

# 2 CHAPTER

## Regulatory framework of Autonomous Bodies

### 2.1 Background

ABs established under an Act of Parliament are governed by the regulations contained in the said Act, while ABs registered under the Societies Registration Act, 1860 or the relevant State Societies Registration Acts, as applicable, are required to comply with the provisions of the latter.

Of the 19 selected ABs, 17 were Societies registered under the Societies Registration Act, 1860/ State Societies Registration Act and two ABs were formed under separate Acts of Parliament. This chapter highlights observations on deviations from the regulatory provisions governing the 17 selected ABs that were registered as Societies.

### 2.2 Formation of Autonomous Bodies

#### 2.2.1 Autonomous body set up without Cabinet approval

As per Rule 208 of General Financial Rules (GFRs), no new autonomous institution should be created by the Ministries or Departments without approval of the Cabinet.

DST submitted (May 1989) a proposal before the Expenditure Finance Committee (EFC) for the approval of a project “Establishment of Advanced Research Centre for Powder Metallurgy” under Integrated Long Term Programme<sup>1</sup> at Hyderabad at a cost of ₹ 46.27 crore for the years 1989-95. The project was envisaged as a joint venture between India and USSR. The project was approved (May 1990) by the Cabinet Committee on Economic Affairs and the approval was communicated on 1 November 1990.

Meanwhile, DST formed a Society ‘Advanced Research Centre for Powder Metallurgy’ through a MoA signed by seven members and registered in October 1990 under Andhra Pradesh (Telangana Area) Public Societies Registration Act. The Society was renamed as ‘Indo-Soviet Advanced Research Centre for Powder Metallurgy’ on 7 November 1991 and later due to dissolution of USSR, changed to ‘International Advanced Research Centre for Powder Metallurgy and New Materials’ (ARCI) with effect from 17 March 1994. DST released funds of ₹ 241.04 crore during 2009-14 to ARCI.

<sup>1</sup> The Government of India and the Government of the Union of Soviet Socialist Republics (USSR) agreed upon the Integrated Long Term Programme of Scientific and Technical co-operation between the two countries in July 1987.

The project, “Establishment of Advanced Research Centre for Powder Metallurgy”, was closed in March 1995, however, ARCI continued to function as an AB.

We observed that establishment of ARCI as an AB was not mentioned in the EFC memorandum submitted to the Cabinet. The approval accorded by the Cabinet was for the project and a fixed duration from 1989 to 1995. Establishment of ARCI as an AB and continuing funding to it was irregular as its formation was not approved by the Cabinet as required under GFRs.

ARCI accepted (February 2015) that no communication was received from DST conferring autonomous status to ARCI except internal notes.

DST stated (May 2016) during exit conference that status of ARCI would be checked again.

### **2.2.2 MoA and regulations of AB not in conformity with required legislation**

The Societies Registration Act, 1860 stipulated that MoA of a Society should contain the name of the Society, its objectives, the names, address and occupation of the Governors, Council, Directors, Committee or other Governing Body to whom, by the rules of the Society, the management of its affairs was entrusted. The MoA and a copy of regulations of the Society, certified to be correct copy by not less than three of the members of the GB, was to be filed for registration of the society.

Subsequently, the West Bengal Societies Registration Act, 1961 was passed by the West Bengal Legislature to provide for registration of societies or Non-Government Organisations (NGOs) whose head office was situated in the state of West Bengal. It also provided that any society previously registered under the Bare Act 1860 would be deemed to have been registered under the new Act, provided the MoA and regulations as mentioned in the former Act were in conformity with the latter Act. If any inconsistency was found the same was to be set right within six months from the promulgation of the new Act. In case the inconsistencies were not set right within the stipulated period, to the extent of the inconsistency, these documents would be deemed to be void.

Bose Institute, Kolkata (BI) was registered (May 1918) as a Society under the Societies Registration Act, 1860 and had accordingly filed its MoA and regulations. The Regulations of BI were subsequently revised in March 1945.

We observed that BI did not amend its MoA and regulations in accordance with the provisions of the West Bengal Societies Registration Act, 1961. As a result, a number of inconsistencies as listed in Table 1 remained in the MoA and regulations of BI.

**Table 1: Inconsistencies found in the MoA and regulations of BI with the provisions of West Bengal Societies Registration Act, 1961**

Requirement as per (WB Societies Registration Act 1961)	Inconsistency observed in MoA and Regulations
1. The MoA should contain the objects of the Society.	Objectives were placed in the Regulations instead of MoA.
2. Safe custody of property of the Society including in particular the manner of keeping or investing any moneys of the Society.	No provision regarding 'manner of keeping or investing any moneys' was given in the Regulations.
3. The procedure for holding meetings of the Society, quorum, the method of voting, the period of notice for meetings and the manner of voting by proxy, where such voting is allowed. Disqualification for being member of the GB if he has convicted any offence in connection with the formation, promotion, management or conduct of the affairs of a Society.	No such provision was incorporated in the Regulations.
4. The maintenance of a register of members and facilities for inspection thereof by the members.	
5. The maintenance and audit of accounts of the Society.	
6. The inspection of accounts and of the proceedings of the meetings, by the members of the Society.	
7. The admission to membership and resignation and removal of members.	

Thus, BI had failed to regularise these inconsistencies within the stipulated period of six months from the promulgation of the new Act.

While accepting the audit observation, DST stated (May 2016) that the matter would be taken up with the Registrar of the Society for regularisation.

## 2.3 Governance

### 2.3.1 Unauthorised constitution of Governing Body

Technology Information Forecasting and Assessment Council, New Delhi (TIFAC) is a society registered under the Societies Registration Act, 1860. MoA and Rules of TIFAC were approved in 1988. Para 10 of MoA stipulates that initial nomination of Members of the GB including office bearers was to be done by the Secretary, DST, with the approval of the Prime Minister. The term of membership of the GB was normally three

years. Changes in the composition of GB within three years' term, if any, could be done by Chairman of the GB. Nominations for the successive GBs after completion of the term could be done by Secretary, DST with the approval of the Prime Minister.

As per the term of membership of GB, the GB should have been reconstituted nine times between 1988 and 2015. Records however, revealed that during the period from 1988 to 2011, GB of TIFAC was reconstituted only four times i.e. in 1993, 1997, 2005 and 2011. Of these, approval of the Prime Minister was recorded only in one case of the GB being reconstituted in 1997. There were no records to indicate that approval of Prime Minister was obtained for reconstituting GB on the other occasions.

DST accepted (May 2016) the audit observation in exit conference.

## **2.4 Conclusion**

International Advanced Research Centre for Powder Metallurgy and New Materials, Hyderabad was established without the approval of the Cabinet and therefore its formation was irregular. In another case, the Bose Institute, Kolkata initially registered under the Societies Registration Act 1860 and subsequently coming under the purview of State Societies Registration Act 1961, did not adopt the requisite provisions of State Act due to which there were inconsistencies in compliance of the provisions of the State Act. DST continued to release grants to these ABs in a routine manner without examining the adherence to legal requirements by these ABs. Further, Technology Information Forecasting and Assessment Council, New Delhi constituted Governing Body without approval of the competent authority.

## **2.5 Recommendations**

1. DST may obtain ex-post facto approval of the Cabinet for establishment of International Advanced Research Centre for Powder Metallurgy and New Materials, Hyderabad as an Autonomous Body for regularisation of its continuance and ensure that the prescribed procedures are followed for creation of Autonomous Bodies.
2. DST may review Memorandum of Association and Regulations of all the Autonomous Bodies and ensure that provisions of the same are in conformity with the applicable Central/State Societies Registration Act.