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Chapter III

Audit of Transactions

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

Law and Judiciary Department

3.1 Medical care for indigent and weaker section patients in hospitals run by State-aided public trusts

3.1.1 Introduction

As per Section 41 AA¹ of Maharashtra Public Trusts Act, 1950 (MPT Act), a State-aided public trust means a public trust² exclusively for medical relief or for medical relief and other charitable purposes, which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief and which has received any grant of land or building, loan or any grant-in-aid or other financial assistance from the State or Central Government or any local authority; given any exemption or permission to continue to hold any vacant land by the State Government; and given any concession or exemption or relaxation of a substantial nature from the Development Control Rules by any competent authority.

In Maharashtra, the Charity Commissioner, Mumbai supervises the administration and implementation of the provisions of the MPT Act and is empowered to issue directions to the State-aided public trusts, whose annual expenditure exceeds five lakh rupees to reserve and earmark 10 *per cent* of the total number of operational beds (for inpatients) and 10 *per cent* of the total capacity of patients treated (for out-patients) for medical examination and treatment in each department of the medical centre³, for indigent person⁴, free of charge, and at concessional rates for weaker section people⁵ as the State Government may determine.

¹ Effective from 01 August 1986

² Public Trust means an express or constructive trust for either a public, religious or charitable purpose or both and includes a temple, a math, a wakf, church *etc.* and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860

³ Means hospital including any nursing home or maternity home, dispensary or any other centre for medical relief

⁴ Having annual income less than ₹ 50,000 as per notification of 27 September 2012 issued by Law and Judiciary Department, Government of Maharashtra

⁵ Having annual income greater than ₹ 50,000 and less than ₹ 1,00,000 as per notification of 27 September 2012 issued by Law and Judiciary Department, Government of Maharashtra

Audit reviewed the records in the Office of Charity Commissioner, Mumbai, and its regional offices at Mumbai and Thane. Besides, records of 11⁶ of 113 hospitals run by State-aided public trusts in these two regions for the year 2012-15 were also test-checked to verify compliance to the provisions of MPT Act.

3.1.2 Audit findings

3.1.2.1 Non-implementation of provisions of MPT Act regarding reservation to indigent and weaker section patients as outpatients

Audit observed that though the provisions of Section 41AA of MPT Act became effective from August 1986, the Charity Commissioner, Mumbai did not issue any directions to the State-aided public trusts to provide medical care for indigent and weaker section patients in the hospitals run by them for 20 years until the Bombay High Court intervened and framed a Scheme effective from 01 September 2006.

The provisions of the Scheme framed by the Bombay High Court (Scheme) effective from September 2006 and that contained under Section 41 AA of MPT Act are as indicated in **Table 3.1.1**.

Table 3.1.1: Reservation provided under the Scheme and the Act

Category	As per MPT Act		As per Scheme	
	Inpatient	Outpatient	Inpatient	Outpatient
	Reservation (in per cent)		Reservation (in per cent)	
Indigent patient	10 (Free)	10 (Free)	10 (Free)	Nil
Weaker section	10 (Concessional)	10 (Concessional)	10 (Concessional)	Nil

Source: MPT Act and High Court Scheme

As could be seen from **Table 3.1.1**, the Scheme covers only reservation for the indigent and weaker section patients as inpatients and provision of the MPT Act regarding 10 per cent reservation to the outpatients under both the category remains still unimplemented.

The Law and Judiciary Department of Government of Maharashtra (GoM) stated (December 2015) that the High Court Scheme was in consonance with Section 41 AA of MPT Act and speaks about the same provisions regarding reservation of beds.

The reply is not relevant as audit is not faulting the Scheme but is of the view that while the Scheme framed by the Bombay High Court takes care of reservation of inpatients, the provisions of the MPT Act providing for reservation to indigent and weaker section patients as outpatients is yet to be implemented by the State Government.

⁶ Bombay Hospital; P. D. Hinduja Hospital; Breach Candy Hospital; Kokilaben Dhirubhai Ambani Hospital and Medical Research Centre; Lilavati Hospital; D.Y. Patil Hospital; Saifee Hospital; Terna Medical College and Research Centre's Sahyadri Hospital; Sushrut Hospital and Research Centre; Bethany Hospital; and People's Mobile Hospitals

3.1.2.2 Shortfalls in reservation

Sub-section 3 of Section 41AA of the MPT Act provides that if the percentage of reservation to be provided by the hospitals run by State-aided public trust happens to be more than that specified under Section 41 AA of the MPT Act by virtue of any grant, exemption, concession *etc.* granted by the State Government, then such higher percentage of reservation shall continue to be given.

Further, Regulation 33 (2) of Development Control Regulations (DCR), 1991 of Municipal Corporation of Greater Mumbai (MCGM) permitted grant of additional Floor Space Index (FSI) to medical institutions over and above the normal FSI, subject to free medical treatment to the extent of at least 20 *per cent* of the total number of beds to persons from economically weaker sections of society or to person below poverty line. In addition, 10 *per cent* of the total number of outpatients would also be provided treatment at concessional rates. Thus, if the Regulation of DCR is read with sub-section 3 of Section 41 AA of MPT Act, the higher percentage of reservation provided under DCR prevailed over the reservation provided under Section 41 AA of the Act.

Scrutiny of records of 11 selected hospitals revealed the following:

- Four hospitals⁷ were granted additional FSI under DCR and thus, were required to provide higher percentage of reservation. However, these hospitals were found to be providing reservation as per the Scheme (10 *per cent* reservation of the operational beds for indigent patients free of cost and 10 *per cent* for weaker section patients at concessional rates), instead of at least 20 *per cent* of the total number of beds to persons from economically weaker sections of society or to person below poverty line, free of cost plus, 10 *per cent* reservation for outpatients at concessional rates.
- Two hospitals – Kokilaben Dhirubhai Ambani Hospital and Medical Research Centre, Mumbai and Sushrut Hospital and Research Centre, Mumbai - were given land in January 1998 and May 1979 respectively by the Collector, Mumbai on lease at a concessional rent of ₹ one *per annum*. As per the lease agreement, while the former was required to provide 15 *per cent* reservation free of cost and 15 *per cent* at concessional rates to the inpatients, the latter was to provide 30 *per cent* reservation free of cost and 30 *per cent* at no profit no loss basis to the inpatients. However, both the hospitals were providing reservation as per the Scheme only (10 *per cent*) which was less than that stipulated in the lease agreements (15 *per cent* and 30 *per cent*).

The Government stated that an endeavor would be made to obtain the documents regarding grant of additional FSI and lease and suitable action would be taken.

3.1.2.3 Lack of system to identify State-aided public trusts

All hospitals are required to be registered under The Maharashtra Nursing Home Registration Act, 1949. Further, a State-aided public trust registered

⁷ Bombay Hospital, Lilavati Hospital, Saifee Hospital and P.D. Hinduja Hospital

with the Charity Commissioner intending to run charitable hospitals is also required to register under The Maharashtra Nursing Home Registration Act, 1949.

Information provided by the Charity Commissioner revealed that the number of hospitals run by the State-aided public trusts in Mumbai and Thane and registered with Charity Commissioner till August 2007 had remained static at 113 over a period of more than eight years as of December 2015. This indicated that the Charity Commissioner did not make much effort to identify other trusts which might have started operations after August 2007 and therefore remained uncovered under the MPT Act.

The Government stated that necessary directions have been issued (May 2015) to all the District Offices to obtain the list of hospitals from the Local Supervising Authorities and cover the charitable hospitals as per the provisions of the Act.

3.1.2.4 Indigent Patients' Fund

As per Scheme guidelines (paragraph 4), each public charitable hospital shall create separate fund named 'Indigent Patients' Fund' (IPF) and shall credit to it two *per cent* of the gross billing charged to the regular paying patients. Further, as per paragraph 11 of the Scheme, the amount available in the IPF account shall be spent to provide medical treatment to maximum number of indigent and weaker section patients.

3.1.2.5 Short-credit to Indigent Patients' Fund

Scrutiny of annual accounts of Bethany Hospital, Thane for the year 2012-15 revealed that the hospital short-credited ₹ 1.43 crore⁸ to IPF.

The Government stated that a show-cause notice had been issued to the hospital by the Assistant Charity Commissioner, Thane.

Audit further observed that of the total amount of doctors charges billed to the regular patients, Breach Candy Hospital, Mumbai retained its share of 15 *per cent* and paid the remaining 85 *per cent* towards doctors' share. But, the hospital credited only two *per cent* of its share (15 *per cent*) into the IPF account instead of on the gross billing of 100 *per cent*. This led to short-credit of ₹ 3.47 crore to IPF account during 2012-14.

The Government stated that the issue would be placed before the Monitoring Committee and action would be taken as per the decision of the Committee.

3.1.2.6 Excess debit to Indigent Patients' Fund

As per paragraph 8 of the Scheme, the charitable hospitals shall provide a number of non-billable services⁹ free to the indigent patients as well as weaker section patients. Further, as per paragraph 10 of the Scheme guidelines, the bill of billable services in respect of weaker section patients shall be prepared and debited to IPF account after deducting the payment made by the weaker section patients. Scrutiny of bills in two of 11 selected hospitals pertaining to

⁸ Two *per cent* on gross billing of ₹ 171.38 crore = ₹ 3.43 crore minus ₹ two crore actually credited

⁹ Bed, Resident Medical Officer services, nursing care, food, linen, routine diagnostics *etc.*

2012-15 revealed an excess debit of ₹ 2.75 lakh to IPF account as discussed below.

- In five of 36 bills, Sushrut Hospital and Research Centre, Mumbai made an excess debit of ₹ 87,418 to the IPF due to inclusion of non-billable services such as, bed and routine diagnostics.
- In four of 43 bills, P.D.Hinduja Hospital, Mumbai billed four weaker section patients for ₹ 11.06 lakh. However, while debiting the IPF account, the hospital did not account for the financial help (cheques) received by these four patients from the Director of Health Services under Jeevandayi Yojna as well as patients' own contribution towards their treatment totalling ₹ 7.42 lakh. Consequently, the hospital debited ₹ 5.52 lakh to IPF account, instead of ₹ 3.64 lakh¹⁰ leading to an excess debit of ₹ 1.88 lakh.

The Government stated that the submission of the hospitals to the audit objection would be verified and action would be taken, in case the hospitals were found to have not followed the Scheme guidelines.

3.1.2.7 Undue financial burden on patients

As per paragraph 10 of the Scheme, medicines, consumables and implants are to be charged at the purchase price to the hospital. However, the weaker section patients shall pay at least 50 *per cent* of the bills of medicines, consumables and implants. Further, as per paragraph 9 of the Scheme, the charitable hospitals shall not ask for any deposit in case of admission of indigent patients.

Scrutiny of six bills in P.D. Hinduja Hospital, Mumbai and 55 bills in Bethany Hospital, Thane for the period 2012-15 revealed that the weaker section patients were charged 50 *per cent* towards anesthesia charges, ICU charges, doctor's fees, imaging charges, investigation charges, operation theatre charges and surgery charges instead of only towards the cost of medicines, consumables and implants. This led to an undue financial burden on the weaker section patients to the extent of ₹ 38.03 lakh¹¹ against 61 bills in these two hospitals.

The Government stated that the submission of the P.D. Hinduja Hospital to the audit objection would be verified and action would be taken if the hospital was found to have not followed the Scheme guidelines. It further stated that a show-cause notice had been issued to Bethany Hospital.

Further scrutiny of 139 bills pertaining to the period 2012-15 revealed that three hospitals¹² obtained deposits amounting ₹ 1.74 lakh from nine indigent patients in violation of Scheme guidelines.

The Government accepted that deposits should not be obtained by the hospitals from the indigent patients and assured that necessary action would be taken in this regard.

¹⁰ ₹ 11.06 lakh minus ₹ 7.42 lakh

¹¹ P.D. Hinduja Hospital: ₹ 3.64 lakh; Bethany Hospital: ₹ 34.39 lakh

¹² (i) P.D.Hinduja Hospital, Mumbai; (ii) Saifee Hospital, Mumbai; and (iii) Sushrut Hospital and Research Centre, Mumbai

3.1.2.8 Lack of initiative to create public awareness about the Scheme

The Bombay High Court while hearing a public interest litigation directed (March 2008) the Charity Commissioner, Mumbai to publicise the Scheme widely through electronic and print media so that the target beneficiaries can access the facilities available under the Scheme. The High Court also directed that necessary action should be taken to educate the citizens right up to village level through the network of Gram Panchayats.

Audit observed that a telephone with an answering machine (toll free number 1800 222 270) was installed (June 2008) at the Charity Commissioner's office, Mumbai to provide broad information about the Scheme. However, wide publicity to the toll free helpline was not given nor was the helpline number notified on the website of the Charity Commissioner. Audit also did not find any action having been taken by the Charity Commissioner to educate the people through the network of Gram Panchayats.

The Government stated that directions have been given to all the District Offices to again publish, the list of charitable hospitals, toll free number, website address and the Scheme details, in two local newspapers - one in Marathi and one in English.

3.1.2.9 Shortfalls in inspections of hospitals

With a view to improving and ensuring effective and efficient working of Public Trusts, the Charity Commissioner directed (1959) the Regional Officers in each district to inspect at least two to three Public Trusts per month. Further, in July 1972, the Charity Commissioner directed the Inspectors posted in the office of the Charity Commissioner and the Regional offices to inspect at least four to five Public Trusts per month. Audit however, observed that subsequent to the introduction of the Scheme in September 2006, the Charity Commissioner did not issue any instructions regarding frequency of inspections and number of inspections to be conducted.

Information furnished by the Charity Commissioner on inspection of 78 hospitals in Mumbai conducted during 2009-14 revealed as under:

Table 3.1.2: Status of inspection of hospitals in Mumbai

Inspection not done since	No. of hospitals	Percentage
More than five years	4	5
More than four years but less than five years	14	18
More than three years but less than four years	3	4
More than two years but less than three years	17	22
More than one year but less than two years	8	10
Less than one year	32	41
Total	78	100

Source: Information furnished by the Charity Commissioner

As may be seen from **Table 3.1.2**, more than 59 per cent of the hospitals were not inspected for more than one year.

Further, as per Rule 33 (2) (e) of the DCR, the Director of Health Services was the competent authority to monitor as to whether the medical institutions were observing the conditions mentioned in Regulation 33 (2) of DCR. However, no such monitoring was done by the Director of Health Services.

The Government stated that necessary steps would be taken to ensure inspection of all the charitable hospitals throughout the State.

3.1.3 Conclusion and recommendations

The Scheme though took care of reservation to be provided to indigent and weaker section patients as inpatients, the provisions of the MPT Act providing for reservation to such patients as outpatients were not implemented. Hospitals which were granted additional floor space index under Development Control Regulations or given land on lease at concessional rent were not providing higher percentage of reservation to economically weaker section of the society, in violation of the MPT Act. The system of identification of State-aided public trusts running charitable hospitals for their inclusion under the Scheme was not robust. The management of Indigent Patients' Fund by the hospitals was inadequate. There were instances of short-credit and excess debit to the Fund. The hospitals obtained irregular deposits from the indigent patients and there were instances of excess billing to patients, in violation of Scheme guidelines. The system of creating public awareness about the Scheme was weak. The Charity Commissioner, Mumbai did not conduct requisite number of inspections of the hospitals run by State-aided public trusts.

(i) The Government may implement the provisions of the MPT Act providing for reservation to indigent and weaker section as outpatients.

(ii) The Government may identify the State-aided public trusts running charitable hospitals and bring them within the ambit of the Section 41 AA of the MPT Act, 1950 so as to enable a larger section of poor patients to avail of the benefits.

(iii) The Government may institute suitable measures to increase public awareness about the Scheme and conduct regular inspections of the charitable hospitals to ensure that the Scheme guidelines are not violated.

Public Health Department

3.2 Misappropriation of Government money

Failure of Medical Superintendent, Sub-District Hospital, Udgir, Latur to credit the daily receipts of OPD fees and other charges collected from the patients into Government accounts resulted in misappropriation of ₹ 33.87 lakh.

As per Rule 8 (1) of Maharashtra Treasury Rules (MTR), 1968, all moneys received by or tendered to Government officers on account of the revenues of Maharashtra State shall without undue delay and that at any rate within two days of the receipt of the money be paid in full into a treasury or into the Bank and shall be included in the Treasury Accounts. Moneys received as aforesaid shall not be appropriated to meet departmental expenditure, nor otherwise kept apart from the Government Account. Further, Rule 98 (2) of MTR, 1968 provides that every officer receiving money on behalf of the Government should maintain a cash book in Form MTR 4 and all monetary transactions

should be entered in the cash book as soon as they occur and attested by the head of the office in token of check. The cash book should be closed regularly and completely checked. The head of the office should verify the totalling of the cash book or have this done by some responsible subordinate other than the writer of the cash book, and initial it as correct.

The Public Health Department, GoM authorised (November 1999) all the Medical Superintendents of the Sub-District Hospitals in the State to operate a Personal Ledger Account (PLA) for crediting the OPD fees and other charges¹³ collected from the patients.

Scrutiny of the records (September 2013) of the Medical Superintendent, Sub-District Hospital, Udgir, Latur (MS) revealed the following:

- The MS maintained the PLA cash book only up to the month of November 2010 and the transactions in the cash book were neither attested by him nor did he conduct any surprise checks of the cash book balances.
- Scrutiny of the income register, PLA treasury pass book and the related records revealed that between December 2010 and August 2013 (33 months) the Sub-District Hospital collected ₹ 34.87 lakh as OPD fees and other charges from the patients but, credited only ₹ 12.71 lakh into the treasury. However, the differential of ₹ 22.16 lakh was neither reflected in the PLA cash book nor credited into the treasury. The MS stated (September 2013) that ₹ 22.16 lakh was utilised for expenditure on office establishment (OE), POL and payment of advances. However, no supporting vouchers/records, except those relating to OE and POL amounting ₹ 9.37 lakh, were furnished to audit. The transaction of ₹ 9.37 lakh could not be validated as the MS did not maintain PLA cash book after November 2010.

On being pointed out in audit, the Deputy Director, Health Services, Latur (DDHS) conducted (December 2013) a preliminary investigation of the transactions of the Sub-District Hospital for the period July 2008 to August 2013 and confirmed that OPD fees and other charges amounting ₹ 34.46 lakh was kept out of Government accounts and there was a suspected misappropriation to that extent. The DDHS also suspended (April 2014) the cashier/senior clerk for misappropriation.

Based on the investigation conducted by the DDHS, the Director, Health Services, Maharashtra State, Mumbai (DHS) directed (September 2014) the Joint Director, Health Services, Pune (JDHS) to further investigate the matter. Further investigation by the JDHS in October 2014 revealed a misappropriation of ₹ 33.87 lakh (instead of ₹ 34.46 lakh reported by the DDHS). Besides, the JDHS observed that (i) the PLA cash book was not maintained in the prescribed format and daily transactions were not recorded properly in it, (ii) there were overwriting and erasures in the PLA cash book, (iii) income register revealed that the cash collected as patient fees by concerned sections of the hospital was not deposited with the cashier daily. The cash so received by the cashier was not deposited into treasury in time,

¹³ OPD registration fees, inpatient fees, lab-testing fees, X-ray fees, surgery charges delivery charges, nursing home charges *etc.*

(iv) the Drawing and Disbursing Officer (MS) did not sign the cash book and surprise check was not done, and (v) the MS being the custodian of the PLA did not furnish the quarterly statements, showing details of amounts credited into and expended from PLA, to the State Government through DDHS.

On the basis of JDHS report, the DHS ordered (April 2015) recovery of ₹ 33.87 lakh from the then MS (four in number) and the concerned cashiers. The DDHS stated in July 2015 that recovery action against the erring officials had been initiated. However, no recoveries were effected as of January 2016.

Thus failure of the Medical Superintendent, Sub-District Hospital, Udgir, Latur to abide by the provisions contained in MTR, 1968 resulted in misappropriation of ₹ 33.87 lakh.

The matter was referred to the Government (May 2015); their reply was awaited as of February 2016.

Urban Development Department

Mumbai Metropolitan Region Development Authority

3.3 Non-recovery of additional lease premium from a private developer

The Mumbai Metropolitan Region Development Authority did not recover an additional lease premium of ₹ 180 crore from a private developer for delay in construction of a convention and exhibition centre and commercial complex in Bandra-Kurla Complex.

The Mumbai Metropolitan Region Development Authority (MMRDA) is authorised to hold and dispose of land as per Section 3(2) of the Mumbai Metropolitan Region Development Authority Act, 1974, in accordance with the MMRDA (Disposal of land) Regulations, 1977 (Regulations) and MMRDA Bandra-Kurla Notified Area Development Control Regulations, 1979 (BKC Regulations).

The MMRDA invited Request for Proposal (RFP) in November 2005 for lease of 75,000 sqm of plot in 'G' block of Bandra-Kurla Complex (BKC) for development, operation and maintenance of Convention and Exhibition Centre (CEC) and Commercial Complex (CC). Of 75,000 sqm, land admeasuring 55,000 sqm was allocated for CEC and 20,000 sqm was allocated for CC. As per RFP, the plot area of CEC (55,000 sqm) was to have a built-up area (BUA)¹⁴ of 65,000 sqm while the plot area of CC (20,000 sqm) was to have BUA of 50,000 sqm. The RFP conditions further provided for a fixed rate of ₹ 20,000 per sqm for BUA of 65,000 sqm in respect of CEC while the bidders were to quote a rate higher than the reserve price of ₹ 70,000 per sqm fixed for the BUA of 50,000 sqm in respect of CC.

¹⁴ Built-up area means the area covered by a building on all floors.

Of the five offers received, the rates offered by Reliance Industries Limited (RIL) for the CC component was found to be the highest at ₹ 1,94,800 per sqm (against the reserve price of ₹ 70,000 per sqm). The MMRDA executed (September 2006) a lease deed with RIL for 80 years on payment of lease premium of ₹ 1,104 crore¹⁵. Subsequently, upon request of RIL, MMRDA allotted (March 2007) an additional BUA of 72,500 sqm for both CEC (41,000 sqm) and CC (31,500 sqm) at the weighted average rate of ₹ 96,000¹⁶ per sqm of the original allotment, totalling ₹ 696 crore.

As per lease deed of September 2006, construction of CEC and CC was to be completed by RIL within a period of four years (31 August 2010). Further, the lease deed and the Regulations also provided that if the time stipulated for construction is not observed for reasons beyond the control of the lessee (RIL), the lessor (MMRDA) may permit extension of time, subject to payment of additional lease premium at the prescribed rates.

One of the unsuccessful bidders (petitioner) had challenged the allotment of additional BUA of 31,500 sqm to RIL for the CC component in the Bombay High Court. The Court granted a stay on the matter which was finally vacated in March 2012 after the case was withdrawn unconditionally by the petitioner. Since the period of stay was beyond the control of RIL, the construction period was extended by MMRDA from 31 August 2010 to 29 January 2015. The issue of recovery of additional lease premium from RIL for the extended period (31 August 2010 to 29 January 2015) or its waiver had been referred by MMRDA to the Authority¹⁷ who in its meeting held on 26 August 2015 decided to obtain the opinion of a retired Supreme Court Judge or a Chief Justice of High Court.

Audit observed that though RIL could not complete the construction even by the extended date of 29 January 2015, yet an additional lease premium of ₹ 180 crore¹⁸ for delay in construction up to one year (29 January 2016) was not recovered from RIL by MMRDA as of December 2015.

The matter was referred to the Government in July 2015; their reply was awaited as of February 2016.

¹⁵ CEC: 65,000 sqm BUA x ₹ 20,000 per sqm + CC: 50,000 sqm BUA x ₹ 1,94,800 per sqm

¹⁶ ₹ 1,104 crore ÷ 1,15,000 BUA (CEC: 65,000 sqm + CC: 50,000 sqm)

¹⁷ The Authority *inter alia* comprises the Minister of Urban Development; Minister of State for Urban Development; Mayor of Mumbai; Chairman, Standing Committee, Municipal Corporation of Greater Mumbai; Chief Secretary to the Government of Maharashtra; Secretary of Urban Development Department and Municipal Commissioner

¹⁸ 10 per cent per annum of total lease premium of ₹ 1,800 crore (₹ 1,104 crore + ₹ 696 crore)

Housing Department
Maharashtra Housing and Area Development Authority
3.4 Undue financial benefit to Co-operative Housing Societies

Due to application of inappropriate penal rates for non-surrender of surplus built-up area, the Mumbai Building Repairs and Reconstruction Board granted an undue financial benefit of ₹ 12.42 crore to 21 Co-operative Housing Societies.

As per scales prescribed in the third Schedule of Section 103-I (3) of Maharashtra Housing and Area Development Act, 1976, the Co-operative Housing Societies (CHS) to whom No Objection Certificates (NOC) have been issued by MBRRB¹⁹ are required to surrender five to 50 *per cent* of the built-up area (BUA) for allotment to the occupants residing in MBRRB's transit camps or whose old cessed buildings cannot be constructed.

The Housing Department, GoM in October 2012 directed Maharashtra Housing and Area Development Authority (MHADA) to levy penalty on 33 CHS who had constructed new buildings but did not surrender the surplus BUA to MBRRB. The penalty was directed to be imposed as per penal rates prescribed in Government Resolutions²⁰ of General Administration Department for Government employees who overstay in Government quarters. Accordingly, MBRRB calculated a penalty of ₹ 32.68 crore for non-surrender of 11,319.29 sqm of surplus BUA in respect of 30²¹ of the 33 CHS for the period January 1992 to December 2014 and issued demand notices.

Audit observed that the methodology adopted by MBRRB (application of flat rates) was not appropriate because, the same was not based on the ready reckoner rates²², on the basis of which the Public Works Department determines the rental value of the properties (both Government and private) and issues certificates regarding reasonableness of rent, as per paragraph 380 of The Maharashtra Public Works Manual. The rationale for adoption of ready reckoner rates for computation of penal rates further gets strengthened by the fact that surplus areas not surrendered by the societies may have been rented out at market rates prevalent in the areas where such properties are located.

¹⁹ The Mumbai Building Repairs and Reconstruction Board

²⁰ ₹ 10 per sqft per month as per GR of September 1996; ₹ 25 per sqft per month as per GR of November 2006; and ₹ 50 per sqft per month as per GR of July 2011

²¹ One case was pending in court and in two cases construction did not commence

²² The rate of land and buildings fixed by the Government of Maharashtra for stamp duty purpose

As per estimation of audit, the penalties for non-surrender of surplus BUA by 21 CHS²³ for the period January 2009²⁴ to December 2014, according to the ready reckoner rate of the relevant year, worked out to ₹ 35.99 crore. However, by applying the flat rate methodology of MBRRB for the same period (January 2009 to December 2014), the penalties in these 21 cases worked out to ₹ 23.57 crore. Incidentally, the monthly rental per sqft in these 21 cases, based on the ready reckoner rates, ranged between ₹ 33.75 (2009) and ₹ 157.81 (2014), as against only ₹ 25 and ₹ 50 per month per sqft applied by MBRRB.

Thus, application of inappropriate penal rates for non-surrender of surplus built-up area resulted in undue financial benefit of ₹ 12.42 crore²⁵ to 21 Co-operative Housing Societies.

The matter was referred to the Government in June 2015; their reply was awaited as of February 2016.

Medical Education and Drugs Department

3.5 Avoidable payment of interest

Non-payment of arrears of electricity bills in time by the Dean, Swami Ramanand Teerth Rural Medical College and Hospital, Ambajogai, Beed resulted in avoidable payment of interest of ₹ 1.20 crore on arrears.

The Dean, Swami Ramanand Teerth Rural Medical College and Hospital, Ambajogai, Beed (Dean) had a common electricity connection for the college, hospital and residential premises for the doctors and the staff. The electricity bills for these three establishments were being paid by the college and the hospital on alternate months from their Personal Ledger Accounts.

Audit observed (June 2013) that in January 2009 the Maharashtra State Electricity Distribution Company Limited, Beed (MSEDCL) raised arrears of electricity bills amounting ₹ 1.03 crore for the period October 2006 to May 2008, due to wrong application of tariff during this period. However, the Dean continued to pay the current bills, excluding the arrears. Consequently, the arrears along with interest thereon increased to ₹ 2.88²⁶ crore by February 2013.

Audit further observed that the Dean demanded additional grants from the Director, Medical Education and Research, Mumbai (DMER) for payment of the arrears only from 2011-12. The grants were however, released by DMER

²³ Excluding nine CHS which have surrendered surplus BUA of 5,749.71 sqm either fully or partially

²⁴ Ready reckoner rates were not available with audit prior to January 2009

²⁵ ₹ 35.99 crore minus ₹ 23.57 crore

²⁶ Principal arrears (₹ 1.68 crore) plus interest on arrears (₹ 1.18 crore) plus current interest (₹ 2.09 lakh) up to 28 February 2013

after a delay of one year in March 2013 and the payment of ₹ 2.88 crore was made by the Dean to MSEDCL in April 2013.

The Dean stated (October 2013) that he was not authorised for payment of arrears and interest thereon and therefore, the demand was made to the DMER for allocation of additional grants.

The reply of the Dean is not convincing because, the reply did not elucidate the reasons for delay of two years (2009-10 and 2010-11) in placing the demand for additional grants with DMER. If the Dean had placed the demand for additional grants with the DMER during 2009-11 itself and the grants released by DMER without delay, payment of interest on arrears could have been avoided.

Thus, failure of the Dean, Swami Ramanand Teerth Rural Medical College and Hospital, Ambajogai, Beed to take timely action in paying off the arrears of electricity bills resulted in avoidable payment of interest of ₹ 1.20 crore²⁷.

The matter was referred to the Government (May 2015); their reply was awaited as of February 2016.



(MEENAKSHI MISHRA)

Principal Accountant General (Audit)-I,
Maharashtra

Mumbai,
The 25 May, 2016

Countersigned



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

New Delhi,
The 26 May, 2016

²⁷ ₹ 1.18 crore plus ₹ 2.09 lakh