Out of this, the Director utilised ₹ 9.35 lakh towards purchase of instruments to measure toxic gas, noise and dust concentration (₹ 4.34 lakh), procurement of vehicle (₹ 4.03

lakh), remodeling of IHL room (₹ 0.98 lakh) and ₹ 19.34 lakh towards procurement of computers, peripherals, contingencies, etc.

Audit noticed that the instruments were not put to use and were lying idle as of March 2015.

Due to non-functioning of IHL, the effect of chemical pollutants, etc. on the health of workers could not be assessed. Therefore, the entire expenditure of ₹ 28.69 lakh incurred on various items did not yield the desired results.

The Department stated (November 2015) that only a few of the equipment were in use at present and action was being taken to repair the non-functional equipment.

3.1.5 Inspection and Monitoring

For managing crisis situations in case of chemical accidents, the Chemical Accident (Emergency Planning, Preparedness and Response) Rules, 1996 envisaged a three tier arrangement. As per Paragraph 6 of the said Rules, a State Crisis Group¹⁰ (SCG) and as per Paragraph 8 *ibid*, District Crisis Group (DCG) and Local Crisis Groups (LCG) are to be constituted.

As required under Paragraph 6 of the said Rules, the SCG is to meet quarterly and deal with major chemical accidents and provide expert guidance for handling major chemical accidents. SCG shall review off-site emergency plans, assist in planning, preparedness and mitigation of major chemical accidents, monitor post-accident situation and review the reports submitted by DCGs. As per Paragraph 8 of the said Rules, the DCG is to meet every 45 days while the LCG should meet every month and forward a copy of the proceedings to the DCG.

Audit, however, noticed that:

- SCG met only thrice (August 2002, October 2008 and January 2014) since its constitution (2002) against the requirement of 52 meetings as of February 2015.
- No follow up action was taken on the decisions taken by the SCG. A decision was taken in the SCG meeting held on 18 January 2014 to form a sub-committee which shall inspect and furnish report on 13 major accident hazard (MAH)/ accident prone factories within three months. Though, the sub-committee was formed (February 2014), no MAH factories were inspected by the sub-committee.
- Though DCG was formed in five¹¹ out of seven test checked districts, no meetings were held in four¹² districts. In one district (Dhenkanal), only two meetings were held against the requirement of 24 meetings during 2012-15.
- LCGs were not formed in six¹³ out of the seven districts. Though LCG was formed in Dhenkanal district, only six members were included in

¹⁰ Chief Secretary being the Chairperson, Secretary (Labour) being the Member Secretary and 14 members

¹¹ Angul, Balasore, Dhenkanal, Koraput and Nabarangapur

¹² Angul, Balasore, Koraput and Nabarangapur

¹³ Angul, Balasore, Bhadrak, Koraput, Malkangiri and Nabarangapur

the Group against requirement of 14. Further, the LCG had neither prepared local emergency plan for the industrial pockets nor conducted any full-scale mock-drill for chemical accident though the same was required to be conducted once in every six months.

Due to non-formation of Crisis Groups/ non-conduct of required number of meetings and lack of follow up action on decision taken at the meetings, the remedial measures/ preparedness in case of chemical accidents could not be ascertained.

The Department assured (November 2015) that it would take steps to convene meetings of SCGs. It also stated that instructions would be issued to other districts to form DCGs and convene meetings to address issues on safety of workers.

3.1.5.1 Inadequate inspection of factories

As per Government instructions (September 1997) and proceedings of review meeting (2 November 2011) of the Director, factories prone to accidents, MAH and factories categorised under Section 2 (cb)/ Section 87 of Factories Act, 1948, were required to be inspected by Inspector of Factories four times a year to ensure effective application of relevant legal provisions.

Details of factories categorised under Section 87, Section 2 (cb) and MAH, number of inspections required to be conducted and number of inspections actually conducted are given in the table below:

Table 3.1.5: Showing number of inspections required to be conducted, actually conducted and shortfall during 2012-14

Year	Number of factories coming under Section 87, 2 (cb) and MAH	Number of inspections required to be conducted	Number of inspections actually conducted	Shortfall in inspection	Percentage of shortfall
2012	172	688	235	453	66
2013	182	728	253	475	65
2014	186	744	218	526	71
Total		2160	706	1454	67

(Source: Annual Administrative Report)

Audit noticed that:

- The Inspectors did not conduct required number of inspections and the shortfall in inspection during 2012-14 ranged from 65 to 71 *per cent* and the overall shortfall was 67 *per cent* in test checked units. Even in MAH factories, the shortfall in inspections was 61 *per cent*.
- As per the norm¹⁴ prescribed (March 1982) by GoI, 32 Inspectors are required for inspection of 4,848 factories (December 2014) against which only 18 Inspectors were working in the State.

Thus, inspection of factories was not adequate, affecting safety standards adversely.

The Department assured (November 2015) that steps would be taken to ensure that adequate inspections were conducted once the vacant posts are filled up. It

¹⁴ One Inspector for inspection of 150 factories

further added that action would be initiated to earmark the accident prone factories to take pointed action for reducing the rate of accidents.

3.1.6 Continuance of unregistered factories

Section 6 of Factories Act, 1948 and Rule 11A of OFR, 1950 provide that all the factories are to be registered and an occupier shall not use any premises as a factory or carry on any manufacturing process in a factory unless a license has been issued. Factories functioning without registration would escape different legal provisions prescribed under relevant Acts/ Rules.

Out of 4,848 factories functioning in the State as of December 2014, 1,238 factories¹⁵ (26 per cent) were unregistered as detailed in *Appendix 3.1.3*. In four sampled units, 271 (33 per cent) out of 824 factories were unregistered.

Audit noticed that:

- Out of 1,238 unregistered factories, prosecution cases were filed against 312 factories (25.20 per cent) and notices were served for submission of documents to 210 factories (16.96 per cent). However, no action was taken against the remaining 716 unregistered factories (57.84 per cent) as of March 2015.
- Even though 20 applications were received during 2012-15 from factories under four sampled units for registration, no effective action was taken by the Directorate to register them.
- Due to non-registration, these factories escaped the provisions of Factories Act and its prescribed safety norms apart from non-levy of registration fee of ₹ 10.63 lakh during 2012-15 in respect of 135¹⁶ unregistered factories in four sampled units.
- The Directorate could not prosecute any factory for occurrence of accidents due to non-reporting of such incidences by the unregistered factories.

Though 1,238 factories remained unregistered flouting the statutory provisions, the other Government departments, however, continued to provide essential services like electricity, water, Sales Tax (ST) registration, etc. to these unregistered factories. Thus, the Directorate did not establish a proper mechanism (using the different departments of the Government) to check the violations of Factories Act at different stages.

The Department assured (November 2015) that it would initiate action for early registration of the factories.

3.1.7 Conclusion

The Directorate of F&B is responsible for enforcing the provisions of Factories Act. However, it had no effective mechanism to implement the safety standard by factories leading to persistent deficiencies over the years

¹⁵ Factories were of other categories (small scale industries) like stone crusher, cashew industries, fly ash bricks, rice mills, flour mills, automobiles, etc.

¹⁶ In respect of remaining 136 unregistered factories, due to non-availability of required data viz., contract demand of electricity and manpower, the license fee could not be calculated in Audit

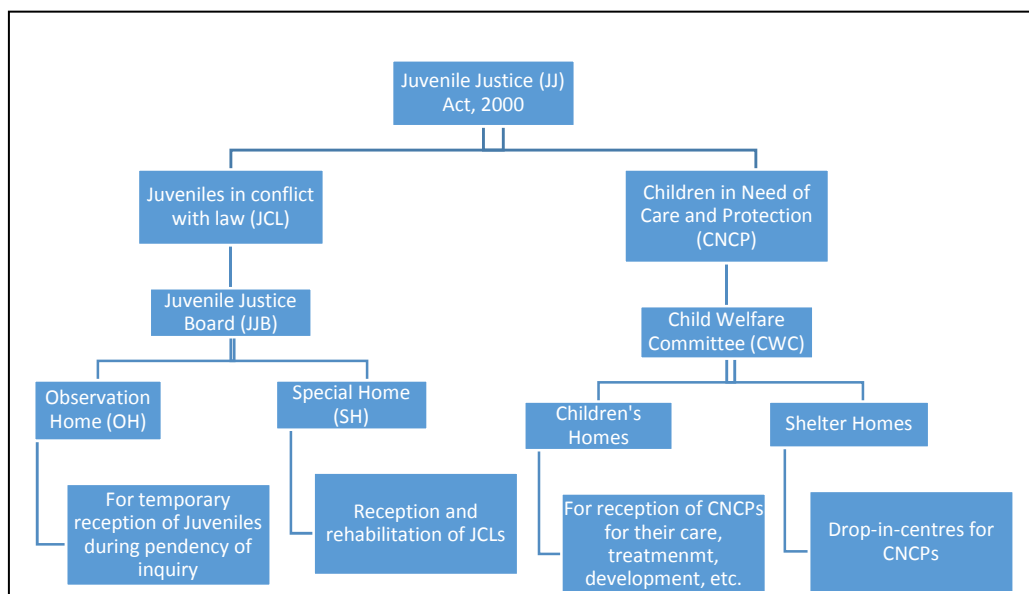
causing accidents. Even training imparted to workers on their safety at work was only 37 per cent of the total workers in test checked four units. The Directorate did not file prosecution proceedings against all the accidents. Factories were running without obtaining clearance from the State Pollution Control Board. The inspection and monitoring was inadequate as designated committees were not formed or functioned ineffectively. There were shortfalls in conducting required inspection of the factories even in repeatedly violating factories. As many as 26 per cent of factories functioning in the State were unregistered which escaped application of legal provisions of various Acts.

Home Department and Women & Child Development Department

3.2 Working of juvenile homes in the State

3.2.1 Introduction

The Constitution of India¹⁷ imposes on the State a primary responsibility of ensuring that all the needs of children *i.e.* aged below 18 years are met and their basic human rights are fully protected. Accordingly, Government of India (GoI) enacted Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act) with the objective of providing proper care, protection and treatment to the juveniles in conflict with law (JCL) and children in need of care and protection (CNCP). The JJ Act was amended in 2006, which, *inter alia*, provided for constitution of Child Protection Units at both State and District level for implementation of the Act for JCLs and CNCPs.



Section 4 (1) of the JJ Act, 2000 provides that one or more Juvenile Justice Boards (JJBs) for a district or a group of districts shall be constituted to adjudicate and dispose of cases of JCLs. Further, Sections 4, 8 and 9 of the Act envisaged establishment of Observation Homes (OH) for retention of JCLs during their adjudication and Special Homes (SH) for their reception and rehabilitation after they are confirmed to be in conflict with law.

¹⁷ Clause (3) of Article 15, clauses (e) and (f) of Article 39 and Articles 45 and 47

In case of CNCP, the JJ Act provides for constitution of Child Welfare Committee (CWC) in each district or group of districts which are responsible for necessary care and protection, including immediate shelter by passing necessary directions to parents, guardians or fit persons/ institutions.

In pursuance of this, the State Government framed the Juvenile Justice (Care and Protection of Children) Orissa Rules, 2002 which were amended in 2009. The Rules, *inter alia*, provided for establishment of SHs, OHs, Shelter homes and Child Care Institutions (CCIs) for accommodation of JCLs/ CNCPs and to provide mandatory standards of care to juveniles. While, Shelter homes are to act as drop-in-centres for children in urgent support, CCIs are responsible for providing subsequent care, treatment, education, training, development and rehabilitation.

A Centrally Sponsored Scheme *viz.* Integrated Child Protection Scheme (ICPS) was introduced in 2009 aimed at building a protective environment through Government-Civil Society partnership for children in difficult circumstances as well as other vulnerable positions. The scheme is implemented through a society *i.e.* the Odisha State Child Protection Society (OSCPS) at State level which is assisted by the District Child Protection Units (DCPU) at district level. OSCPS functions under the administrative control of the Women and Child Welfare (W&CD) Department. The Director of W&CD Department also acts as the Director of OSCPS who supervises and monitors the functions of DCPUs, which are headed by District Child Protection Officers. Three OH/ SHs functioning under W&CD Department are funded under ICPS.

As per the information furnished to Audit, four OHs and four SHs¹⁸ were functioning in the State as on 31 March 2015, with total capacity of 290¹⁹. However, at all four locations, OHs and SHs were functioning in same premises with the name 'OH/ SH'. Further, there were six Government run and 86 NGO run CCIs in the State (March 2015). While one OH/ SH at Angul was under administrative control of the Home Department, remaining OH/ SHs and CCIs were functioning under the W&CD Department. During 2012-15, OSCPS released ₹ 54.37 crore to the DCPUs, CCIs and the Superintendents of OHs/ SHs, out of which ₹ 52.32 crore was utilised as of March 2015 as indicated in the table below:

Table 3.2.1: Receipt and utilisation of grant under ICPS during 2012-15

Year	Total receipt (including grants and interest, etc.)	OH/ SHs		DCPUs/ CCIs		Total utilisation
		Grants released	Grants utilised	Grants released	Grants utilised	
2012-13	10.05	0.42	0.36	9.63	11.63	11.99
2013-14	17.61	0.49	0.41	17.12	19.51	19.92
2014-15	26.71	0.71	0.53	26.00	19.88	20.41
Total	54.37	1.62	1.30	52.75	51.02	52.32

(Source: Information furnished by OSCPS, OH/ SHs)

¹⁸ Rourkela: OH (1), SH (1); Angul: OH (1), SH (1) and Berhampur: OH (2), SH (2) (separately for boys and girls).

¹⁹ OH: Angul: 20; Berhampur (Boys): 50; Berhampur (Girls): 25; Rourkela: 50; SH: Angul: 20; Berhampur (Boys): 50; Berhampur (Girls): 25; Rourkela: 50

Expenditure incurred by OH/ SH and CCIs were mainly towards diet, bedding and clothing of juveniles as well as towards training, administrative expenses, Information, Education, Communication and Advocacy, *etc.*

To assess the infrastructure and human resource availability as well as care and protection extended to JCLs and CNCPs in OH/ SHs and CCIs, Audit was conducted during July to September 2015 covering the period 2012-15. Audit examined records of four OH/ SHs and 11 CCIs (including 10 CCIs run by NGOs), W&CD Department and Home Department, Directorate of Prison and Correctional Services, OSCPS and DCPUs of three districts (Ganjam, Khurda and Sundargarh). Joint physical inspection of assets/ facilities of these OH/ SHs and CCIs were also conducted.

Audit Findings

3.2.2 Non-segregation of JCLs

Section 8 (4) of JJ (C&PC) 2000 Act, *inter alia*, required retaining JCLs in OHs according to their age giving due consideration to the offences committed. Year-wise position of juveniles admitted, released and housed in all the eight homes of the State during 2012-15 is given below:

Table 3.2.2: Trend of juveniles admitted and disposal of their cases

Year	Juveniles at the beginning of the year	Juveniles admitted during the year	Total	Juveniles released	Juveniles at the end of the year
2012	121	687	808	640	168
2013	168	863	1031	845	186
2014	186	877	1063	836	227
2015 (up to March 2015)	227	228	455	220	235
Total		2655		2541	

(Source: Information compiled by Audit from OH/ SHs)

During 2012-15, the admitted 2,655 juveniles comprised of 514 JCLs charged with theft, 337 with burglary, 147 with attempt to murder, 212 with murder, 381 with rape and 1,064 with other crimes.

Audit noticed that:

- All four OHs and four SHs were functioning at four locations with common infrastructure and man-power. These homes were using the same dormitory for accommodation of under-trial JCLs and confirmed offenders. The JCLs were not segregated which was in violation of provisions of the JJ Act. As a result, all 2,655 juveniles admitted during the period 2012-15 were kept together without segregation at these four 'OH/ SHs'. As on 31st March 2015, 235 JCLs comprising of 216 under-trial JCLs and 19 confirmed offenders were accommodated together in these homes. The Department assured (December 2015) that segregation of inmates would be ensured after completion of construction of new building at Berhampur and Rourkela.
- Out of 120 juveniles accommodated in OH Rourkela, 57 Boys were involved in multiple offences and were admitted in same OH more than once. Number of JCLs committing multiple crimes in the State

also increased from eight in 2010 to 73 in 2013. Thus, co-inhabitation of under-trial and confirmed offenders acted against the objective of bringing JCLs to the mainstream of the society.

- Despite instructions (September 2013) of the W&CD Department, segregation of JCLs who attained 18 years of age was not ensured as 11²⁰ JCLs over 18 years of age were retained in three OHs at Angul, Berhampur (Boys) and Rourkela (March 2015). The Department stated (December 2015) that number of such JCLs above 18 years came down to three.

3.2.3 Delay in finalisation of cases of Juveniles

As per Rule 22 (3) of the JJ (C&PC) Orissa Rules, 2009, cases of JCLs are required to be finalised within a maximum period of six months.

Audit noticed that there were 76 juveniles in the OH/ SHs of the State as of March 2015, whose cases were pending for disposal for periods ranging from 6 to 24 months and above²¹. The reasons for pendency are attributable to non-review of non-serious cases, holding of lesser number of JJB meetings and delay in production of juveniles before the JJB as discussed below.

3.2.4 Deficiencies in functioning of JJBs

3.2.4.1 Non-termination of proceedings by JJBs in non-serious cases

As per Rule 22 (3) of the JJ (C&PC) Orissa Amendment Rules, 2009, every enquiry should be completed within four months after the first summary enquiry and in exceptional cases, such period may be extended by two months. Delay beyond four to six months shall lead to termination of the proceeding of cases except where the nature of alleged offence is serious.

Test check of four DCPUs revealed that 1051²² non-serious cases were pending for completion of inquiry beyond six months in four JJBs. Despite this, the proceedings were not terminated. As a result, JCLs were retained in OHs for longer periods denying them timely justice besides overcrowding in OHs.

The Department stated (December 2015) that it was resolved in meeting dated 30 November 2015 of Hon'ble JJ Committee of Odisha High Court that JJBs would strictly adhere to Rule 22 (c) of JJ (C&PC) Odisha Rules, 2002 and its subsequent amendments. It also stated that four additional JJBs would be set up in Sambalpur, Khurda, Ganjam and Sundargarh, where the number of cases was high.

3.2.4.2 Inadequate number of JJB sittings

Rule 3 (1) of the JJ (C&PC) Orissa 2002, *inter alia*, envisaged that JJB shall meet on all working days of a week, unless pendency of the case is less in a particular district. As per Rule 22 (3) (b) of JJ (C&PC) Orissa Rules, 2002 read with Section 14 of the Act, the JJB would complete every inquiry within a period of four months, which may be extended by two months, on recording of the reasons thereof by the Board.

²⁰ Angul (3), Berhampur (2) and Rourkela (6)

²¹ Six months to one year: 47 cases, more than one year to two years: 24 cases and two years and above: five cases

²² Angul (125), Ganjam (251), Khurda (446) and Sundargarh (229)

The number of pending cases *vis-a-vis* number of sittings of JJB in three test checked DCPUs during 2012-14 were as follows:

Table 3.2.3: Pending cases vis-a-vis sittings of JJBs

Name of the DCPU	2012		2013		2014	
	Total number of cases pending for disposal	No. of days/ meetings held (cases disposed)	Total number of cases pending for disposal	No. of days/ meetings held (cases disposed)	Total number of cases pending for disposal	No. of days/ meetings held (cases disposed)
Ganjam	472	28(86)	521	53(17)	640	193(228)
Khurda	526	40(49)	603	40(43)	673	123(96)
Sundargarh	NA	46(NA)	628	30(339)	535	33(220)

(Source: Compiled from records of DCPO and information furnished by JJBs)

JJB meetings were not conducted on every working day despite large pendency. JJB, Khurda held only 203 sittings against requirement of 720 sittings during 2012-2014. Similarly, JJBs Ganjam and Sundargarh held only 274 and 109 sittings respectively against required 720. Though JJBs have to conduct the meeting in the premises of OHs, the same were not conducted in OHs at Berhampur (boys and girls).

3.2.4.3 Delay in production of JCLs before JJB

Audit noticed that 137 JCLs out of 216 in OHs as of March 2015 were produced before concerned JJBs after one and a half to 28 months²³ from the date of their last production. Further, in two test checked JJBs (Khurda and Sundargarh), it was noticed that 135 out of 1208 JCLs were not produced before concerned JJBs since their first appearance before JJBs even after four months.

Superintendent of OH/ SH (girls), Berhampur attributed the delay in production of JCLs before JJBs to non-arrival of police escort party. The Department stated (December 2015) that directions have already been issued to reduce the pendency by 31 December 2015.

3.2.5 Deficiencies in CWC sittings

Section 29 (1) of the JJ Act provides for constitution of Child Welfare Committee (CWC) in each district or group of districts for CNCP. As per Rule 27 (3) CWC must complete the inquiry within four months. Section 25 (1) provides that the Committee shall hold its sittings in the premises of the children's home and shall meet on at least three days a week *i.e.* at least 156 sittings per year. Further, as per Section 18 (3) of JJ Act 2006, the State Government shall review the pendency of cases of the Committee at every six months and shall direct the Committee to increase the frequency of its sittings or may cause the constitution of additional Committee.

In five test checked open shelters²⁴, the period of stay in case of 70 out of 406 children (17 *per cent*) was more than four months as of March 2015. Test

²³ Up to four months-14, four to 12 months-105, 13-24 months-15, above 24 months-3

²⁴ Ruchika Social Service Organisation, Bhubaneswar; Bhairabi Club, Khurda; Biswa Jeevan Seva Sangha, Bhubaneswar; Disha Open Shelter, Sundargarh and ISRD Open shelter, Ganjam

check of three DCPUs revealed that during 2012-15, the shortfall in sittings ranged from six to 156²⁵ in Ganjam and Sundargarh districts as against the required 156 sittings per year of CWCs. Thus, due to less number of sittings of CWC, cases were pending for disposal beyond the prescribed limit of four months. Moreover, test check of 11 CCIs in three sampled districts revealed that CWCs conducted their sittings only in the district headquarters in contravention to the above Rules.

The Department stated (December 2015) that it had issued instructions to CWCs in its meeting (November 2015) to hold more number of sittings for speedy disposal of pending cases and assured of appropriate action in the matter.

3.2.6 Availability of required infrastructure/ facilities

3.2.6.1 Availability of physical infrastructure in OH/ SHs and CCIs

Rules 8 and 9 of JJ (C&PC) Rules, 2002, *inter alia*, stipulate that each OH/ SH/ CCI shall have dormitory (40 sft. per juvenile), bathrooms (at least one bathroom for ten children and one latrine for seven children), fly-proof kitchen and sufficient playground according to the number of juveniles. Joint Physical Inspection (JPI) was conducted in all OH/ SHs by Superintendent and in 11 CCIs by staff of CCIs with concerned DCPUs in presence of Audit.

Audit noticed inadequate infrastructure in all test checked juvenile homes as indicated in table below:

Table 3.2.4: Requirement vis-a-vis availability of infrastructure in eight OHs and SHs

Type of infrastructure	Requirement	Availability
Dormitory (floor space)	40 sft. per juvenile	In eight OH/ SHs, only 5818 sft. (50 per cent) was available which could accommodate only 145 JCLs as per norm. However, 235 JCLs were accommodated resulting in overcrowding of wards. In OH/ SH, Rourkela 120 JCLs were accommodated in two rooms (2698 sft.) <i>i.e.</i> 22 sft. per JCL only. In six out of 11 test checked CCIs in Khurda (one), Sundargarh (two) and Ganjam (three), 261 children were provided only 25 sft. space per child on an average.
Bathrooms/ Latrines	At least one bathroom for 10 children and one latrine for seven children	No bathroom was available in six homes located at Berhampur (4) and Rourkela (2). JCLs were bathing in open space. In six CCIs (Khurda-1, Sundargarh-2, Ganjam-3), 41 latrines were available against 65 required as per norm. Condition of existing latrines was also found to be unhygienic as there was no piped water supply to the latrines. No bathroom was available within the institutions.
Drinking water	Sufficient and treated drinking water	Treated drinking water facility was available at three OH/ SHs at Berhampur (2) and Angul (1), whereas the same was not available at OH/ SH, Rourkela. In three ²⁶ out of 11 CCIs, treated drinking water facilities were not available.

²⁵ Meetings held in Ganjam: 2012-72, 2013-150, 2014-132; Khurda: 2012-158, 2013-163, 2014-237; Sundargarh: 2012-57, 2013-0, 2014-79

²⁶ Jayasankar Sevashram, Belsara; Roman Catholic Mission Boys, Surada and Balmikeswar Anathashrama, Dharakote

Kitchen	Fly-proof kitchen	None of the four OH/ SHs and 11 test checked CCIs had fly-proof kitchens.
Playground	Sufficient playground area	In all four OH/ SHs and 11 test checked CCIs, no playground was available for outdoor games and physical exercise of JCLs/children.

(Source: Joint physical inspection of OH/ SHs)

As per Rules 8 and 9 of JJ Rules, 2002, the responsibility for providing adequate space and hygienic living condition to the inmates of the OH/ SHs is of Government. Audit noticed the following:

- One out of three dormitories at Angul was in dilapidated condition and water was leaking. Though ₹ 6 lakh was placed (2014-15) with the Executive Engineer (R&B) Division, Angul for repair of the existing building, the same could not be completed. The Superintendent stated (March 2015) that the Executive Engineer (R&B Division) expressed his inability to complete the renovation work due to insufficient funds. The Department stated (December 2015) that it had proposed for ₹ 56.27 lakh under ICPS in the Programme Implementation Plan of 2015-16 for improvement works of OH/ SH, Angul.
- For renovation of existing structures available in the campus of Central home for Women, Berhampur and improving/ converting the same to OH/ SH for boys as well as girls, two estimates of ₹ 55.65 lakh and ₹ 50 lakh were approved by W&CD Department in July 2011 and December 2014 respectively. The entire amount was placed with the Executive Engineer, R&B Division, Ganjam for execution of the work. Though civil works were completed, these were not made functional due to non-completion of electrical works. W&CD Department stated (December 2015) that the work of OH/SH, Berhampur was nearing completion and inmates would be shifted to the new building soon.
- Similarly, to shift the OH/ SH Rourkela functioning in special jail premises to another site, W&CD Department accorded (July 2011) administrative approval for ₹ 3.77 crore²⁷ and released (October 2010) ₹ 59.73 lakh. The balance of ₹ 3.17 crore was released between December 2014 and February 2015. As of 30 September 2015, only ₹ 1.09 crore was utilised by the Executive Engineer and the work remained incomplete. W&CD Department stated (December 2015) that the matter was being expedited.

Thus, the basic infrastructure required as per the guidelines of the Government and ICPS at OH/ SHs could not be ensured despite availability of adequate funds.

3.2.7 Non-transfer of OH/ SH, Angul to W&CD Department

Project Approval Board under ICPS directed (September 2011) the transfer of OH/ SH, Angul from Home Department to W&CD Department. However, the same was not transferred as of December 2015.

Audit noticed that in respect of three OH/ SHs run under W&CD Department, maintenance charges were allowed at ₹ 750 per child per month up to

²⁷ Excluding *pro rata* charges out of total estimated cost of ₹ 436.88 lakh

September 2014 and ₹ 2000²⁸ thereafter as per funds received under ICPS while in respect of OH/ SH at Angul, which is run by Home Department, the maintenance cost was ₹ 1,350 per child per month (₹ 45 per day) up to September 2013 and ₹ 1800 per child per month (₹ 60 per day) thereafter. Thus, there were differential maintenance charges for the inmates of OH/ SHs of the State.

W&CD Department stated (December 2015) that action for transfer of the OH/ SH at Angul to W&CD Department and ensuring equal diet, bedding and clothing cost had been initiated.

3.2.8 Human Resource

3.2.8.1 Non-availability of adequate manpower

Rule 48 (5) of JJ (C&PC) Rules, 2002 required deployment of 20 whole time and five part time staff for an institution with a capacity of 100 juveniles/ children. Requirement as well as availability of manpower in the two test checked OH/ SHs {(Rourkela, Berhampur (boys))} as on March 2015 are indicated in Table 3.2.5:

Table 3.2.5: Requirement vis-a-vis availability of manpower in test checked homes

Type of manpower	Norm (for 100 children)	Requirement as per norm	Posts sanctioned	Actual availability	Shortage against norm
Superintendent	1	2	2	2	0
Doctor	1(Part time)	2	2	2	0
Para medical staff	1	2	2	1	1
Probation Officer	3	6	0	0	6
Cook	2	4	2	2	2
House father/mother	4	8	0	0	8
Counsellor	2	4	0	0	4
Educator	2 (Part time)	4	2	2	2
Vocational Instructor	1	2	0	0	2
Store keeper cum accountant	1	2	2	2	0
Helper	2	4	2	2	2
Art & craft cum music teacher	1 (part time)	2	0	0	2
Gardener	1 (part time)	2	0	0	2
Peon/sweeper	2	4	3	3	1
Driver	1	2	0	0	2
Total	25	50	17	16	34

(Source: Information furnished by the sample OH/ SHs)

Only 17 posts (34 per cent) were sanctioned by Government and 16 posted against the required 50 as per norm. The shortage of critical staff such as Counsellor, Vocational trainer, Educator and Helper affected counselling service, vocational training and periodic health check-ups as discussed below:

- **Absence of counselling facility:** Counselling facility, though crucial for correcting JCLs, was not available in any of the OH/ SH in the State. Out of 11 sampled CCIs, Counsellors were available only in four CCIs. No organisations or agencies were deployed in remaining CCIs

²⁸ Diet: ₹ 1400 and bedding, clothing, etc: ₹ 600

for counselling the inmates in absence of Counsellors. W&CD Department assured (December 2015) it would make provision for Counsellors in Programme Implementation Plan 2016-17 under ICPS.

- **Vocational training:** In six out of eleven test checked CCIs, vocational training was not conducted as the posts of vocational instructors were not filled up. W&CD Department assured (December 2015) that it would extend vocational training to CCIs.

Audit also noticed the following deficiencies in rendering health service to juveniles, though doctors and paramedical staff were available:

- **Medical check-up at the time of admission:** Rule 10 (2) of JJ (C&PC) Rule, 2000 required examination of each JCL by the Medical Officer within 24 hours of admission to OH in normal cases and within 48 hours in special cases. JCLs transferred to SHs were also to be examined within such time. However, in none of the test checked homes, where the juveniles admitted and transferred to OH/ SHs, medically examined at their admission. W&CD Department assured (December 2015) that it would take appropriate action in the matter.
- **Quarterly health check-up:** The health of juveniles was not checked quarterly in any of the test checked OH/ SHs. Similarly, in 11 test checked CCIs, though medical register was maintained, neither any monthly medical check-up nor any Health Card was maintained. W&CD Department assured (December 2015) that it would enquire into the matter and take appropriate action.
- **Non-availability of specialised medical care:** As per Section 48 (2) of JJ Act, 2000, juveniles suffering from sexual disease, tuberculosis, etc. shall have to be kept separately. On examination of records of OH/SHs, Audit noticed that two juveniles, though suffering from Abdomen Tuberculosis with HIV positive at Berhampur and at Rourkela, they were kept with other juveniles. In OH/ SH Rourkela, no provision of bed was made for the HIV affected juvenile. Besides, 17 JCLs, affected with scabies, were kept along with other juveniles in same room and special medical care was absent for them. W&CD Department assured (December 2015) to ensure availability of specialised medical care in such OH & SHs.

3.2.9 Safety and security at OH/ SHs

As per Rule 17 (2) of State JJ Rules, 2002, in the event of escape of juvenile, the parents/ guardians shall be informed immediately about such escape.

Audit noticed the following:

- **Escape of JCLs:** As per the records produced and information furnished by the Superintendents, during 2010-15, 36 JCLs escaped from OH/ SH, Berhampur (Boys)²⁹ and Rourkela (Boys)³⁰ out of which 24 JCLs were recaptured and remaining 12 JCLs were not recaptured (September 2015). Out of 27 JCLs of Berhampur, only 21

²⁹ 27 JCLs in May 2014

³⁰ 2 in 2010 and 7 in 2012

were recaptured. However, the parents of all these escaped JCLs were not intimidated of the fact, as required. The Department stated (December 2015) that Superintendents of Police of both Berhampur and Rourkela were instructed (September 2015) to deploy six additional guards at each such OH/ SH to ensure more security.

- ***Non-conducting regular checking of JCLs:*** Regular checking of JCLs to detect possession of any intoxicating/ prohibited material was not conducted by either the Superintendents or the Police despite knowing the fact that four JCLs had brought intoxicating materials to OH Rourkela at the time of admission. W&CD Department assured (December 2015) that it would look into the matter.

3.2.10 Rehabilitation and resettlement

3.2.10.1 Absence of mechanism to track JCLs during post-release period

As per Rule 36 of JJ Rules, 2002, there shall be an aftercare organisation to organise programmes for the children after leaving SH/ OH to integrate them with the mainstream of the society. During 2012-15, 82 confirmed juveniles in conflict with law were released from four SHs. However, information on JCLs corrected, rehabilitated and integrated with mainstream after their release was not available as there was no mechanism in Home/ W&CD Departments to track their activities after release from SHs. In absence of any such tracking mechanism, the Government could not even confirm mainstreaming of Juveniles.

W&CD Department stated (December 2015) that it would address the Home Department to develop a post release tracking mechanism for JCLs.

3.2.10.2 Non-establishment of aftercare organisations

Rule 38 of Central Rules as well as Rule 36 of State Rules provides that the State Government shall set up an aftercare organisation for care of juveniles or children, after they leave special/ children homes, to facilitate their transition from an institution-based life to mainstream society, for social re-integration.

Audit noticed that though 82 JCLs were released from four SHs and 414 children were released from 11 test checked CCIs during 2012-15, they were not provided aftercare due to absence of any such organisations. However, one CCI (Utkal Balashram, Berhampur), despite non-availability of aftercare organisation, arranged training for 14 children in painting in Government Industrial Training Institute, Berhampur out of which five children were placed after completion of training.

W&CD Department stated (December 2015) that preparation of aftercare guidelines was under process and an aftercare organisation would be identified after formulation of the guidelines.

3.2.11 Inspection and monitoring

3.2.11.1 Non-constitution of Management Committee

Rule 22 of the JJ (C&PC) Orissa Amendment Rules, 2009 provides that every institution shall have a Management Committee comprising of District Child Protection Officer as the Chairperson, Officer-in-Charge as Member-Secretary

and six other members³¹ for management of the institution³² and monitoring the progress of every juvenile and child. The Committee was to meet every month to consider and review custodial care, individual problems of juveniles, vocational training and education, guidance and counselling, planning of post release rehabilitation programme, etc.

Audit noticed that no such Committee was constituted for effective functioning of the OH/ SHs, Angul and Berhampur (boys and girls) while the same for Rourkela, though constituted (August 2009), met only thrice. Due to non-constitution of the Committee and non-convening of meetings regularly, progress on care of juveniles could not be monitored. W&CD Department assured (December 2015) that it would issue suitable instructions for ensuring constitution of Management Committees and their regular meeting.

3.2.11.2 Deficiency in inspection

Rule 21 of the JJ (C&PC) Orissa Amendment Rules, 2009 provided that Government shall constitute State/ District Inspection Committee which shall visit and oversee the conditions in the institutions and appropriateness of the processes for safety, wellbeing, permanence, etc., review the standards of care and protection being followed by the institutions. The inspection shall be carried out once in every three months.

Audit noticed that the OH/ SH at Angul, Berhampur (Girls) and Rourkela were never inspected by the State/ District Committee during 2012-15. However, the OH/ SH (Boys) Berhampur was inspected twice (October 2013 and September 2014) by the State Committee. The District Committee inspected the home on 27 May 2014, only after the escape of JCLs on 26 May 2014.

3.2.12 Conclusion

Functioning of observation homes and special homes in the State was poor due to non-availability of adequate space and keeping under trial and confirmed offenders in the same premises. Accommodating JCLs with multiple crimes along with other inmates in combined OH/ SHs was in violation of law. Delay in disposal of cases by JJBs and non-completion of enquiries by the CWCs within the stipulated period resulted in detention of juveniles/children for longer periods in OH/ SHs and CCIs, resulting in denial of timely justice.

Infrastructure like dormitory, bathrooms, latrines, drinking water, kitchen, playground, etc. were either absent or inadequate. Required posts for whole time staff for different homes were not sanctioned. Medical check-up of juveniles, vocational training and counselling facility were almost absent in the juvenile homes. Lack of aftercare rehabilitation, mandated inspections by CWCs and mechanism to track the JCLs after their release rendered the functioning of all the OH/ SHs ineffective in mainstreaming the juveniles.

³¹ Probation Officer, Medical Officer, Psychologist or Counsellor, Workshop Supervisor or Vocational Instructor, teacher, Social worker, Member of JJB or Member of CWC and a juvenile or child representative being members

³² OH or SH or Children's Home or Shelter Home

Tourism and Culture Department

3.3 Preservation and conservation of ancient monuments and historical places

3.3.1 Introduction

As per provisions of Entry 12 of List II of the Seventh Schedule of the Constitution, ancient and historical monuments, other than those declared to be of national importance, fall under the domain of State Government. The State of Odisha is known for its wealth of ancient monuments and to protect and conserve the same, the Orissa Ancient Monuments Preservation (OAMP) Act, 1956 was enacted. The Act defined 'ancient monument' as any structure, erection or monument or any cave, sculpture of stone, metal or *tera-cotta*, etc., which is of historical, archaeological or artistic interest but excludes monuments of national importance which come under Archaeological Survey of India (ASI).

The Culture Department headed by the Commissioner-cum-Secretary is responsible for preservation³³ and conservation³⁴ (P&C) of ancient monuments in the State through the offices of the Director of Culture (DC) and the Superintendent, Odisha State Archaeology (OSA). Identification, exploration and conservation of important Buddhist monuments are done by 'Orissan Institute of Maritime and South East Asian Studies (OIMSEAS), an autonomous body, functioning under the DC. Besides, P&C of ancient monuments in coastal areas are executed under Integrated Coastal Zone Management Project (ICZMP), where DC also acts as the Project Director. DC and Superintendent, OSA are the main functionaries to execute the P&C works.

Audit of the entities involved in P&C of ancient monuments was conducted during June to August 2015, covering the period 2012-15, through examination of records of 114³⁵ out of 361 works and joint physical inspection (JPI) of 70³⁶ monuments, including four Buddhist sites were undertaken.

Audit Findings

3.3.2 Deficient planning and institutional arrangements

3.3.2.1 Planning

- **Absence of conservation plan:** OAMP Act empowers the State Government to identify the ancient monuments and notify the same as 'protected'. Thereafter, activities relating to preservation and conservation of monuments were to be undertaken by OSA and OIMSEAS. For this purpose, long term conservation plan for each protected monument was to be prepared and funds for P&C were to be proposed each year for allotment under the State Plan. However, no long or short term plan was prepared and only ₹ 1.87 crore was provided under State Plan during 2012-15 for P&C work of 218

³³ Preservation: The activity of protecting a monument from loss or danger

³⁴ Conservation: The activity relating to maintenance of monument in its present shape

³⁵ OSA: 96; OIMSEAS: 14; ICZMP: 4 works

³⁶ Protected: 43, Unprotected: 27 (INTACH: 10, ICZMP: 3, OIMSEAS: 4, OSA: 53)

protected monuments. Thus, the annual fund availability per monument worked out to only ₹ 28,593. As a result, 111 protected monuments were left without any P&C for over five years out of which 47 had no P&C work for last 20 years.

- **Delay in preparation of Action Plan under 13th Finance Commission (FC):** For utilisation of 13th FC grants, High Level Monitoring Committee (HLMC) headed by the Chief Secretary instructed (August 2010) the Department to furnish the Action Plan by November 2010 through the Finance Department for its consideration. It also advised to select around 100 heritage monuments/ temples located on the tourist route and not to thinly spread the fund on a large number of such monuments. The Department, however, included large number of monuments and *mutts* which were not agreed to by Finance Department and the plan had to be revised repeatedly. In absence of any comprehensive list of ancient monuments indicating the priority of P&C works, the Department had to depend on the public representation and other means to prepare the Action Plan. Ultimately, the Plan for P&C work of 328 ancient monuments including 107 protected and 221 unprotected monuments was put up to HLMC and got approved in May 2012. Thus, the Department was constrained to execute the works within three years, as it lost one full year during the project period, due to delay in preparing the plan.

3.3.2.2 Inadequate institutional arrangement

- **Vacancies in critical posts:** Availability of adequate manpower is necessary for ensuring proper maintenance of monuments as well as their safety and security. There were acute shortages of staff in all key positions in the OSA. Two posts of Curator (50 *per cent*), 32 Monument Attendants (38 *per cent*), one post each of Assistant Curator and Accountant, remained vacant for years. Despite instructions from the Government (October 2010) to fill these vacancies, no fruitful action was taken by the Department in this regard (October 2015). Only 85 posts of Monument Attendants were created to maintain 218 protected monuments and further requirement was not assessed till December 2015.
- **Non-appointment of experts:** OSA had only one Assistant Engineer, two Conservation Assistants and a non-technical head as Superintendent when ₹ 65 crore was granted by 13th FC for P&C works. Government decided (December 2010) to set up a 'Project Odisha Cell (Archaeology)' (POC) with a number of professionals like Project Management Expert, Financial Consultant, Chemical Expert, Conservation Consultant and post an Executive Engineer (EE) with expertise in conservation of heritage structures/ monuments as the Superintendent, OSA for smooth execution of P&C works.

Though POC was set up with Director of Culture as Project Director, but experts required were not appointed to execute the highly technical P&C work. Instead, OSA appointed one Assistant Engineer and 25 civil engineering diploma holders as Senior Consultants (SC) and Junior Consultants (JC) respectively on contract basis to execute the

projects both on OSA as well as OIMSEAS. Thus, the specialisation required for execution of P&C works was not given priority.

3.3.3 Issues relating to ‘protected monuments’

Section 3 of the OAMP Act, 1956 requires the State Government to notify ancient monuments as “protected” and accordingly, the Department notified 218 monuments as “protected” under said Act as of March 2015, last being in December 1998.

Audit noticed the following deficiencies:

3.3.3.1 *Lack of documentation of protected monuments*

Out of 218 monuments notified as “protected”, copies of notifications were not available with OSA in respect of 59 monuments and the artistic, archaeological and cultural heritage, importance, photographs, details of sculptures, *etc.* were not documented for all. Further, the requirements of P&C works for these protected monuments were not assessed periodically though the works were executed in 171 protected monuments during last 20 years. History of the same including “before” and “after” photographs was not documented. In absence of these details, it could not be verified whether the monuments were restored to their original shape or not. The Department stated (December 2015) that the notifications were misplaced during shifting of the office.

3.3.3.2 *Failure to acquire guardianship of the monuments*

Section 4 of the OAMP Act provides that the Government may purchase, take on lease or accept guardianship of protected monument. Section 5 provides that Government may execute agreements with the owners/ trustees for preservation of any protected monument with restriction on owner’s right to destroy, remove, alter and deface the monument or to build new structure on or near the site of the monument. Section 7 empowers the Government for enforcement of such agreement. Section 10 provides for compulsory acquisition of protected monuments under Land Acquisition Act in case the monuments are in danger of being destroyed or injured or allowed to fall into decay.

Audit observed that the Department had not initiated any action to take control of any of the 218 protected monuments, despite having such requirement in 215 cases³⁷. The Department also executed P&C works in 107 out of 218 monuments during 2012-15 without having the guardianship rights over the same.

3.3.3.3 *Failure to impose penalty for damage*

Section 16 of the OAMP Act, *inter alia*, provides that any person who destroys, removes, injures, alters, defaces or imperils a protected monument and any owner who destroys, removes, injures, alters, defaces a monument maintained by the State Government, shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both. During joint physical inspection of 43 protected

³⁷ Excluding three forts (Amarabati Fort, Raibania Fort and Khurdagarh Fort) for which there were no owner except the Department

monuments, Audit noticed defacing of monuments, soot formation, unauthorised construction and unauthorised activities, *etc.* as indicated below:

- Original monuments were defaced in 11 cases and temple arts were covered under cement plaster in three cases.
- New buildings were constructed on or near nine protected monuments and additions and alterations were made in the monuments in two cases.
- Marble and modern art replaced the original temple art in four cases.
- *Mandaps* were constructed for commercial activities in four cases, *i.e.* for conducting marriage, thread ceremony, *etc.* within the premises of monuments, though not permissible under OAMP Act.
- Soot formation was noticed in two monuments due to burning of camphor, oil and incense sticks, *etc.*
- In Dapanahakani temple, Iswarpur, Bhadrak, the wooden carving was completely dismantled and a new modern temple was constructed by the villagers. But no penal action was taken. OSA spent 13th FC Fund of ₹ 9.60 lakh on construction of boundary wall and pavement in the same temple premises.
- Protection signboard declaring the monument as “protected” and “prohibited area” was not found in 32 out of 43 cases (74 *per cent*).
- Notice board indicating the historical, cultural and artistic importance was not found in any of the sites.

Since the Department did not take the ownership of all these monuments, it could not initiate any penal action against the trustee or persons responsible for such unauthorised activities carried out in these protected monuments.

3.3.4 Absence of mechanism for identification and documentation of ancient monuments

Section 3 (1) of the Act empowers the State Government to declare an ancient monument by notification to be a ‘protected monument’ while Section 11 (1) requires the Government to ensure maintenance of all such monuments. In order to notify ancient monuments as “protected”, it is essential for the Department to conduct a comprehensive survey of all ancient sites/monuments in the entire State, to identify, profile and document the same. Such a comprehensive documentation or a database should be the basis for prioritisation of ancient monuments for notifying the same as protected and executing P&C works.

Audit observed that OSA did not conduct any comprehensive survey except the survey conducted only in five river basins around Bhubaneswar prior to 1974-75. Only one survey report (Prachi Valley) was published so far. Further, notification declaring ancient monument as ‘protected’ was last issued in December 1998. However, under 10th, 11th and 12th Finance Commission awards (1995-2010), the Department executed P&C works at a cost of

₹ 33 crore for 826³⁸ monuments which were not declared as 'protected'. None of these unprotected monuments were notified as protected and profiles of the same were not documented by recording their archaeological, historical and artistic importance. The Department did not devise any criteria to prioritise their notification and further to carry out the P&C work.

The Department stated (November 2015) that OSA had surveyed and documented a large number of monuments in different phases since inception. The reply indicates that the Department adopted only an *ad hoc* method and did not follow a structured approach to identify all ancient monuments comprehensively for notifying them as protected and prioritising the P&C works.

3.3.5 Deficiencies in excavation works

Excavation of archaeological remains of Buddhist era to explore Buddhist archaeological sites is the main objective of the OIMSEAS. During 2011-15, conservation works of four Buddhist excavated sites³⁹ were done, utilising ₹ 2.10 crore up to March 2015.

- **Non-submission of reports on excavation:** As per the GoI guidelines (November 2004), no excavation was to be treated as complete till the report of such excavation is published and made available to public. Besides, the excavator must publish the report within five years of completion of excavation. Otherwise, excavation or exploration becomes a futile exercise in the absence of reporting of the findings and the same would not provide inputs for further research and analysis.

Audit observed that eight Buddhist sites⁴⁰ (two protected and six unprotected) were excavated by OIMSEAS during 1989-90 to 2012-13, but the report on findings of such excavation was not published in seven cases⁴¹ for over 8 to 24 years as concerned excavators who were ex-Director of the Institute, had already retired. OIMSEAS, however, showed these excavations as completed which was irregular. As a result, descriptive catalogue of antiquities, artifacts and sculptures unearthed during excavation at Tarapur, Deuli, Kyama and Vajragiri was not prepared (September 2015) for preservation.

The Department stated (November 2015) that both the Directors who executed the excavation works had already retired and did not submit the reports. The reply confirms non-compliance of GoI guidelines regarding excavation and timely submission of reports.

- **Excavation done without declaring sites as protected:** In two cases (Tarapur and Solampur), ₹ 1.05 crore was utilised during 2012-15 on conservation of excavated sites without declaring the sites as protected. Besides, excavation started at Aragada during 2012-13 remained

³⁸ 10th FC: 256; 11th FC: 291; 12th FC: 279

³⁹ Protected: Brahmabana (Nischintkoili); Aragada (Khurda); Unprotected: Solampur (Bhadrak) and Tarapur (Jajpur)

⁴⁰ Excepting Aragada taken up during 2012-15 which were under progress

⁴¹ Manikpatna: 1989-93; Olandaz Sahi: 1990-91; Langudi: 1996-2002; Kayama: 2005-06; Deuli: 2005-06; Tarapur: 2005-07 and Vajragiri: 2005-06

incomplete as of March 2015. The Department, in reply, assured (November 2015) to declare these sites as protected and complete the work at Aragada.

3.3.6 Safety and security of monuments

3.3.6.1 Inadequate watch and ward

The Department and OSA are responsible for safety and security of protected ancient monuments. Audit noticed that watch and ward were provided only for 46 out of 218 protected monuments due to non-filling of 32 vacant posts of Monument Attendants (MAs) and non-assessment of need for further posts for remaining protected monuments. Four sculptures were stolen (2011-15) from different protected monuments as per the records of OSA and final report from police was awaited (November 2015).

3.3.6.2 Lightning arrester in high rise temples

Technical Expert Committee (TEC) set up (September 2011) by the State Government to aid and advise the Department on P&C works, advised (24 October 2014) the OSA to collect data on all monuments having height of 10 meter and above and take steps to fix lightning arrester system on the temples in descending order, starting from the tallest temple. However, such list was not prepared by the Superintendent and 24 out of 43 protected monuments inspected by Audit had no lightning arrester.

3.3.6.3 Excavated sites and sculptures left unsecured

All excavations were required to be protected from inclement weather. Protective sheds (Iron/PVC/Acrylic) were also required over the excavated site to protect the excavation and excavated materials from vagaries of nature.

Audit noticed that in three out of four excavated sites, Buddhist sculptures/antiquities were left in open space while in the remaining site (Tarapur), the same was kept in a dilapidated shed. In Solampur and Brahmabana, though sculpture sheds were completed since January 2014, the sheds were kept idle and sculptures were left unsecured in open space without any watch and ward.

3.3.7 Irregularities in execution of P&C works

Out of 361 P&C works taken up during 2012-15, 216⁴² were completed, one was not taken up while remaining 144 were under progress as of March 2015. Scrutiny of the records revealed the following irregularities:

- **Delay in execution of P&C works:** Indian National Trust for Art and Cultural Heritage (INTACH) was selected by the Department for execution of 26 works at a cost of ₹ 8.49 crore through a Memorandum of Understanding (February 2013). However, despite not having adequate technical manpower to execute remaining 302 P&C works involving ₹ 56.51 crore, the Department allowed both OSA and OIMSEAS to execute these works departmentally. This ultimately led to delay in execution, non-completion of 144 (40 per cent) works and non-submission of completion certificates.

⁴² State Plan: 27, 13th FC: 185 and ICZMP: 4

- **Non-execution of structural works of main monuments:** In 12 test checked monuments, instead of executing essentially required structural works needed for the monuments, routine civil works like construction of stone or brick boundary walls, kitchen shed (*rosaghar*), stone pavement, concrete road, *etc.* were executed at a cost of ₹ 4.01 crore as confirmed in JPI.
 - **Total absence of chemical conservation:** Despite provision in the Action Plan (13th FC) approved by HLMC for chemical conservation of monuments, the same was not made in any of the works taken up during 2012-15. Joint physical inspection of 52 monuments revealed that 20 monuments required chemical conservation as vegetation growth, shrubs and fungus were noticed on the monuments.
 - **Unauthorised P&C works on unprotected monuments:** As per OAMP Act, the Department has to notify the monument as protected before taking up P&C works. In contravention of this, OSA utilised ₹ 20.04 crore on P&C of 221 unprotected monuments including 77 monuments which were not registered with Commissioner of Endowment. All these remained under the ownership of persons or trustees or managing committees. On joint physical inspection of 11 such monuments where ₹ 4.64 crore was utilised, Audit noticed that ₹ 74.62 lakh was utilised on two monuments which did not have any carving or archaeological structure or artistic importance. In two other cases⁴³, structural restoration work was left incomplete after utilising ₹ 1.25 crore due to want of required funds. In three other monuments having artistic and heritage structures P&C work, though required, was not done.
-
- P&C works of Purbeswar temple left incomplete*
- **Incomplete P&C works in protected monuments:** Instead of assessing the requirement of P&C works in totality, estimates were restricted to availability of funds which led to many works being left incomplete. Main structures of four⁴⁴ ancient forts were not restored to appropriate level as revealed in JPI. Instead, ₹ 1.47 crore was utilised on construction of boundary walls and stone paving. In two cases⁴⁵, restoration works were left incomplete after spending ₹ 1.03 crore.
 - **Execution of works on monuments without having approach road:** HLMC instructed the Department to select monuments for P&C works only after ensuring availability of the approach road. But in three

⁴³ Purbeswar temple: ₹ 92.92 lakh and Sikharchandi temple: ₹ 32.43 lakh

⁴⁴ Amarabati Fort, Chhatia: ₹ 50 lakh; Ganjam Fort: ₹ 12.70 lakh; Raibania Fort: ₹ 29.96 lakh and Khurdagarh Fort: ₹ 54.56 lakh

⁴⁵ Chandesar temple, Khurda: ₹ 53.68 lakh and Bankada excavated site: ₹ 49.75 lakh

cases⁴⁶, ₹ 1.20 crore was utilised on sites where no approach road was available and visitors were deprived of visiting these monuments.

- **Construction of new structure replacing the monument:** Conservation of ancient monuments requires maintenance of monument in its present shape. However, in case of Tarapur excavated site, a completely new stupa and boundary wall was constructed by OIMSEAS in place of an excavated brick stupa, utilising ₹ 56.77 lakh during 2012-15.
- **Irregularities in payment of wages:** The procedure for engagement of labourers for execution of works departmentally and payment of wages through muster roll has been prescribed in Appendix XIV of OPWD Code Vol. II. Based on recommendation of Culture Department, HLMC and Finance Department agreed (May 2012) for execution of P&C works under 13th FC award, at higher labour rate of Archaeological Survey of India (ASI).

However, on examination of muster rolls furnished by the departmental officials in respect of 114 test checked conservation works where ₹ 8.81 crore was shown to have been paid towards wages of labourers through muster rolls, irregularities like payment of wages (₹ 8.81 crore) in cash, not mentioning identity number (₹ 8.81 crore), address not mentioned in muster rolls (₹ 70.61 lakh), payment of wages for engagement on national holidays (₹ 19.04 lakh), payment of wages to third party other than the labourer (₹ 25.76 lakh), engagement of same labourer on same days twice (₹ 13.38 lakh), details of work done, not indicated (₹ 63.10 lakh), etc. were noticed.

The Department agreed (December 2015) to ensure transparency in wage payment as most of the workers have their bank account and to issue suitable instructions in the matter for non-recurrence of such irregularities in future.

- **Irregularities in purchase of materials:** The OPWD Code prescribed for procurement of stores with cost exceeding ₹ 50,000 through open tender process. OSA paid ₹ 9.12 crore to JCs towards cost of materials purchased wherein irregularities like purchase of materials of ₹ 9.12 crore in 1,370 purchase vouchers on cash payment for amount ranging from ₹ 1,190 (Sairaj Traders, Jatani) to ₹ 7.92 lakh (Akhandalmani Hardware & Paints store, Dasarathpur, Jajpur), purchase of materials without inviting tender in 551 cases (₹ 7.12 crore), purchase of materials with false TIN Numbers in 64 cases (₹ 1.06 crore), etc. were noticed. Besides, materials were also shown as purchased from far off places, ranging from 80 km to more than 500 km without keeping any proof of transportation in case of six works.

The Department stated (December 2015) that possibly due to work pressure, due vigilance could not be observed and assured to issue

⁴⁶ Amarabati Fort, Chhatia: ₹ 50 lakh; Panchpandav temple, Dhanish: ₹ 24.68 lakh and Brahmabana: ₹ 45 lakh

suitable instructions for non-recurrence of such irregularities in future.

- **Irregular splitting of estimates:** OIMSEAS was entrusted with execution of 33 works. Out of this, estimates of 15 works were split into 85 works, limiting the estimated costs between ₹ 9.90 lakh and ₹ 10 lakh to avoid sanction of the higher authority.
- **Excess payment to JCs:** The Department approved three⁴⁷ P&C works of monuments under ICZMP at a cost of ₹ 1.33 crore. The approved estimates provided for execution of work of stone pavement and laterite stone masonry and the same were executed by JCs.

Scrutiny of records revealed that the approved estimates were prepared considering the Orissa Analysis of Rates (OAR) which provided for 2.13 man days⁴⁸ of labour for execution of one cubic metre (cum.) of stone paving work. As against this, the JCs changed and increased the labour requirement to 21.01⁴⁹ man days per cum. without obtaining the approval of the competent authority. This resulted in utilisation of 8,700 man days of labour against the requirement of 2,512 man days for 363.58 cum. of stone work actually executed, which led to excess payment of ₹ 20.21 lakh on 6,188 man days. The Department stated (November 2015) that the matter was under examination and action as deemed proper would be initiated for realisation of excess payments.

- **Payment for materials beyond the permissible limit:** The Department utilised 421.525 cum. of rough stone, sand stone and khandolite stone in four works. After taking into account permissible 10 per cent wastage (42.15 cum.), total quantity of stone required was 463.675 cum. Instead, the JCs procured 532.48 cum. of stone for ₹ 58.46 lakh. This resulted in excess quantity of 68.805 cum. of stone costing ₹ 6.59 lakh.

The Department stated (November 2015) that 10 per cent wastage of conservation materials were allowed. However, Audit observation is on the utilisation of the materials beyond the permissible limit.

3.3.8 Awareness, interpretation and visitor amenities

The primary objective of managing heritage is to communicate its significance and need for its conservation to the community and to the visitors. It is important to interpret and explain the cultural and historical significance. Audit noticed in 43 protected monuments that cultural notice board interpreting the history and cultural heritage of the monument was not available. Besides, visitor amenities like toilets, drinking water, parks, etc. were also not available in any of these monuments.

⁴⁷ Harachandi Temple, Baliharachandi (₹ 46.10 lakh), Bateswar Temple, Kantiagarh (₹ 43 lakh) and Harihar Temple, Nairi (₹ 43.80 lakh)

⁴⁸ Stone pecker, skilled *mulia* and man *mullia* each at the rate of 0.710 man days

⁴⁹ First Class temple mason (15.420 man days), skilled man *mulia* (5.340 man days) and unskilled man *mulia* (0.250 man days)

3.3.9 Fund management

Audit examined the fund availability as well as its utilisation for P&C of monuments and noticed that during the period 2012-15, ₹ 50.55 crore⁵⁰, out of ₹ 73.18 crore⁵¹ provided under various schemes/ programmes was utilised for P&C of 361 ancient monuments⁵². This included only ₹ 1.87 crore released by State Government under State Plan. Audit, however noticed the following deficiencies:

- **Loss of Central assistance:** 13th FC at the request of State Government recommended release of ₹ 65 crore to the State for conservation of ancient monuments including Buddhist heritage sites. GoI guidelines (April 2011) on utilisation of 13th FC grant, *inter alia*, required preparation of Action Plan considering the spending capacity and its approval as well as monitoring by the High Level Monitoring Committee (HLMC) headed by the Chief Secretary of the State on quarterly basis. The guidelines also envisaged submission of all completion certificates (CCs) well before expiry of 13th FC period *i.e.* by 31 March 2015. In case of non-submission, 10 *per cent* of grants was to be withheld. Audit observed that the preparation and approval of Action Plan was delayed by more than a year due to absence of comprehensive list of ancient monuments for prioritising the need of P&C works. For this reason, 144 works could not be completed by 31 March 2015 and only ₹ 46.10 crore out of ₹ 65 crore released by the State in anticipation of receipt of full Central assistance, could be utilised by the Department by that date. Consequently, GoI did not release the withheld grant of ₹ 6.50 crore and the State could not avail Central assistance of ₹ 6.50 crore.
- **Outstanding advance:** Department instructed (June 2015) both the Superintendent, OSA and Secretary, OIMSEAS not to pay any advance to the contractual JCs beyond 30 June 2015 and adjust or recover the advances by 30 September 2015 before their disengagement. Contrary to above instructions, advance of ₹ 2.14 crore was released to 12 JCs during July to September 2015 and adjustment or refund of ₹ 95.43 lakh was awaited.
- **Non-refund of unspent contingency:** As per approved Action Plan, five *per cent* (₹ 3.25 crore) contingent expenditure was allowed to OSA to meet the expenses *i.e.*, hiring vehicle, office contingencies, furniture and payment to contractual staff, *etc.* Audit noticed that only ₹ 1.77 crore was utilised up to March 2015 and the balance amount of ₹ 1.48 crore was not refunded to the Government even after completion of 13th FC period.

⁵⁰ State Plan: ₹ 1.54 crore, 13th FC: OSA: ₹ 40.83 crore, OIMSEAS: ₹ 5.27 crore and ICZMP: ₹ 2.91 crore

⁵¹ State Plan: ₹ 1.87 crore, 13th FC Award: ₹ 65 crore (Central Government : ₹ 58.50 crore, State Government: ₹ 6.50 crore); ICZMP: ₹ 5.99 crore and other receipts including interest: ₹ 0.32 crore

⁵² Under State Plan: 27; 13th FC: 327 out of 328 planned and ICZMP: 7

The Department assured (December 2015) that it would refund the unspent contingency to the Government, compliance of which was awaited (January 2016)

- **Avoidable loss of interest:** Instructions (October 2012 and November 2014) of Finance Department required retention of unspent fund in flexi accounts instead of keeping it in savings bank accounts. Audit noticed that the Superintendent, OSA retained the 13th FC fund of ₹ 53 crore in savings bank account while OIMSEAS kept the allocated ₹ 12 crore in a non-interest bearing account. As a result, while interest of only ₹ 46.38 lakh was earned on unspent fund of OSA, no interest was earned by OIMSEAS. Thus, due to non-compliance to the instructions of Finance Department, additional interest of ₹ 40.31 lakh could not be earned by OSA. Bank pass book of OIMSEAS was also not produced to Audit.

3.3.10 Inspection and monitoring

- **Inspection of the Monuments:** Regular and systematic inspections of monuments are to be carried out annually or even more frequently. However, no such inspection was conducted by the Superintendent, OSA and no documentary proof of inspection by any other officer during 2012-15 could be produced to Audit excepting for 11 monuments inspected by the Technical Expert Committee⁵³. In absence of inspection records, it was not possible for Audit to ascertain the date on which a particular site was last visited.
- **Joint inspection with Revenue Department:** OSA was required to carry out a joint physical inspection with the concerned Tahasildar to ascertain the exact area of the notified monument and to ensure that the protected area was free from encroachment. However, no such inspection was conducted by OSA during 2012-15.
- **Monitoring:** Even after directions of the Government to form a technical committee with representatives of Indian Institute of Technology/ All India bodies to oversee execution of conservation works executed under 13th FC Award, such committee was not formed. Monitoring by the Department of Culture was found deficient on aspects of adequacy of guidelines, financial management, monitoring of conservation projects and provision of human resources to OSA as discussed in preceding paragraphs.

3.3.11 Conclusion

The State of Odisha is known for its wealth of ancient monuments. To protect and conserve the same, OAMP Act was enacted by the State. However, identification of ancient monuments was not done properly due to absence of a comprehensive survey for identifying and declaring monuments as “protected”. Documentation on monuments was poor. Required technical experts were not engaged despite specific directions from the Government.

⁵³ Headed by a retired Works Secretary constituted by Government in September 2011 to aid and advise the Department on P&C

Various irregularities were noticed in execution of P&C works done by the Department due to non-adherence to the OPWD Code and financial rules. Monitoring and inspection mechanism was found to be absent. Even after directions of the Government to form a technical committee with representatives of Indian Institute of Technology/ All India bodies to oversee execution of conservation works executed under 13th FC Award, such committee was not formed. Thus, efforts of the State to protect and conserve the ancient monuments were found to be inadequate.

3.4 Management of Antiquities

Antiquities and Art Treasures (AAT) Act, 1972 of GoI defines antiquity as any coin, sculpture, painting, epigraph or other work of art or craftsmanship, any article, object or thing detached from a building or cave which is of historical interest or declared by the GoI to be an antiquity which has been in existence for not less than one hundred years. This also includes any manuscript, record or other document which was of scientific, historical, literary or aesthetic value existing at least for 75 years. In the State, Odisha State Museum (OSM) is responsible for acquiring, preserving and displaying antiquities including registration of antiquities possessed by private individuals and organisations. Superintendent, OSM working under the administrative control of Commissioner-cum-Secretary of Tourism and Culture Department is responsible for registration, acquisition and management of antiquities in the State. OSM acquires antiquities through direct collection from excavated sites, purchase, gifts, loan and antiquities seized by police. During 2012-15, OSM acquired 257⁵⁴ antiquities. As of March 2015, OSM possessed 39,452 antiquities.

During 2012-15, the State Government provided ₹ 7.71 crore (Plan: ₹ 1.88 crore and Non-plan: ₹ 5.83 crore) to OSM. This included ₹ 6.23 crore towards staff salary/ office expenses and ₹ 1.48 crore⁵⁵ for maintenance works. The entire fund was utilised by OSM as of March 2015.

Audit examined (July to August 2015) the records of OSM and two out of 10 site museums (Balasore and Salipur) covering the period 2012-15. Besides, funds received in earlier years from different sources for construction of galleries and utilised during 2012-15, were also covered. The findings are as follows:

3.4.1 Incomplete documentation of antiquities

Guidelines for Museums of Archaeological Survey of India (2013) serve as checklist for maintaining minimum standard in collection, preservation, documentation, interpretation, publication, *etc.*

Audit noticed the following:

- ***Inadequate photography and cataloguing of antiquities:*** GoI guidelines required OSM to catalogue and photograph the antiquities

⁵⁴ Gift: 26; Seized by police: 88 and Purchase: 143

⁵⁵ Maintenance of gallery: ₹ 1.11 crore, maintenance of museum garden: ₹ 11 lakh, purchase of library books: ₹ 13.20 lakh, organisation of seminar and workshop: ₹ 7.50 lakh and publication of palm leaf manuscript: ₹ 5.75 lakh

detailing their origin, importance, *etc.* and publish the same. Though photography of 31,396 out of total 39,452 antiquities (80 *per cent*) was completed in four sections of OSM, the same was not taken up in remaining six sections⁵⁶ (July 2015). Similarly, cataloguing of 16,401 antiquities (42 *per cent*) was done in four sections while the same was not taken up in remaining six sections of OSM. Besides, catalogue prepared for 16,401 antiquities was not published.

- **Poor documentation of antiquities in OSM:** In nine out of 10 sections of OSM like natural history, archaeology, armoury, epigraphy, art and craft, anthropology, *etc.*, the process of digital documentation of antiquities was not taken up as of July 2015. However, in manuscript and palm leaf section, 16,226 out of 19,774 manuscripts were documented and digitised.
- **Improper maintenance of accession registers:** Only one accession register was maintained to document the antiquities but source of collection and value of the gifted antiquities were not mentioned in the said register.
- **Registration of antiquities with individuals and private collections:** AAT Act required registration of antiquities with individuals and private collections but the same was not made mandatory. Number of antiquities available with private parties and that registered in the State as of March 2015, were not available with OSM.

The Department stated (November 2015) that digitised documentation of Museum exhibits and collections were under process. It also assured to arrange exhibition of important collections and reorganise the exhibits.

3.4.2 Non-availability of adequate infrastructure

As of March 2015, OSM had 18 galleries with a capacity to display 1,763 antiquities as against 39,452 possessed by it. Despite availability of funds with OSM, galleries were not constructed and antiquities could not be displayed and left unsecured in sun and rain for long period of time as discussed below:

3.4.2.1 Utilisation of funds

For construction of six galleries⁵⁷, ₹ 4.35 crore was released by the State Government (₹ 3.85 crore) and Orissa Mining Corporation Limited (₹ 50 lakh) during April 2009 to December 2011 of which only ₹ 82 lakh was utilised on two galleries. The balance ₹ 3.53 crore remained unutilised. Construction of remaining four galleries was not taken up (September 2015).

⁵⁶ Archeology, Armoury, Art and Crafts, Central store, Natural history and *Patta* paintings

⁵⁷ Freedom Fighter gallery (2008-12): ₹ 1.05 crore; Maritime gallery (August 2012): ₹ 1.15 crore; Mining and Geology gallery (July 2011): ₹ 50 lakh; Painting and palm leaf gallery (2009-10): ₹ 45 lakh; Manab Sangrahalaya (2009-10): ₹ 35 lakh and Odisha Through Ages gallery (2009-10): ₹ 85 lakh

Audit noticed that:

- An amount of ₹ 7 lakh meant for freedom fighter gallery was diverted and utilised for other routine maintenance.
- A cement concrete pond with coloured tiles in OSM premises was constructed during 2012-14 utilising ₹ 75 lakh from funds allocated for a maritime gallery.



Maritime gallery left unutilised and damaged

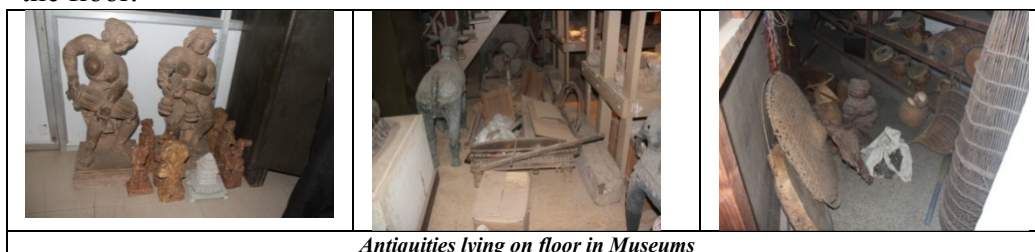
During joint physical inspection (July 2015), it was noticed that the pond was in damaged condition, rendering entire expenditure of ₹ 75 lakh unfruitful.

3.4.2.2 Antiquities left in unprotected environment

Antiquities discovered on excavation were to be preserved and conserved in site museums. GoI guidelines required preparation of a collection care plan for bimonthly monitoring of objects on display and storage. However, no such plan was prepared.

Audit noticed that 5,025 antiquities were collected during archaeological excavation at nine excavated sites by OIMSEAS. However, 2,975 were kept in the office of OIMSEAS, 850 in a thatched house at Langudi and 675 in a site store constructed by the National Highway Authority of India at Tarapur. The remaining antiquities were kept at different site museums.

Further, in two site museums (Salipur and Balasore), conservation of all the 124 antiquities was not taken up due to paucity of funds and therefore, many objects were destroyed. In Salipur museum, 22 objects were found lying on the floor.



Antiquities lying on floor in Museums

In Anthropology Section of OSM, a handloom weaving set was kept on the verandah. Many objects were also kept in open spaces in garden and under the shed, thereby exposing these antiquities to sun and rain.

3.4.2.3 Inadequate conservation of antiquities

GoI guidelines required preventive conservation of antiquities to restore the same in original shape by involving archaeological chemists and art conservators for preservation work.

Audit noticed that OSM held 39,452 antiquities of which only 14,755⁵⁸ (37.40 per cent) were conserved as of March 2015. In seven out of 10 categories of antiquities, preventive as well as chemical conservation of 16,481 antiquities

⁵⁸ Natural history: 204; Anthropology: 569; Palm leaf and Manuscript: 13,982

in archaeology (265), epigraphy (143), numismatics (13,514), armoury (202), art and craft (676), *patta* painting (100) and others (1,581) was not taken up (August 2015). Further, OSM had neither prepared any conservation plan nor had any conservation wing for taking up conservation works on remaining antiquities available with it. Audit also found that 5,792 rare items of manuscript kept in OSM were damaged due to want of chemical conservation. Besides, a conservation laboratory established (May 2014) at a cost of ₹12.34 lakh was non-functional since its inauguration due to non-availability of required manpower.

The Department while admitting (November 2015) that the fund provided for conservation was not adequate, assured that it would augment the same.

3.4.3 Absence of rotation policy for display of antiquities

Art objects displayed in the museum depict rich and diverse heritage of the State. With space constraints, museums are to devise a policy for periodic rotation of display items.

OSM displayed only 1,763 antiquities (4 *per cent*) out of 39,452 antiquities in 18 galleries leaving 37,689 antiquities reserved in central and other stores. As a periodical rotation policy was not prescribed by the Department, the visitors were unable to view the remaining antiquities. The Department assured (November 2015) that it would display the art objects of all sections on rotation basis.

3.4.4 Safety and security of antiquities

GoI Guidelines required each museum to employ latest techniques to ensure security of museum premises, objects and storage, *etc.*

Audit noticed that:

- **Fire security:** Fire fighting devices procured (October 2013) at a cost of ₹ 43.19 lakh for OSM remained uninstalled. Besides, eight valves and 25 fire extinguishers were found uninstalled in electrical store. The devices were not tested and no staff of OSM was trained for operation of the fire fighting system in case of emergency.
- **Other security system:** Security systems like close circuit television (CCTV) camera, metal detector and alarm system were not installed. Manual checking was not done for the visitors and their belongings during their entry and exit to and from OSM.
- **Theft of antiquities:** During 2000, 2001 and 2005, one precious bronze image, armoury (curve knife) and *Bhagabat Gitamala* were stolen/ found missing from OSM. As per OSM, valuable items like coins,



Fire extinguishers lying without installation

ivory works, ornaments and other precious antiquities were not also displayed in the galleries due to inadequate security.

- **Annual physical verification of antiquities:** As per Rule 111 of Odisha General Financial Rules, physical verification of all stores should be made at least once in every year by the Head of the office concerned. However, no annual physical verification of antiquities in OSM was conducted since 1985.

The Department assured (November 2015) that it would take steps to provide security system like CCTV, metal detector, alarm system, luggage scanner, armed personnel, *etc.* and to operationalise the fire fighting devices. It further stated that due to inadequate staff, annual physical verification of antiquities could not be conducted.

3.4.5 Conclusion

OSM possesses 39,452 antiquities and the process of documentation of the same was not started for all except in manuscript and palm leaf sections. Photographs of 8,056 antiquities are still to be taken. Only 1,763 antiquities (4 *per cent*) were displayed in 18 galleries of OSM, leaving 37,689 antiquities in store. Conservation of antiquities was poor as 5,792 rare items of manuscript were damaged, while many antiquities were kept in open spaces, gardens, verandahs and temporary sheds. ₹ 3.53 crore released for construction of galleries during 2009-12 was not utilised. Annual physical verification of the antiquities was not done, despite theft of antiquities from the OSM in three cases. A fire fighting system procured three years ago remained uninstalled. Close circuit television camera, metal detector and alarm system were not installed as of November 2015.

Home Department

3.5 Implementation of Coastal Security Scheme

Government of India (GoI) launched (January 2005) a centrally sponsored Coastal Security Scheme (CSS) in nine coastal States including Odisha, with the objective of plugging critical gaps in policing the long Indian coastline and territorial coastal waters. Under the scheme, GoI provides 100 *per cent* assistance for creation of infrastructure, procurement of equipment, interceptor boats, vehicle, arms and ammunitions, *etc.* State Government is to bear the cost of manpower. The scheme was implemented in the State in two phases with effect from 2005 (Phase-I: 2005-11 and Phase-II: 2011-16) and GoI had released ₹ 15.85⁵⁹ crore as of March 2015. Under the scheme, the State Government has set up 5 Marine Police Stations (MPSs) during Phase-I and 13 MPSs during Phase-II. **Appendix 3.5.1** gives the details of these MPSs, along with date of their establishment and date on which these started functioning.

Audit of implementation of the scheme covering the period 2012-15 including construction of MPS under Phase-I was conducted during June to August

⁵⁹ Phase-I (2005-11): ₹ 3.49 crore and Phase-II (2011-16): ₹ 12.36 crore

2015, through test check of records of Home Department, State Police Headquarters and nine⁶⁰ sample MPSs. Joint physical inspections of assets created and facilities available at MPSs were also conducted by authorised representatives of concerned MPSs in presence of Audit. Audit findings are discussed in the succeeding paragraphs.

3.5.1 Poor utilisation of Central assistance

GoI released ₹ 12.36 crore under Phase-II as of March 2015. The receipt and utilisation of funds received from GoI under Phase-II and expenditure thereof are detailed below:

Table 3.5.1: Summarised receipt and expenditure of GoI grant under Phase-II

(₹ in crore)		
Component	Receipt	Utilisation
Construction of MPS buildings, barracks and staff quarters	6.24	0.72
Construction of jetties	2.50	0
Purchase of vehicles	1.07	0.91
Purchase of furniture/ equipment	1.95	1.61
Re-imbursement of POL cost by GoI	0.60	0.60
Total	12.36	3.84

(Source: Records of DGP)

Audit observed that:

- Only 31.07 per cent of the total funds received under Phase-II was utilised. The reasons for poor utilisation were mainly due to non-construction of buildings, jetties, etc.
- Out of ₹ 3.49 crore received under Phase-I during 2005-11, ₹ 23.87 lakh was not utilised as of September 2015, even after delay of more than five years.
- The Department utilised ₹ 76.31 lakh towards POL expenses during 2011-15 against ₹ 60 lakh released (April 2014) by GoI for the same purpose. Reimbursement of the remaining ₹ 16.31 lakh could not be obtained due to non-submission of required information to GoI.
- An amount of ₹ 2.50 crore received (March 2012) for construction of five jetties was parked in the current account of the Director General of Police (DGP), instead of flexi accounts deviating from the instructions of Finance Department (October 2012 and November 2014) and this resulted in loss of interest of ₹ 32.50 lakh as of June 2015.
- GoI released (December 2013) ₹ 1.07 crore for purchase of 39 vehicles (13 four-wheelers and 26 two-wheelers) for 13 MPSs to be set up under Phase-II. DGP procured all 39 vehicles at a cost of ₹ 90.94 lakh. The balance of ₹ 15.66 lakh was not refunded to GoI. The Department stated (December 2015) that the Finance Department was requested to concur with the proposal to purchase additional two new vehicles out of the surplus fund.

⁶⁰ Phase-I MPSs: Jamboor, Paradeep, Aryapalli, Dhamara and Balaramgadi; Phase-II MPSs: Astaranga, Chandrabhaga, Sonapur and Penthakata

3.5.2 Infrastructure

The actual availability of civil infrastructure, interceptor boats, vehicles and weapons as per norm and percentage of shortfall as revealed from the scrutiny of records and joint physical inspection are detailed at *Appendix 3.5.2*. On scrutiny of records, Audit noticed the following:

- ***Non-construction of MPS buildings and barracks:*** Out of nine sample MPSs, buildings for five⁶¹ MPSs were yet to be constructed despite availability of ₹ 5.52 crore and these MPSs were housed in rented buildings. Similarly, barracks and staff quarters for none of the nine sample MPSs had been constructed. Quick mobilisation of forces, in case of need, was not possible due to absence of barracks and staff quarters. MPS, Aryapalli was constructed within 100 metres of high tide zone, contrary to the provisions of Coastal Regulation Zone.
- ***Non-construction of jetties:*** GoI approved (November 2010) construction of five jetties each for two to three adjoining MPSs and released (March 2012) ₹ 2.50 crore. The amount was kept in the current account of DGP as of June 2015 on the ground of insufficient funds for creation of exclusive jetty for each MPS. In absence of exclusive jetties for marine police, MPSs were using fisheries jetties situated at faraway places. Therefore, secrecy in patrolling, efficiency and promptness in police operations could not be maintained.

The Department stated (December 2015) that a proposal was given to the Fisheries and Animal Resources Development Department to develop fishery jetties with additional infrastructure from the scheme funds. The fact remains that the Department failed to initiate action in time, despite having funds to create its infrastructure.

- ***Non-availability of interceptor boats:*** Out of nine sample MPSs, four MPSs were established under Phase-II and became functional during May to October 2014. However, two 12 tonne interceptor boats for each MPS were not received from GoI due to non-construction of jetties. In MPS, Aryapalli, both the boats received under Phase-I were damaged in October 2013 and had not been repaired so far (July 2015). As a result, all the 19 crew members remained idle during November 2013 to June 2015.

The Department stated (December 2015) that estimate for repair of damaged boats was submitted to GoI and some crew members of damaged boat were being utilised in other operational boats, as well as for maintenance of damaged boats. The reply is not acceptable as crew members were re-deployed only after this being pointed out in audit in June 2015.

- ***Diversion of vehicles for non-coastal security work:*** The Department issued 37 vehicles to nine sample MPSs. Joint physical inspection of assets of sample MPSs revealed that only 14 vehicles were available. The remaining 23 vehicles were used for activities other than marine policing.

⁶¹ Paradeep, Sonapur, Chandrabhaga, Astaranga and Penthakata

- **Non-procurement/ non-utilisation of equipment:** Under Phase-II, GoI released ₹ 1.95 crore for purchase of equipment/ articles for MPSs. DGP procured (November 2014) only 23 out of 56 prescribed items (41 *per cent*) like surveillance equipment, digital camera and office equipment like desktop computers, office furniture, *etc.* at a cost of ₹ 1.61 crore. Of these, equipment/ articles worth ₹ 83.02 lakh (52 *per cent*) were lying unutilised in the Central store (July 2015) and not issued to MPSs. The remaining 33 types of equipment were not purchased, despite availability of ₹ 34 lakh with DGP (July 2015). The Department stated (December 2015) that remaining articles would be purchased locally by observing purchase procedures.

Thus, Government could not operationalise fully equipped MPS even nearly 10 years after the start of the scheme.

3.5.3 Delay in identification and alienation of Government land and execution of civil works

GoI provided 100 *per cent* Central assistance (₹ 33.35 lakh per MPS under Phase-I and ₹ 48 lakh per MPS under Phase-II) for construction of MPS building, staff quarters and barracks; any excess expenditure was to be borne by the State Government. As of March 2015, GoI released ₹ 7.91 crore (Phase-I: ₹ 1.67 crore; Phase-II: ₹ 6.24 crore).

Home Department decided to execute the works through Odisha State Police Housing & Welfare Corporation Limited (OSPHWC). Accordingly, it placed entire ₹ 7.91 crore received from GoI for construction of 18 MPS buildings with OSPHWC as deposit works. OSPHWC issued (January 2007 to April 2013) work orders for construction of nine⁶² MPSs. As of March 2015, OSPHWC completed five⁶³ MPS buildings at a cost of ₹ 3.88 crore, after a delay of 7 to 23 months⁶⁴. Execution of four MPSs buildings was in progress (September 2015). Construction of remaining nine MPSs was not taken up so far (September 2015) due to the following reasons:

- Land for MPS at Paradeep (Phase-I) was not acquired from the Paradeep Port Trust (PPT) as of August 2015. The Department stated (December 2015) that land for this MPS had been finalised and assured to start the construction work soon.
- In three MPSs (Kasia, Chandrabhaga and Penthakata), forest clearance of identified sites had not been obtained.
- In two MPSs (Jatadhari muhan and Arakhakuda) despite identification of land, estimate had not been prepared (March 2015).
- In another MPS (Sonapur) despite availability of land, preparation of estimate and receipt of administrative approval (January 2015), work had not been started (March 2015).

⁶² Phase-I: Balaramgadi; Dhamara; Jamboo; Aryapalli and Phase-II: Bandar; Tantiapal; Talchua; Astaranga; Talasari

⁶³ Phase-I: Balaramgadi; Dhamara; Jamboo; Aryapalli and Phase-II: Bandar

⁶⁴ Delay of 7 months: 1 MPS, 9 months: 1 MPS, 13 months: 2 MPSs and 23 months: 1 MPS

- In two MPSs (Kashaphal and Chudamani), land had not been handed over to OSPHWC.
- Out of 13 MPSs under Phase-II, administrative approval for 10 MPSs had been accorded at revised estimated cost of ₹ 8.58 crore, as against estimated cost of ₹ 4.80 crore approved and released by GoI. Thus, due to delays in execution of works, there is every likelihood of bearing additional liability of ₹ 3.78 crore.

Thus, identification and transfer of suitable Government land for construction of Police stations at these locations was not made even after 10 years since the proposal of 18 MPSs was submitted to GoI in 2005.

The Department stated (December 2015) that land issues of seven MPSs were sorted out and assured to sort out the same for remaining two MPSs soon.

3.5.4 Non-engagement of required manpower

As per the guidelines of CSS, the State Government is to engage required manpower, as per the norm prescribed by the Bureau of Police Research and Development (BPRD). As per the norm, each MPS should have 82 non-technical police personnel and six technical boat crew (ex-Navy) per boat. As of March 2015, against the requirement of 1,890 personnel (police: 1,458 and boat crew members: 432) as per GoI norm⁶⁵ for 18 MPSs, only 849 (45 *per cent*) posts (Police: 729 and Boat crew members: 120) were sanctioned by the State Government for nine MPSs⁶⁶ in August 2015.

In respect of nine test checked MPSs, against norm of 945 personnel, the Department sanctioned only 687 posts (73 *per cent*) and persons in position (PIP) was only 174 as of August 2015.

Audit noticed that:

- The posts sanctioned by the State Government were only 45 *per cent* of the norm as no post was sanctioned for nine⁶⁷ Phase-II MPSs, though these MPSs were notified as functional during May 2014 to August 2014. As a result, these MPSs were manned by the police personnel of the concerned districts.
- In respect of nine sample MPSs, even the actual persons in position were 25.33 *per cent* of the sanctioned strength (SS) as of March 2015 which affected the marine policing as discussed at **Paragraph 3.5.6**. Though 48 constables were recruited, only five were posted in MPS, Dhamara and other 43 were posted in non-coastal police stations.

The Department stated (December 2015) that the sanctioned posts of 729 police personnel would be redistributed among 18 MPSs. The reply is not acceptable as the Government failed to fill the posts as per the norm of GoI.

⁶⁵ Police personnel: 81 and boat crew members: 24 per MPS as prescribed by the Bureau of Police Research and Development, GoI

⁶⁶ All five Phase-I MPSs and four Phase-II MPSs (Kasaphal, Penthakata, Talasari and Sonapur)

⁶⁷ Jatadhari muhan, Kasia, Tantiapal, Talchua, Astaranga, Arakhakuda, Chandrabhaga, Bandar and Chudamani

3.5.5 Non-engagement of trained staff

The State Government committed (May 2005) to GoI that it would formulate a standardised training syllabus for the marine police personnel and that the training would be provided by the Indian Coast Guard. As per Standard Operating Procedure (SOP), all the Police personnel posted to MPSs were to be given specialised and intensive training. Audit noticed that:

- Only 15 out of 98 marine police personnel posted in MPSs were trained in marine policing at Indian Coast Guard centre, Paradeep as of March 2015. However, only one trained police personnel was deployed in one MPS (Aryapalli).
- None of the technical staff (ex-Navy boat crew) were imparted training in marine patrolling. The reason for not imparting training as well as non-deployment of trained personnel in MPSs was not furnished to Audit by the SP/DGP.

The Department stated (December 2015) that concerned SPs were instructed to identify the marine trained police personnel and post them in MPSs.

3.5.6 Inadequate marine patrolling

The marine police are responsible for patrolling in sea up to five nautical miles. As per GoI norm (October 2010), each boat should be tasked for patrolling for a minimum 150 hours in a month and 1,800 hours per annum. Out of nine sample MPSs, only five MPSs had been equipped with 15 interceptor boats. The actual hours of patrolling done by the boats in these five MPSs during 2012-15 *vis-a-vis* prescribed norm is depicted below:

Table 3.5.2: Norm vis-a-vis actual patrolling hours in sample MPSs

Name of the MPSs	No. of boats	Patrolling hour as per norm	Actual patrolling hours				Shortfall (per cent)
			2012-13	2013-14	2014-15	Total	
Aryapalli	2	10800	41	19	0	60	99.44
Balaramgadi	4	21600	434	438	547	1419	93.43
Dhamara	3	16200	263	93	92	448	97.23
Jambo	3	16200	153	114	171	438	97.30
Paradeep	3	16200	33	217	190	440	97.28
Total	15	81000	924	881	1000	2805	96.54

(Source: Records of DGP and sample MPSs)

Audit noticed that:

- As against patrolling of at least 81,000 hours during 2012-15 as per norm, the actual patrolling hours was only 2,805 hours (3.46 per cent). The shortfall in patrolling hours ranged from 93.43 to 99.44 per cent. The reason for shortfall in patrolling was not furnished to Audit.
- Under Aryapalli MPS, no patrolling had been done during 2014-15 due to breakdown of boats. In MPS, Balaramgadi, the shortfall of 93.43 per cent in patrolling was due to use of the fisheries jetty situated at a distance of about 70 kilometres. Besides, patrolling in two MPSs (Dhamara and Jambo), were done in the river as sea mouth was far away (10 to 35 km).

- Despite provision in the SOP for night patrolling, neither had the Department nor the DGP prescribed any criteria for night patrolling. As a result, night patrolling was not done at all in Aryapalli MPS, while in remaining four MPSs, this was done for only 115 hours which was only four *per cent* of total patrolling hours.
- Though the SOP envisaged checking of fishing boats during patrolling and boarding operations⁶⁸ to prevent infiltration of hostile forces, smuggling of arm and ammunitions, contraband, *etc.*, none of the nine test checked MPSs checked the fishing boats/ boarding operations.
- During January 2012 to December 2014, 298⁶⁹ cases were registered in the sampled nine MPSs and included only five marine related cases. One case relating to apprehension of foreign fishermen registered at Paradeep MPS was effected by the Indian Coast Guard.

The Department stated (December 2015) that shortfall in patrolling was due to boats supplied by GoI not being seaworthy, inclement weather and tidal sea condition. The reply is not acceptable as the unworthiness of boats for sea patrolling was not brought to the notice of GoI.

3.5.7 Other deficiencies

Audit also noticed the following other deficiencies:

- ***Inadequate inspections:*** It was noticed that there was no inspection of MPSs at the level of Inspector General and Deputy Inspector General during 2012-15 as against norm of five inspections each as per the SOP. Inspections done by SP were 10 (63 *per cent*) against required 16 and those by Sub-Divisional Police Officer were 9 (26 *per cent*) against required 35.
- ***Absence of monitoring:*** The CSS guidelines framed by the GoI envisaged formation of a Committee under the Joint Secretary in charge of CSS to monitor the physical and financial progress of the scheme. However, no such committee was constituted in the State. The Department stated (December 2015) that the matter was under process.
- ***Non-formation of committee:*** The SOP provides for constitution of a District Level Security Co-ordination Committee (DLSCC) in the coastal districts under the chairmanship of SP, which is to meet every month and review the security measures. No such committee was constituted in any of the concerned districts of the sample MPSs. Further, though Indian Coast Guard convened intelligence sharing meetings every month, the SPs/ DSPs of the concerned sample MPSs did not attend any such meetings during 2012-15, as revealed from information furnished by Indian Coast Guard. The Department stated

⁶⁸ Boarding at intercepted boat/ ship/ vessel and searching them

⁶⁹ 2012: 85; 2013: 135 and 2014:78

(December 2015) that SPs of all coastal districts were instructed to constitute DLSCC at district level.

3.5.8 Conclusion

Odisha has a 476.70 kilometre long coastline which is vulnerable to export/import of illegal arms, contraband articles via sea route, unauthorised fishing, and entry of anti-national elements from the neighbouring countries. The objective of securing the coastline of the State through establishment of Marine Police Stations and sea patrolling was not achieved despite receipt of financial assistance from GoI under Coastal Security Scheme. Utilisation of funds meant for establishing basic infrastructure under the scheme was only 31.07 *per cent* for Phase-II of the scheme even after four years of receipt of funds from GoI. Required infrastructure like buildings for police stations, barracks and jetties are yet to be constructed. Besides, equipment and vehicles were either not purchased or utilised for other purposes. Required manpower in the marine police stations was not deployed. The utilisation of available manpower and equipment was not adequate as sea patrolling was conducted only for 2,805 hours as against requirement of 81,000 hours during 2012-15.

General Administration Department

3.6 Non-eviction of unauthorised occupants from Government quarters and non-realisation of rent

The General Administration (GA) Department is responsible for allotment and management of Government quarters. The Director of Estates in the GA Department is responsible for allotment of quarters and the Rent Officer (RO) is responsible for cancellation of allotment, recovery of license fees and enforcement activities like detection of subletting, unauthorised construction, *etc.*

As of March 2015, there were 11,636 quarters at Bhubaneswar (11,496) and Cuttack (140) under the administrative control of the GA Department. Out of this, 11,546 quarters⁷⁰ were under occupation as of March 2015. Remaining 90 quarters were under repair/ vacated by allottees. This included 376 MLA quarters which were placed at the disposal of Odisha Legislative Assembly (OLA) secretariat and allotted by OLA but rent is collected by GA Department. As on 31 March 2015, 3619 employees were in the waiting list for Government quarters at these two places.

Audit examined the records of the RO and Estate Officer (EO) during June to July 2015 covering the period 2012-15 to assess timeliness in cancellation of allotment of quarters, eviction of unauthorised occupants and timely collection of license fee. The Audit findings are discussed in the succeeding paragraphs.

⁷⁰ At flat license fee: State Government employees: 11,329; MPs/ MLAs: 58, Journalists: 77; Media/ news agencies: 11; other State and Central Government agencies: 23; At standard license fee (four times of flat license fee): Non-Government Organisations (NGOs): 34; Service Associations: 7; Political parties: 7

3.6.1 Non-eviction of unauthorised occupation/ construction, etc.

3.6.1.1 Non-eviction of unauthorised occupants

As per provisions of Special Accommodation Rules (SAR), 1959 of Odisha Service Code read with Paragraph 10 (i) of Government’s Resolution of 18 September 1998, any officer in occupation of Government quarters, in case of transfer, can retain the quarter for one month from the date of relief on payment of normal license fee and for subsequent two months on payment of standard license fee⁷¹. For retention of quarters beyond three months, the allottee shall have to pay five times of the standard license fee. However, in the event of death, superannuation, etc. of the employee, the allotted quarter may be allowed⁷² for retention for a maximum period of four months on payment of normal license fee in advance and beyond that on payment of five times of the standard license fee followed by eviction as per Rule. In case of overstay, the Rent Officer (RO) shall cancel the allotment order and refer the matter to the Estate Officer⁷³ for initiating action under the provisions of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act (OPP EUO) 1972.

There were 321 quarters under unauthorised occupation as of March 2015 since 2 to 35 years⁷⁴. The unauthorised occupants included retired employees (244), families of deceased employees (31) and transferred employees (46) as of March 2015. Though the Department had cancelled allotment of these quarters, the same were not vacated. On test check of 69 cases, Audit noticed delay in initiation of cases for eviction of unauthorised occupants as indicated in the table below:

Table 3.6.1: Showing delay at various levels

Stages	Pendency as of August 2015 (in days)			
	Minimum	Maximum	Average	Number of cases pending
Cancellation of allotment and intimation to EO by RO	6	2209	331	0
Issue of show cause notice by EO	5	365	60	0
Issue of vacation notice by EO	186	1043	276	14
Issue of eviction notice by EO		1333	97	0
Eviction of unauthorised occupation by RO	13	1347	725	55

(Source: Records of RO and EO)

Thus, delay on the part of the RO in cancelling the allotments/ intimating the fact of cancellation to EO and carrying out the eviction orders issued by the EO, delay in issuing eviction order, as well as delay in disposal of cases by the EO resulted in prolonged unauthorised occupation of quarters. This also led to non-recovery of arrear dues from such unauthorised occupants and deprivation of Government accommodation to eligible Government servants.

⁷¹ Two times of flat license fee which was revised to four times of the flat license fee as per Finance Department Resolution dated 1 November 2008

⁷² The provision of Rule 107 A of the Odisha Service Code

⁷³ Additional Director of Estate acting as the Estate Officer under Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972

⁷⁴ 2 to 10 years: 317; more than 10 to 20 years: 3 and more than 20 to 35 years: 1

The Department stated (November 2015) that execution of eviction orders were delayed partly due to non-availability of police force and magistrates. It also stated that unauthorised occupants were vacated from 50 quarters. The reply is not acceptable as the delay occurring in other stages like cancellation of allotment, issue of show cause notices, *etc.* was not addressed to.

3.6.1.2 Non-cancellation of allotment orders despite non-vacation of quarters after retirement

SAR 1959 permitted retention of Government accommodation after retirement for a maximum period of four months on payment of license fee in advance. In the event of non-vacation of such accommodation after the timeline, the RO has to cancel the allotment order and refer the case to EO for filing eviction case.

Audit noticed from 170 out of 188 test checked cases furnished by two Departments (Home and Agriculture) that employees did not vacate the Government accommodation even after one to three years of retirement for which gratuity was withheld. However, the RO did not cancel the allotment order and referred the cases to EO for filing eviction cases.

This facilitated overstay of 170 employees and denied opportunity to the waitlisted employees.

3.6.1.3 Subletting of quarters

As per Rule 25 (i) of 'The Special Accommodation (Amendment) Rules, 2011', no officer shall sublet a residence allotted to him or any portion thereof or any of the out houses appurtenant thereto, except with the permission of Director of Estates. As per Rule 25 (ii), if an officer sublets his residence, allotment of quarters in his favour shall be cancelled and he shall be charged five times of the standard license fee as applicable to the said quarter from the date of detection of such subletting till the date of his vacation. Both the EO and RO are responsible for monitoring such cases.

Test check of records and information made available to audit revealed that incidence of subletting of 56 quarters were detected (March 2013 to March 2015) by the RO on the basis of complaints received from third parties and the same were confirmed after first verification. Out of the above, allotment of nine quarters was cancelled (October 2009 to December 2014) and penalty of ₹ 6.23 lakh was imposed after the second verification. However, penalty was not realised as of August 2015. Out of remaining 47 cases, subletting investigation was stopped in 44 cases (March 2013), reasons of which were not on record. One case was dropped (December 2014) by the Department due to vacation of quarters, while in respect of the remaining two cases, the allottees had ousted (April 2015) the sublettees.

The Department stated (November 2015) that investigation could not be carried out due to vacancies in field staff. These were filled in May 2015, after which second round verification of unauthorised occupation was being carried out.

3.6.1.4 Unauthorised construction in quarters

As per Rule 30 (ii) of the Special Accommodation (Amendment) Rules, 1959, allotment of quarter shall be cancelled in addition to taking disciplinary action against the allottee, in case of erecting any unauthorised structures in any part of the residence so as to be potentially damaging to the existing structures or to cause inconvenience to occupant of adjoining quarter. Further, as per Rule 31, the rent of the resident shall be charged five times of the standard license fee as applicable to the said residence from the date of detection of such unauthorised construction till the date of his vacation of such unauthorised occupation.

Test check of records and information made available to audit revealed that complaint of unauthorised construction in 30 quarters was received (May 2012) in the Department and confirmed (January 2013) after first enquiry. Of the above, the Department cancelled (April 2013 to February 2015) allotments of five quarters and imposed penalty of ₹ 12.76 lakh. As of July 2015, only two quarters were vacated but the remaining 28 quarters were still in occupation of the allottees (September 2015). Further, the penal rent remained unrealised from the allottees as of August 2015 as RO did not issue demand notices to the concerned departments. Besides, no disciplinary action was taken against the allottees for unauthorised construction.

The Department stated (November 2015) that in five cases, OPP cases had been booked for eviction after cancellation of allotment and 22 cases were pending for enquiry.

3.6.2 Non-realisation of rent

3.6.2.1 Non-realisation of license fee from retired, deceased, and transferred Government employees

The EO/ RO after giving proper notice can file certificate cases with the Collector for recovery of the amount as arrears of land revenue under the provisions of the Orissa Public Demands Recovery (OPDR) Act.

Audit noticed that an amount of ₹ 5.09 crore of license fee remained unrealised from 321 ex-employees as of March 2015 as detailed in table below:

Table 3.6.2: Showing pendency of unauthorised occupation and rent outstanding against retired/ deceased/ transferred employees

Type of employees	Number of employees	Total dues outstanding (₹ in crore)	Period of unauthorised occupation (in days)		Highest defaulters
			Maximum	Minimum	
Retired	244	3.05	7696	211	One Ex-Senior Assistant ⁷⁵ of office of Registrar of Cooperative Societies retired in 1994 (₹ 8.16 lakh)

⁷⁵ Quarter No. 2/2, Type-IV, Unit-1, Bhubaneswar

Deceased	31	0.65 ⁷⁶	3817	219	A deceased Superintendent ⁷⁷ of Office of Engineer in Chief, Water Resources Department expired in December 2004 (₹ 5.84 lakh)
Transferred	46	1.39	2647	242	An ex-Sub-Inspector ⁷⁸ transferred in October 2010 and two others transferred in January 2002 and October 2010 (₹ 6.96 lakh each)
Total	321	5.09			

(Source: Records of RO)

In all these cases, the quarters remained (August 2015) under unauthorised occupation of the retired, transferred Government employees and the family members of the deceased Government employees. However, steps were not initiated to recover outstanding rent as per the provisions of OPDR Act.

GA Department did not take any step either to collect advance rent from the retired employees or to recover the outstanding dues from the gratuity (November 2015) of defaulting retired employees. Audit also noticed that GA Department had no information on the quantum of gratuity withheld by the concerned departments. Audit further noticed on test check that in 10 cases, against rent of ₹ 25.83 lakh recoverable up to August 2015, gratuity of only ₹ 20.27 lakh was withheld by the concerned pension sanctioning authorities and the possibility of realising the remaining rent of ₹ 5.56 lakh appears doubtful.

The Department stated (November 2015) that in case it fails to recover the outstanding rent from their gratuity and dearness relief on pension, certificate cases under OPDR Act would be filed. It also stated that unless the quarters are vacated, it is not possible to file certificate cases as exact rent recoverable cannot be ascertained. The reply confirms non-initiation of action for realisation of outstanding license fees from the occupants.

3.6.2.2 Non-realisation of rent from persons other than Government employees

As per Rule 4 (1) of Special Accommodation Rules, 1959, the officers of departments of Government and other offices as specified in Schedule A thereto, will normally occupy Government quarters in New Capital, provided that Government reserves the power of allotting quarters to those who are not normally entitled to them in exceptional cases. In such cases the rent will be the standard license fee which is to be realised in advance. The Department had allotted 159 quarters to other than Government employees (excluding MLAs) as of August 2015.

Audit noticed that rent amounting to ₹ 65.34 lakh remained outstanding for

⁷⁶ 2005-2008: 7 cases: ₹ 28,87,907; 2009-2011: 11 cases: ₹ 26,63,436 and 2012 to 2015: 13 cases: ₹ 9,55,023

⁷⁷ Quarter No. 18/1, CRP, Bhubaneswar

⁷⁸ Quarter No.2/1, D-6, Sainik School area, Bhubaneswar

recovery against 127⁷⁹ persons/ agencies/ organisations belonging to other than normally entitled categories who retained the allotted quarters for a period ranging from 2 to 35 years⁸⁰ as of March 2015 and no action was taken by the Department for recovery of the same under the provision of OPDR Act (September 2015).

Further scrutiny revealed that the NGO⁸¹ in occupation of Quarter No. VA 3/1, was the highest defaulter with outstanding rent of ₹ 6.51 lakh while ₹ 6.77 lakh remained outstanding against two ex-journalists⁸² and ₹ 10.06 lakh against a political party⁸³ being in occupation of Quarter No.VIB 5/1 of Unit III.

Audit further noticed that after death (June 2012) of an allottee⁸⁴, the family members continued to occupy the quarters, which remained undetected till March 2015 as the Department had not conducted any verification of occupiers of quarters during that period.

The Department stated that six cases were under litigation against which ₹ 27.47 lakh was outstanding. It also stated that steps for recovery of rent would be taken only after vacation/ eviction of quarters. The reply is not acceptable as in all these cases rent should have been collected in advance as per Rule. Besides, delay in eviction is also attributable to inaction of EO/RO who are responsible for vacation/ eviction of unauthorised occupation

3.6.2.3 Rent outstanding against ex-MLAs

Rule 33 of 'The Special Accommodation Rules, 1959' as amended from time to time, required the GA Department to earmark sufficient number of quarters for occupation of Members of Legislative Assembly (MLAs) which should be placed at the disposal of the Secretary, OLA for allotment to the MLAs by the House Allotment Committee (HAC) of the OLA. However, as per Circular of GA Department of February 1987, MLAs can apply to the Director of Estates of GA Department for allotment of quarters other than MLA quarters and they shall pay normal rent and other charges as are applicable to Government servants. Further, they have to pay standard rent and penal rent, if the quarters are not vacated and handed over within the stipulated period of one month, upon ceasing to be MLAs.

Audit scrutiny revealed that rent of ₹ 1.12 crore remained outstanding for recovery from 225 ex-MLAs against 230 quarters (five MLAs were allotted two quarters each) as of March 2015. These quarters were vacated since 1 to 38 years⁸⁵ ago. Year-wise break up of outstanding rent against ex-MLAs is given in the Table 3.6.3.

⁷⁹ Journalists (54): ₹ 13.16 lakh; NGOs (37): ₹ 25.16 lakh; media (6): ₹ 0.37 lakh; Political parties (4): ₹ 10.06 lakh; service associations (6): ₹ 4.51 lakh and other State/ Central Government organisations (20): ₹ 12.00 lakh

⁸⁰ 2 to 10 years: 47; more than 10 to 20 years: 45 and more than 20 to 35 years: 35

⁸¹ Sudhansumala Kanhucharan Mission

⁸² Quarter No. 3/2, Type-VI D/S, Unit-II, Bhubaneswar (₹ 4,42,577) and Quarter No. 38/3, Type IV, Unit-1, Bhubaneswar (₹ 2,34,584)

⁸³ Orissa Communist Party

⁸⁴ Quarter No. 4/1, Type-IVR, Unit-III, Bhubaneswar

⁸⁵ Except 9 out of 230 quarters where data on vacation was not available

Table 3.6.3: Showing rent outstanding against ex-MLAs

Period of pendency	No. of Quarters	Amount outstanding (₹ in lakh)
10 to 38 years	124	14.94
5 to 10 years	44	31.14
2 to 5 years	42	33.80
Less than 2 years	11	22.29
Date of vacation not available	9	9.46
Total	230	111.63

(Source: Rent Officer (GA Department) Bhubaneswar)

Further scrutiny revealed that the outstanding amount against individual MLAs varied from ₹ 178 to ₹ 8.43 lakh. Against five defaulters, rent of more than ₹ 5 lakh was outstanding since 2 to 38 years, the highest defaulter was an ex-MLA⁸⁶ (₹ 8.43 lakh) since 21 July 2006. Further, ₹ 13.16 lakh remained unrealised from two⁸⁷ ex-MLAs, who had vacated on 12 October 2009 and 8 August 2014 and both had expired in the meantime.

The matter was not taken up by the Director of Estate/ Department with the OLA Secretariat/ HAC of OLA/ Speaker of OLA for recovery of outstanding Government dues from the dearness relief on pension of these ex-MLAs or for recovery through filing certificate cases under OPDR Act.

The Department stated (November 2015) that five ex-MLAs had cleared the rent and cases under OPDR Act have already been initiated against eight others. It also assured to take steps for filing of certificate cases under OPDR Act in remaining cases.

3.6.3 Conclusion

GA Department possesses 11,636 quarters for allotment to Government employees and others as per the Special Accommodation Rules, 1959. Audit examination revealed that 321 quarters remained under unauthorised occupation of retired/ transferred Government employees and family members of deceased employees for years for which no rent and penalty was realised and ₹ 5.09 crore remained outstanding against the unauthorised occupants as of August 2015. Despite issue of eviction orders in 55 test checked cases, the same were not found to be executed. As the Department failed to enforce relevant provisions under OPP (EUO) Act and OPDR Act, such unauthorised occupancies continued despite 3,619 employees in waiting list for availing Government accommodations as of August 2015. Even after vacation of 230 quarters, rent of ₹ 1.12 crore remained unrealised from ex-MLAs for 1 to 38 years.

3.7 Follow up Audit on 'Allotment of land by General Administration Department in Bhubaneswar city for various purposes'

The Report (G&SSA) of the Comptroller & Auditor General of India for the year ended March 2012 (Report No.4 of 2013), Government of Odisha

⁸⁶ Quarter No.5, VII C, Unit-1, Bhubaneswar

⁸⁷ Quarter No. 11/2, Type VI C, Unit-1, Bhubaneswar (₹ 7.63 lakh) and Quarter No. 13/3, Type MLA D/S, Unit-IV, Bhubaneswar (₹ 5.53 lakh)

included Performance Audit on ‘Allotment of land by General Administration (GA) Department in Bhubaneswar city for various purposes’. The Performance Audit included, *inter alia*, the fact of arbitrariness in allotment of land due to absence of land allotment policy, non-consideration of market value of land in fixing land premium, non-utilisation/ misutilisation of allotted land and encroachment of Government land. Three out of six recommendations of audit were accepted by Government. A follow up Audit was conducted (August 2015) in order to assess steps taken to implement those recommendations.

Two out of the three accepted recommendations *i.e.* formulation of well-defined land grant policy and timely fixation and realisation of lease premium were adequately addressed by Department by framing a ‘Land Grant Policy’ in February 2015. The Department also revised the Benchmark Value (BMV) of land in July 2012 and December 2014 and allotted 24.593 acre land at revised BMV.

The third recommendation envisaged the strengthening of monitoring mechanism to prevent mis-utilisation and encroachment of Government land and review of all cases of violations. It was found that encroachment in only one case was effectively removed, out of seven cases reported in Audit Report. In remaining six cases, the Department failed to remove encroachment as of August 2015. The Department replied that it had booked cases under the Orissa Public Premises (Eviction of Unauthorised Occupation) Act (OPP (EUO) Act) in three cases. In one case, Department stated that the same person encroached the land after the eviction done in February, 2015. In the other two cases, Department stated (October 2015) that new sites had been allotted for encroachers and construction work under Rajib Awas Yojana and in Public Private Partnership mode has been entrusted to Bhubaneswar Development Authority and Bhubaneswar Municipal Corporation. However, the fact remains that the encroachment of the Government land could not be removed as yet, in all the six cases.

The Department also did not take adequate steps to strengthen the monitoring mechanism to prevent further encroachment of land as it did not invoke the provisions under the Orissa Prevention of Land Encroachment (OPLE) Act/ Rules which envisaged submission of annual certificate by Revenue Inspectors (RIs) reporting the cases of encroachment. But, such mechanism was not devised by the GA Department. The Department noted (October 2015) the same for future guidance.

Even cases of encroachment booked under OPP (EUO) Act were not dealt with effectively. Test check of 21 finalised EUO cases revealed that, the Estate Officer issued directions for eviction with delay ranging from 43 to 418 days⁸⁸ beyond the prescribed time of 45 days in 16 cases. Reasons for such delay were not found on record. The Department attributed (October 2015) the delay to heavy workload and shortage of staff.

Moreover, the Land Officer (LO) responsible for enforcement of eviction order could not produce any record to Audit confirming the eviction of encroachers. Though required under OPP (EUO) Act, the fact of eviction was

⁸⁸ Up to 100 days: one case; 102 to 200 days: eight cases; 201 to 300 days: two cases; 301 to 400 days: four cases and 418 days: one case

also not intimated by the LO to the EO in any of the test checked cases. The same was not followed up by the EO as well. As a result, implementation of eviction orders could not be ensured. The Department stated that it would take appropriate action in the matter.

With regard to cases of unutilised allotted land, the Department could resolve the issues in 28 out of 33 cases reported in the Audit Report while it had not taken adequate steps to resolve the issue in five cases. These remained vacant as of August 2015.

Bhubaneswar

The 23 MAR 2016



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The 28 MAR 2016



(Shashi Kant Sharma)
Comptroller and Auditor General of India