

## CHAPTER IV

### COMPLIANCE AUDIT

#### *AUDIT OF SELECTED TOPICS*

#### **4.1 INSTALLATION AND MANAGEMENT OF BIO-GAS PLANTS BY URBAN LOCAL BODIES**

##### **4.1.1 Introduction**

Over the years, the quantum of waste generated by different entities (Households, Commercial Centres, Institutions, Industries etc.) has been increasing in pace with the increase in urbanization, population growth and associated activities. The responsibility of municipal solid waste management in the State is vested with Local Self Government Institutions (LSGIs) both in the urban and rural areas. The Kerala Municipality Act, 1994 and Municipal Solid Waste (Management and Handling) Rules, 2000 (MSW Rules) entrust the Municipal authorities with the responsibility of collection, segregation, storage, transportation, processing and disposal of municipal solid waste. As per these Act and Rules, the Urban Local Bodies (ULB), State Pollution Control Board (SPCB) and District Magistrates/Deputy Commissioners are assigned with specific responsibilities, roles and functions.

The Government is encouraging setting up of composting units such as vermi compost, pipe compost, windrow compost<sup>1</sup>, bio-gas plants etc., through LSGIs for the disposal of waste generated in Panchayat/Municipal/Corporation areas. Bio-gas plants aim to (i) recover energy from waste (ii) dispose waste scientifically (iii) convert waste into fertilizer after energy extraction (iv) improve sanitation and (v) protect the environment.

##### **4.1.2. Organisation set up**

The Kerala State Suchitwa Mission (KSSM), an organisation under the Local Self Government Department (LSGD), Government of Kerala (GoK) is entrusted with the responsibility of providing technical and financial support to the ULBs in the implementation of solid waste management projects. The ULBs formulate various projects for which administrative sanction (AS) is accorded by the LSGD and technical sanction (TS) by KSSM. The ULBs implement the projects through service providers/accredited agencies approved by Government.

##### **4.1.3. Audit Objectives**

The objective of the audit was to ascertain whether planning, installation and maintenance of bio-gas plants by ULBs were in compliance with the Acts, Rules

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<sup>1</sup> Production of compost by piling organic matter or biodegradable waste, such as animal manure and crop residues, in long rows (Windrows).

and guidelines. The above broad objective was split into following sub objectives:

- (i) Whether the installation of bio-gas plants was properly planned
- (ii) Whether implementation of the project was effective
- (iii) Whether the mechanism that exists in the Municipalities was adequate for the operation and maintenance of the bio-gas plants.

#### **4.1.4. Audit Criteria**

The sources of audit criteria are the following:

- i) Kerala Municipality Act, 1994
- ii) Municipal Solid Wastes (Management and Handling) Rules, 2000
- iii) Guidelines/Circulars/Orders issued by Government of India/Government of Kerala.

#### **4.1.5. Audit scope and methodology**

The audit of the installation and management of Bio-gas plants was conducted in the selected Municipalities and Municipal Corporations covering the urban areas. Audit methodology included scrutiny of records maintained by the selected ULBs, collection of data from Information Kerala Mission (IKM), KSSM, SPCB and LSGD. It also included discussions and conduct of joint site verification with officials of the ULBs. Audit scrutiny covered the period 2011-12 to 2015-16. We commenced the audit with an Entry Conference (29 June 2016) with Principal Secretary, LSGD. An Exit Conference was conducted in March 2017 with the Secretary, LSGD during which the audit findings were discussed in detail.

#### **4.1.6. Sampling**

Out of the 87 Municipalities and 6 Municipal Corporations in the State, Institutional level and Community level bio-gas plants were installed in 41 Municipalities and all the Municipal Corporations. The capacity of these plants varied from 15 kg to 5000 kg each and the cost of the plant varied from ₹0.40 lakh to ₹24.44 lakh each. Hence, for the selection of samples, “Stratified random sampling” using IDEA software based on the capacity of the plants was adopted. All the 41 Municipalities were divided into three strata. Stratum 1 consisted of six Municipalities with bio-gas plants of capacity above 2000 kg (100 *per cent* selection; Six Nos.), Stratum 2 consisted of 11 Municipalities with bio-gas plants of capacity 1000 kg to 2000 kg (50 *per cent* selection; Six Nos.) and Stratum 3 consisted of 24 Municipalities with bio-gas plants of capacity below 1000 kg (25 *per cent* selection; Six Nos.). Thus, a total of 18 Municipalities<sup>2</sup> and three Corporations<sup>3</sup> were selected for detailed audit.

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<sup>2</sup> Changanassery, Kottayam, Ettumanoor, Piravom, Thrikkakkara, Thripunithura, Thodupuzha, Wadakkancherry, Kasaragod, Kanhangad, Thaliparambu, Thalassery, Vatakara, Koyilandy, Mukkom, Kalpetta, Nilambur and Perinthalmanna

<sup>3</sup> Thiruvananthapuram, Kochi and Kannur - Of the six Municipal Corporations, bio-gas plants at Thrissur Corporation were installed by Kerala State Urban Development Project (KSUDP) and a Performance Audit on KSUDP is being attempted this year. In respect of Kollam and Kozhikode Corporations, paras relating to bio-gas plants has already appeared in the Audit Report for the year 2014-15.

## 4.1.7. Audit Findings

### 4.1.7.1. Planning

#### (i) Failure to get authorization from State Pollution Control Board

Rule 4.2 of the MSW Rules 2000, stipulates that the Municipal Authority or an operator of a facility shall make an application in Form-I for grant of authorisation for setting up waste processing and disposal facility from the SPCB before the commencement of the implementation. Rule 6.1 further states that, it is the responsibility of the Central/State Pollution Control Board to monitor the compliance of the standards regarding ground water, ambient air, leachate<sup>4</sup> quality and compost quality including incineration standards. As per Section 33(1) and 33(A) of Water (Prevention and Control of Pollution) Act, 1974, SPCB may make an application to court for restraining those process which are likely to cause pollution of water-bodies or any land and derive power for directing the closure, prohibition or regulation of any operation or process which cause pollution.

We found that of the 21 test checked ULBs, operating 38 community level bio-gas plants, only three plants in Ettumanoor, Thalassery and Changanassery had consent from the SPCB to establish/operate the bio-gas plants. The remaining 35 plants in respect of 18 ULBs had not obtained consent from SPCB. Further, in respect of plants that had obtained consent from SPCB, we found during joint verification that pollution of land and water had occurred in two ULBs (Changanassery and Thalassery) as detailed in para 4.1.7.2. (i).

Kottayam and Thodupuzha Municipality stated in their reply that the consent was not obtained from SPCB in order to avoid any delay in the installation of the plants and to avoid lapse of funds.

The replies furnished by the two ULBs were not acceptable as applying for authorisation for setting up waste processing and disposal facility was a pre-requisite as per Rule 4.2 of MSW Rules 2000. Replies in respect of other ULBs were awaited (March 2017).

SPCB replied that they had no information regarding installation of bio-gas plants in nine ULBs<sup>5</sup>. In the remaining nine ULBs, though direction was issued by SPCB to obtain its consent the same was not done by the ULBs.

#### (ii) Installation of bio-gas plants without the approval of KSSM

GoK had instructed (June 2008) that TS of KSSM was mandatory for installation of bio-gas plants exceeding one tonne capacity and those plants which are to be constructed with technology deviating from the guidelines (February 2008)

<sup>4</sup> Liquid that seeps through solid wastes or other medium and has extracts of dissolved or suspended material from it.

<sup>5</sup> Thrissur, Thrippunithura, Thrikkakkara, Wadakkancherry, Thalipparambu, Kalpetta, Kasaragod, and Kanhangad Municipalities, Kochi and Kannur Corporations.

irrespective of the capacity of the plant. Besides, TS of KSSM should be obtained by the LSGIs for installation of bio-gas plants for availing Government assistance by way of subsidy.

Further, GoK had issued (June 2011 and December 2013) the following directions:-

1. Prior AS/ TS have to be obtained by the ULBs before the commencement of any solid waste management project and no deviation from the AS/ TS would be allowed.
2. If any deviation becomes necessary due to any technical reason, revised AS/TS should be obtained from KSSM by the LSGIs prior to implementation of the project.
3. Bio-gas plants upto one tonne capacity shall be installed with the AS of District Planning Committee and TS of Technical Committee of LSGD whereas bio-gas plants of capacity above one tonne shall be installed with the TS of KSSM.
4. The specifications, standards, unit cost, Operation and Maintenance (O&M) protocol etc., stipulated by Government shall be followed while installing the bio-gas plants. A clause for recovering liquidated damages as decided by KSSM or a Committee appointed by Government, from any agency that defaults has to be incorporated by the ULB in the agreement executed with the agency.

In the following cases bio-gas plants were installed by deviating from the approved TS/without the approval of KSSM.

(a) In Kottayam Municipality, KSSM had accorded (October 2013) TS for installing one bio-gas plant of 2000 kg capacity and had intimated that the estimated cost should not exceed ₹26 lakh. During scrutiny, we found that the municipal authorities had installed two bio-gas plants of 2000 kg capacity each, one near Kodimatha bus stand and the other at Nagambadom incurring a total expenditure of ₹47.88 lakh. On enquiry, municipal authorities stated that TS from KSSM was obtained for only one bio-gas plant since the two plants installed were identical. The reply of the ULB was not tenable since both the plants were above one tonne capacity each which mandated the TS of KSSM. Further, due to non-obtaining of the TS from KSSM, the ULB had forfeited the financial assistance from Government amounting to ₹26 lakh.

(b) KSSM had accorded TS for installing five bio-gas plants (July 2011) in Koyilandy Municipality at an estimated cost of ₹35.64 lakh at five locations viz., Town Hall, fish market, Bus stand Complex and two markets.

Municipality awarded the work at Town hall, fish market and bus stand to M/s Integrated Rural Technology Centre (IRTC), Palakkad during 2011-12 and an amount of ₹11.09 lakh was advanced to the agency. Though the Municipality granted advance for the installation of three bio-gas plants, the agency completed only one bio-gas plant at the new bus stand complex during 2012 utilising the

entire amount of ₹11.09 lakh. The estimated cost approved by KSSM for this plant was only ₹5.44 lakh. Thus an additional expenditure of ₹5.65 lakh was incurred by diverting the fund obtained for the other two plants without obtaining revised AS/TS. Further, the ULB had not recovered liquidated damages from the agency for deviating from the original estimate already approved by KSSM since such a clause was not included in the agreement. Regarding the other two plants, Municipality stated that bio-gas plant at Town Hall was not installed due to construction of a nearby over bridge and the plant proposed in the fish market was not installed as the site was not handed over to the agency by the ULB as per the agreement (July 2011) executed with the agency. Despite obtaining TS and availability of funds, Municipality did not install (March 2017) the Bio-gas plants proposed in the two markets. No records were available in the ULB to show why these plants were not installed. Reply from the ULB is not yet received (March 2017)

(c) KSSM was not encouraging plants that converted waste to energy on the ground that the efficiency of this technology was not proven. Hence TS was not granted by KSSM for such plants. In Thrikkakkara and Ettumanoor Municipalities and in Kannur Corporation, six bio-gas plants were constructed by M/s.Bio-Tech using the waste to energy technology. In the absence of TS, the ULBs could not avail financial assistance (cent *per cent* subsidy) from Government as detailed in **Table 4.1** below:-

**Table 4.1: Details of plants installed by M/s.Bio-Tech**

(₹ in lakh)

Sl.No.	Name of ULB	Capacity	Expenditure incurred and amount forfeited
1.	Thrkkakkara Municipality	One 750 kg plant and three 500 kg plants	46.06 <sup>6</sup>
2.	Ettumanoor Municipality	1000 kg	24.45
3.	Kannur Corporation	300 kg	13.65

**(iii) Plants lying idle due to defective planning**

As per the Government guidelines (March 2011), the location, size and type of the bio-gas plant, cost etc., were to be proposed by the ULB for obtaining the TS of KSSM. Capacity of the bio-gas plant was to be based on the quantum of waste generation assessed by the Health/Engineering Wing of the ULB concerned.

During joint site inspection with municipal authorities we observed that the location of the installation, amount of waste generated etc., were not properly assessed. Consequently, projects planned and plants constructed in Kottayam, Vatakara, Kalpetta, Thodupuzha and Thalassery Municipalities, were lying idle as given in **Table 4.2** below:

<sup>6</sup> Expenditure pertains to three bio-gas plants only.

**Table 4.2: Plants lying idle due to defective planning**

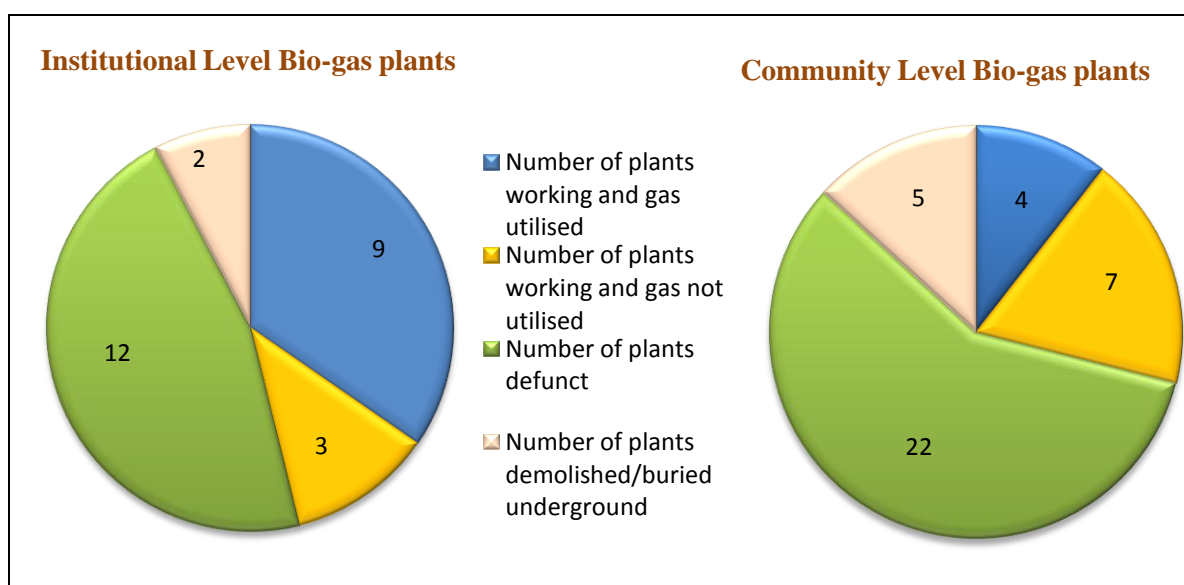
Name of ULB	Particulars of plant and reasons for idling
Kottayam Municipality	In March 2015 a 2000 kg plant costing ₹23.94 lakh was constructed near Kodimatha Bus stand. The plant was stated to be in working condition but on verification, we found that it was idling as access to the plant was obstructed when the site was handed over (April 2015) to Kerala State Road Transport Corporation by the ULB for their garage.
Vatakara Municipality	A 250 kg plant costing ₹4.14 lakh was installed (January 2012) in a proposed fish market at Narayananagar for disposal of fish waste. A public protest had erupted against a nearby polluted canal which in turn affected the opening of the fish market. As the Municipality failed to resolve the pollution issue of the canal for the last four years, fish market could not be opened and the plant was idling from the date of installation.
Kalpetta Municipality	A 1500 kg plant costing ₹16.25 lakh was installed (March 2012) in the premises of a slaughter house which was already closed (2009) due to public protest against the waste issues. However, even after the installation of the plant, ULB was unable to open the slaughter house due to continued public protest. In reply to an audit query (November 2016), Municipality stated that they would settle the issue after discussion with public. The reply of the Municipality was not tenable as the Municipality should have discussed the matter with public before installation of the plant. Further, the Municipality failed to settle the issue even after a lapse of seven years.
Thodupuzha Municipality	In reply to an audit query regarding selection of location and quantity of waste generation, it was stated (February 2017) that before installation of plant during 2013, the quantity of waste generated was assessed based on the waste produced in the nearby meat processing unit (MPU). The reply of the ULB could not be accepted as the MPU was shut down during 2007 and on joint site inspection, we found that the plant was lying idle from the date of installation as detailed in Para 4.1.7.2.(i)
Thalassery Municipality	As a result of closing down of the Municipal waste dumping yard at Pettippalam due to intense public protest, the Municipality had installed three bio-gas plants as a temporary measure without conducting any preliminary study in order to solve the issues relating to disposal of waste. As the ULB has stated that they could reduce the quantity of waste generated within one year of closing down of trenching ground by encouraging source level disposal of waste, the action of installation of three bio-gas plants was not justifiable. Further, on joint site verification, we found that these bio-gas plants were lying idle as detailed in Para 4.1.7.2.(i) and Appendix XXI and no effort was made by the ULB to make them functional.

#### **4.1.7.2. Implementation**

##### **Status of Community and Institutional level bio-gas plants**

Details of Community and Institutional level bio-gas plants are given in **Appendix XX (a), XX (b) and chart below:**

Chart 4.1: Status of Institutional level and Community Level Bio-gas plants



Every year, GoK issues a list of approved service providers for the management of solid waste in ULBs subject to the condition that the existing Government orders and guidelines shall be strictly followed by these agencies while rendering service to the ULBs. Specifications such as installing pre-digester, pre-filter, septic tank, digester, pulveriser for plants of capacity 300 kg and above and standards, unit cost, O&M protocols stipulated by the Government have to be adhered to while installing the solid waste treatment plants. A clause for recovering liquidated damages, as decided by KSSM or any Committee appointed by the Government, from any agency who defaults in adhering to the conditions stipulated in the Government guidelines regarding specifications, standards, unit cost, O&M protocol etc., has to be incorporated by the ULB in the agreement executed with the agency. The work shall be executed through accredited agencies approved by Government or Service Providers by inviting competitive tenders/quotations.

**(i) Plants idling due to defective implementation**

In the 21 test checked ULBs, the conditions stipulated in the Government guidelines/Circulars/Orders were not seen adhered to in five ULBs while implementing community level<sup>7</sup> bio-gas plants as detailed in **Table 4.3** below:

<sup>7</sup> Bio-gas plants of capacity ranging from 300 - 2000 kg of solid waste per day installed mainly in markets, slaughter houses, dumping yards etc.

**Table 4.3: Details of plants idling due to defective implementation**

Details of Bio-gas plant installed	Audit Observation
<b>Changanassery Municipality</b>	
<p>1000 kg fixed dome type, installed by M/s.Kerala Agro Industries Corporation Ltd. (KAICO) during May 2014 at fish market. Expenditure: ₹9.81 lakh.</p>	<p>Though the ULB obtained TS from KSSM in September 2009, agreement was executed with KAICO only in September 2010 with the agreed date of completion in January 2011 which was later extended to June 2012. Despite furnishing of completion certificate (May 2014) by the agency, neither the trial run was conducted nor the plant made operational (February 2017). We observed that the Municipal Engineer (ME) made payments to the agency without check measuring the items of work and certifying the value of work done before payment was made. In spite of issuing notices, municipality did not take any action either to get the work completed or levy compensation from the executing agency for their default. Payment of ₹9.81lakh by the ME to the agency without verification was in violation of the Government directions, which calls for fixing of responsibility. During site inspection we noticed that the plant was lying idle and wastes were dumped in large quantities in the market premises and inside the storm water drains</p>
<b>Thalassery Municipality</b>	
<p>1000 kg floating dome type, installed at Industrial Estate, Kandikkal during 2009-10 by M/s.Socio Economic Unit Foundation (SEUF) Expenditure: ₹16.38 lakh</p>	<p>Though TS was for installing a pre-digester of capacity 20 cu.m. and digester of capacity 75 cu.m., the pre-digester and digester installed by the agency were of capacity 10 cu.m. and 37.5 cu.m. respectively. When the revised TS was accorded by KSSM, the agency was directed to certify that the installed plant has the capacity of disposing one tonne waste per day and the agency should satisfy the implementing officer on this fact, but no such certificate was obtained by the Municipality from the agency  Further, despite the objection raised by KSSM against installation of an air compressor costing ₹0.48 lakh, the agency installed (August 2014) an air compressor along with the plant. KSSM had raised the objection because air compressor was not an item included in the specifications stipulated in the guidelines. Municipality stated that the plant was defunct from April 2015.  During site inspection (October 2016), we noticed that the plant was lying idle due to blockage of pre-digester tank and the ULB had resorted to open burning of the waste.</p>



Details of Bio-gas plant installed	Audit Observation
<b>Thodupuzha Municipality</b>	
<p>(a) 2000 kg fixed dome type, installed at Market during 2013 by M/s.KAICO. Expenditure: ₹16.46 lakh</p>	<p>On scrutiny of records, we found that the plan/diagram of the plants submitted by M/s.KAICO along with the estimate did not contain the pre-digester, pre-filter etc. Besides, items such as gas pipe, scrubber, stove etc., were not installed and necessary electrical works were not done against which payment of ₹0.64 lakh was made by the ULB. Further, the ULB did additional work for ₹3.04 lakh without obtaining revised TS from KSSM for the deviation. On further verification, we found that the Registration Number of an earth mover (KL-14E-5118) mentioned in three bills submitted by the agency for a sum of ₹1.22 lakh was the Registration Number of a Two Wheeler (as per the records of the Motor Vehicle Department).</p> <p>Regarding the payment of the bogus claim, the contention of the ULB that a clerical error had occurred was not tenable as the claim was made in three bills and the same registration number was written on all those bills. Thus the ME, who was responsible for check measuring the items of work and on whose certification payments were made, had not ensured/monitored the actual execution of the work and therefore, responsibility should be fixed on the ME.</p> <p>On joint site verification, we found that the plant was lying idle as an approach pathway to the plant was not constructed for transportation of waste to the plant in addition to non-supply of water and electricity.</p>
<p>(b) 1500 kg fixed dome type, installed at Taluk Hospital during 2012 by M/s.KAICO. Expenditure: ₹12.62 lakh.</p>	<p>The components envisaged in the original estimate viz., pre-digester, pre-filter, pulveriser, slurry pump, trolley, chopper etc., costing ₹1.65 lakh were not installed by the agency in the plant. Electrification had also not been done by the agency. However, full payment of ₹12.62 lakh was made to the agency. On joint site verification, we found the plant lying idle and large quantity of wastes were dumped on the side of the plant.</p> <p>The ME had certified the work bills without check measuring or ensuring that machineries were installed, which calls for fixing of responsibility.</p>

Details of Bio-gas plant installed	Audit Observation
<b>Kannur Corporation</b>	
<p>1000 kg fixed dome type, installed at Ayikkara fish market during 2009-10 by M/s.KAICO. Expenditure: ₹14.85 lakh</p>	<p>Though the work was awarded to the agency in August 2009, the construction of the plant was not completed (October 2016). During site inspection (October 2016), we found that the pulveriser was not installed and provision for water and electricity supply not made. We further noticed that even if the plant was made operational, transportation of waste to the plant could not be possible due to construction of a compound wall around the bio-gas plant. Waste from the fish market was dumped in large quantities in a nearby canal. All the payments were made by February 2012 to the agency without check measuring the items of work by the ME and without ensuring that the construction was done as per the approved specifications. This calls for fixing of responsibility.</p>
<b>Kanhangad Municipality</b>	
<p>Two bio-gas plants of 600 and 800 kg capacity, fixed dome type, installed at the fish market during 2008-09 by M/s.KAICO. Expenditure: ₹14 lakh</p>	<p>Though agreement with M/s KAICO was executed in April 2008 and date of completion was four months from the date of agreement, the construction of these two plants was stated to have been completed in June 2009. Even then, the works of installation of pulveriser, generators, conversion kit, electrical starting system with battery, acoustic enclosure system, electrification of streetlights, generator room etc. costing ₹3.90 lakh were not done by the agency for which payment was made. Municipality stated (October 2016) that as the work of installation of both the plants was not completed by the agency, the balance of ₹2.60 lakh out of the total value of work done ₹16.60 lakh was not paid to them. We noticed that apart from issuing a legal notice (July 2012) to the agency, Municipality did not take any action against the agency for their default.</p> <p>During site visit (October 2016), no traces of the plants could be found on the site as these two partially completed plants were covered with concrete slabs for the purpose of making way for the lorries to fish market.</p>

**(ii) Non utilisation of gas generated in bio-gas plants**

According to GoK guidelines (March 2011) the gas generated in the Bio-gas plant shall be sold to nearby consumers such as hotels, hospitals, tea stalls, canteens etc., by the local body or utilized for heating/cooking purposes.

- In the 21 test checked ULBs, of the 38 community level bio-gas plants installed, only 11 were working and four among them were utilising the gas generated. In the remaining seven working plants, gas was simply being burnt or let out into the environment since no provision for utilisation was made. Of the 27 plants which were defunct, six were lying idle from the date of installation and five were demolished/buried underground.
- Institutional Level Bio-gas<sup>8</sup> plants were installed by four Municipalities<sup>9</sup> and two Corporations<sup>10</sup>. Though provision for heating or cooking was provided in all the 26 institutional level plants installed, 14 plants were defunct. Of the remaining 12 plants, gas generated by nine plants was utilised for cooking purpose and gas was being let out into the atmosphere by three plants. Of the 14 defunct plants, two were lying idle from the date of installation/supply and two plants were demolished/buried underground.

#### 4.1.7.3. Maintenance

GoK guidelines (March 2011) on specifications, standards, unit costs and O&M protocols stipulate the following for community/institutional level bio-gas plants.

- a. A pulveriser of 300 kg/hr rating for plants up to 1000 kg/day and 400 kg/hr rating for higher capacity plants.
- b. Skilled manpower for the operation of the plant.
- c. O&M contract with the executing agency/supplier for a period of two to three years after installation and initial capacity building period of six months.

(i) (a) We noticed that in all the test checked ULBs except Ettumanoor, Thaliparambu, Koyilandy and Thrikkakkara Municipalities and Thiruvananthapuram and Kannur Corporations, Annual Maintenance Contract (AMC) was not entered into. Skilled persons for the operation of community level bio-gas plants were not appointed and pulveriser for grinding the waste was either not provided or was in a damaged condition in six of the ULBs as detailed in **Appendix XXI**. As a result, the bio-gas plants became defunct.

(b) Institutional level bio-gas plants were installed mainly at schools. The gas generated from the plants should be utilised for cooking noon-meal for the students in the schools. In the test checked ULBs, of the 21 plants installed in various schools at Nilambur, Thrippunithura, Thalassery Municipalities and in Kochi and Thiruvananthapuram Corporations, 14 plants<sup>11</sup> were not functioning

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<sup>8</sup> Bio-gas plants of capacity ranging from 50-200 kg of solid waste per day, installed mainly in schools, colleges, hospitals etc.

<sup>9</sup> Piravom, Thripunithura, Thalassery and Nilambur

<sup>10</sup> Thiruvananthapuram and Kochi

<sup>11</sup> Four plants in Nilambur, three plants in Thripunithura, two plants in Thalassery, one plant in Thiruvananthapuram and four plants in Kochi Corporation

due to non-maintenance. Seven plants (four plants in Kochi Corporation, two at Nilambur and one at Trippunithura Municipality) had become defunct within the AMC period itself but the institutions did not take any action to get these plants repaired or inform the concerned ULBs regarding the condition of the plants.

(ii) In Thrikkakkara Municipality, four bio-gas plants of total capacity of 2.25 tonnes per day were constructed (2010-11) at a cost of ₹46.06 lakh. The operation of these plants was entrusted to the agency for ₹8.28 lakh per annum as supervision charges for operation and maintenance. Subsequently, the municipality decided that the entire waste generated in the Municipal jurisdiction (19 tonne per day) would be handled through Brahmapuram Solid waste treatment plant belonging to Kochi Corporation from January 2013 onwards at a cost of ₹800 per tonne per day.

We observed that due to this decision of the Municipality, four bio-gas plants of 2.25 tonne capacity were kept idle and subsequently became defunct (October 2015). This further resulted in avoidable payment of ₹6.48 lakh per annum to Kochi Corporation for handling the 2.25 tonne waste, which could have been handled through these four plants. Moreover, as the project was envisaged as a waste to energy project for lighting street lights/lamps in the market area, this lighting facility could not be created due to non-generation of gas from these plants.

(iii) A 5000 kg capacity bio-gas plant constructed by FIRMA<sup>12</sup> at Kodimatha market during 2012 intended for disposing weeds in the nearby water-bodies, was handed over free of cost to Kottayam Municipality during 2014-15. The chopper installed for cutting the weeds was in a corroded and damaged condition when the plant was handed over to the Municipality and hence the Municipality could not dispose of the waste. Though quotations were obtained for repairing the chopper at a cost of ₹5.5 lakh, the Municipality failed to finalise the offer. A roof was also constructed (2015-16) over the bio-gas plant costing ₹five lakh for protecting the plant from weather.

Instead of taking action to operationalize the 5000 kg plant, the Municipal Authorities have installed (February 2015) two 2000 kg bio-gas plants, one near Kodimatha bus stand in the vicinity of the existing plant and the other inside Indira Gandhi Maidanam, Nagambadom which is 3.2 kms away at a total cost of ₹47.88 lakh. During site verification, we found that the plant near Kodimatha



**Damaged chopper 5000 kg plant**



**Plastic wastes dumped inside the 2000 Kg plant at Nagambadom, Kottayam**

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<sup>12</sup> State Fisheries Resources Management Society, a GoK agency

bus stand was idling due to inaccessibility of the site as detailed in para 4.1.7.1(iii). The plant installed at Nagambadom was also not working as the digester tank was blocked with plastic wastes.

The ULB stated (February 2017) that the plant at Nagambadom would be made functional after carrying out the maintenance of the plant.

(iv) In Ettumanoor Municipality a 1000 Kg capacity bio-gas plant costing ₹8.25 lakh was installed (September 2010) at fish market. Till June 2011, M/s.KAICO was operating the plant. Due to dispute in payment terms, KAICO withdrew from the contract and the operation was taken over by the ULB. We observed that the plant became defunct due to improper segregation of waste and non-maintenance after takeover by the ULB. Instead of repairing/overhauling the old plant, the Municipality installed (January 2016) a new plant of the same capacity costing ₹24.45 lakh.

(v) During 2010-11, a floating dome type bio-gas plant was installed near fish market at Kakkad in Kannur Corporation at a cost of ₹13.65 lakh. Though the capacity of the plant was only 300 kg per day, around 400 Kg of waste per day was being fed into this plant. We found that due to excessive feeding of waste, the two pre-digester tanks of the plant were blocked up and waste was not entering the digester tank for degradation process. For further feeding of waste, the undigested waste was being removed from the pre-digester tanks and dumped outside the plant thereby polluting the surroundings.

The ULB had not made any alternative arrangement for disposing the excess quantity of 100 kg of waste and thereby compromised the efficient working of the plant.

#### 4.1.7.4. House-hold level bio-gas plants

GoK had issued (September 2012) modified guidelines on the specifications, standards, unit costs<sup>13</sup>, O&M protocols, etc., for house-hold level<sup>14</sup> bio-gas plants. Government (December 2013) had clarified that AS/TS shall be obtained prior to implementation of the project and for any deviation from the approved TS, prior revised TS shall be obtained from KSSM. As per Government Order



Pre-digester of 300 kg plant filled with waste in Kakkad



Undigested waste from predigester removed and dumped at Kakkad

<sup>13</sup> Unit cost includes cost of materials, labour, conveyance including installation and commissioning the facility, all taxes payable and all incidental expenditure including cow-dung and other expendable items required for completing the unit.

<sup>14</sup> Bio-gas plants of capacity 2.5-7.5 kg solid waste per day installed in houses.

(December 2011), 50 per cent of the cost of bio-gas plant as subsidy shall be borne by the Government, 25 per cent by the LSGI and 25 per cent by the beneficiary.

Of the 21 ULBs selected for detailed audit, house-hold level bio-gas plants were installed in 19 ULBs<sup>15</sup>. Details of funds received and expenditure incurred by the test checked ULBs for installation of house-hold level bio-gas plants during the period 2011-12 to 2015-16 are shown in **Appendix XXII**.

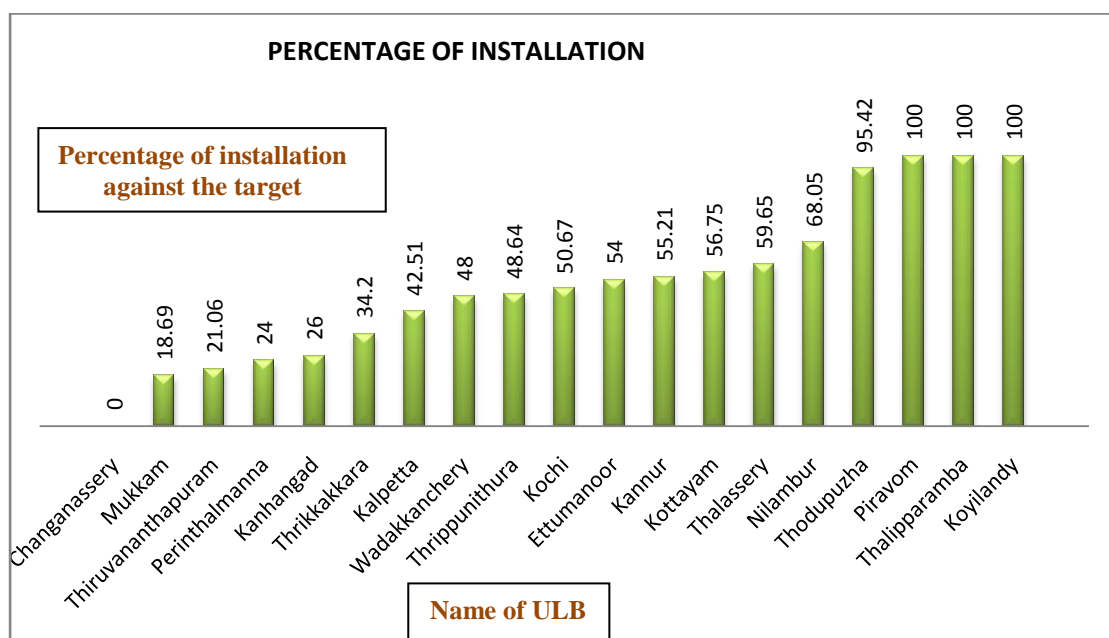
**Discrepancies noticed in the installation of house-hold level bio-gas plants**

**(i) Shortfall in achievement**

The total number of bio-gas plants proposed to be installed by the 19 ULBs for the period 2011-12 to 2015-16 was 20270 of which only 8625 plants (42.55 per cent) were actually installed.

The percentage of installation of house-hold level biogas plant for the above period is detailed in **Chart 4.2**.

**Chart 4.2: Shortfall in achievement**



Changanasserry Municipality proposed installation of 821 plants in 2013-14 and KSSM released an amount of ₹18 lakh for the project as State share which forms subsidy (50 per cent of the unit cost) available to the beneficiaries. However, the ULB could not commence the project due to a court case filed by the executing agency against the tender procedures. The subsidy amount received was blocked up with the Municipality for the last three years.

<sup>15</sup> except Vatakara and Kasaragod.

Though the projects were to be completed within three to six months from the date of agreement with the executing agency, seven Municipalities<sup>16</sup> and Thiruvananthapuram Corporation failed to install even 50 per cent of the proposed plants even after the lapse of two to five years. We observed that at the time of proposing the projects and applying for TS, ULBs had not identified the beneficiaries. As a result during installation, ULBs were unable to identify the beneficiaries who were willing to remit the beneficiary contribution. This resulted in non-completion of the project in time.

Only three municipalities (Piravom, Koyilandy and Thalipparamba) had installed all the biogas plants proposed and thus completed the project. However, no mechanism existed in Koyilandy for getting the feedback from the beneficiaries regarding functioning of the bio-gas plants. In Thalipparamba and Piravom, the functioning of the plants was monitored by the ULBs.

**(ii) Failure to obtain Technical Sanction/revised Technical Sanction from KSSM**

As per Government order (December 2013), TS from KSSM has to be obtained for the implementation of solid waste management. Further, revised TS should be obtained in case of any deviations from the approved unit cost/specification from the TS, to avail the State Government subsidy (50 per cent).

- Thripunithura (2011-12 to 2015-16) and Kalpetta (2013-14 to 2014-15) Municipalities and Puzhadi zonal office (2011-12 and 2014-15) in Kannur Corporation had not obtained the TS<sup>17</sup> before implementing the house-hold level bio-gas plant projects and had utilized the plan/own fund of the ULB. This resulted in loss of subsidy amounting to ₹89.40 lakh to the LSGIs.
- In four<sup>18</sup> municipalities the unit cost, size, type, etc., of the plant were revised and the project implemented without getting the revised TS. In these ULBs, beneficiary contribution was collected in excess ranging from ₹1125 to ₹3587 due to increase in unit cost and non receipt of proportionate state share.

**(iii) Work executed without inviting tenders**

The guidelines for house-hold level scheme stipulates that the work of installation shall be executed through accredited agencies or service providers by inviting competitive tenders/quotations. However, Thiruvananthapuram Municipal Corporation (2011-12 to 2015-16), two zonal offices (Chelora and Pallikkunnu) of Kannur Municipal Corporation (2014-15) and Koyilandi municipality (2011-

<sup>16</sup> Thrikkakara, Wadakkancherry, Kanhangad, Mukkam, Kalpetta, Thripunithura and Perinthalmanna

<sup>17</sup> No. of bio-gas plants installed against which TS not obtained: Thripunithura:926, Kalpetta:106, Puzhadi:35.

<sup>18</sup> Thripunithura, Koyilandy, Mukkam and Thodupuzha

12) installed house-hold level biogas plants without inviting tenders from approved service providers. In Thiruvananthapuram Corporation, the authorities allowed the beneficiaries to install plants by engaging any agency from the approved list of service providers. Since tender was not called for, we could not ensure the transparency in the procurement. By inviting competitive tenders, ULBs could have reduced the unit cost thereby proportionately reducing subsidy, beneficiary contribution and LSGI's share.

**(iv) Excess collection of beneficiary contribution**

As per the general conditions of the guidelines, all incidental expenditure including inputs and other expendable items required for installing the plants has to be borne by the agency.

- Incidental expenses being the cost of cow-dung (₹600 approximately) were collected from the beneficiaries in Kottayam and Koyilandy Municipalities.
- As Thodupuzha Municipality did not obtain revised TS from KSSM, they could not claim proportionate State share for the increase in unit cost of ₹11450. Therefore, instead of collecting 25 per cent from the beneficiaries, they collected 56 per cent as beneficiary contribution (₹6450 from each beneficiary).
- In Piravom, the unit cost got reduced from ₹8500 to ₹7950 on inviting tenders. However beneficiary contribution (25 per cent) was collected at par with ₹8500 instead of ₹7950 while installing 129 plants.

**(v) Releasing payment without completing installation of the plant**

Government order (December 2011) stipulates that subsidy amount shall be paid to the beneficiary directly or through the executing agency after completion of installation and based on the verification report of a technical officer of the ULB. As per Government order (February 2012), in ULBs, Health Inspector/Health Supervisors were delegated with the responsibility of successful installation of house-hold level bio-gas plants and for evaluation of implementation. In the modified subsidy guidelines issued (November 2013), Government further stipulated that working groups formed for the purpose of implementation of projects shall do the project monitoring. For that purpose, working groups shall function as monitoring committees and the monitoring report shall be submitted promptly to the Implementing Officer and the Council.

- In four<sup>19</sup> Municipalities and in Thiruvananthapuram Corporation, the implementing officers released the payments on the basis of the report received from the beneficiaries/agency and not on the basis of any verification made by the technical officer or by the implementing officer himself.
- We noticed that between August 2013 and December 2014, some applicants

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<sup>19</sup> Kottayam, Thodupuzha, Koyilandy and Mukkam



in Thodupuzha Municipality withdrew their application for installation of bio-gas plants on the ground that the plants already installed by the agency M/s. Blue Flame were not working efficiently. Despite receiving complaints from beneficiaries, the Implementing Officer failed to verify the proper installation of bio-gas plants and continued to make payment of ₹82.97 lakh to the executing agency (March 2013 to September 2014).

- We noticed that six<sup>20</sup> out of 19 ULBs did not have any mechanism to get the feedback from the beneficiaries regarding the installation and functioning of bio-gas plants.

#### 4.1.7.5 Fund Management

Details of fund received and expenditure incurred by the test checked ULBs for the period 2009-10 to 2015-16 for installation of house-hold level bio-gas plants are given in **Appendix XXII** and community/institutional level bio-gas plants are given in **Appendix XXIII**. Our observations are as given below:

##### (i) Blocking /non-utilisation of Government money.

Of the total amount of ₹371.28 lakh received from KSSM by four ULBs (Thalassery ₹330.26 lakh in 2011-2012, Kochi ₹25.85 lakh in 2013-14, Nilambur ₹12.29 lakh in 2011-12 and Vatakara ₹2.88 lakh in 2014-15) for installation of community/institutional level bio-gas plants, ₹365.92 lakh remained unutilised/ blocked as shown in **Appendix XXIV**. In the case of house-hold level bio-gas plants in the test checked ULBs, we noticed that none of the Municipalities had refunded the unutilized balance to KSSM except Thalassery and Kannur. This resulted in blocking of ₹304.98 lakh with the ULBs as given in **Appendix XXII**.

##### (ii) Fund advanced to the executing agency remaining unutilised

An agreement was executed by Changanassery Municipality with M/s.KAICO Ltd., (September 2010) for installation of a bio-gas plant at the municipal waste dumping yard at an estimated cost of ₹20.05 lakh against which an advance of ₹4.10 lakh was paid. As per the agreement, the work was to be completed by January 2011. We noticed that neither the bio-gas plant was installed nor did the municipal authorities take any action to recover the advance. M/s.KAICO had not commenced the construction work on the ground that the municipal authorities had not cleared the construction site and to hand it over to them within seven days of signing the agreement.

Municipality replied (February 2017) that when the agency reported the issue of the site, municipality recommended joint site verification (January/June 2016) but the agency was not ready to comply. We observed that though the agreement was executed in September 2010, notices were issued to the agencies only from June 2012 to August 2013 and thereafter notices were issued only from January 2016. Despite issuing of notices to M/s.KAICO, the agency had not commenced

<sup>20</sup> Kanhangad, Thodupuzha, Koyilandy, Mukkom and Nilambur Municipalities and Thiruvananthapuram Corporation.

the work and the ULB had not initiated legal action against the agency for default (February 2017).

#### **4.1.7.6 Role of KSSM in the implementation of bio-gas plants**

KSSM is entrusted with the responsibility of providing technical and financial support to the ULBs in the implementation of solid waste management projects. TS issued by KSSM were based on the following conditions.

- Specifications, standards, operation and maintenance procedures should be adhered to as per the guidelines.
- Progress of implementation should be intimated to KSSM at regular intervals.

We noticed that most of the bio-gas plants installed by the ULBs were either lying idle since installation or had become defunct after a short period due to defective planning, incomplete/defective construction, constructed by deviating from the approved specifications and standards, lack of proper maintenance, etc. as detailed in Paras 4.1.7.1, 4.1.7.2 and 4.1.7.3. The unutilised balance of funds lying with ULBs had not been refunded to Government.

Regarding the idling/defunct bio-gas plants, KSSM stated that the matter has not come to their notice and on non-remittance of balance amount of unutilised fund, they replied that the matter was entrusted to their District offices for verifying the records in the respective ULBs. The reply of KSSM was not tenable in view of the fact that despite releasing huge amount of funds every year to ULBs for the purpose of solid waste management which includes installation of bio-gas plants, KSSM failed to execute the stipulations in the TS issued by them that periodical reports on the progress of implementation should be furnished to KSSM. A large portion of this amount had either become infructuous or blocked up with the ULBs due to idling of the bio-gas plants/non-implementation of the projects.

(ii) Government, while issuing the list of approved service providers stipulated that every year the service providers shall furnish to KSSM the list of ULBs to whom they have provided service along with the evaluation report prepared by ULBs on the service provided. During 2010 and 2011, Government issued orders that the service providers shall provide service for three years from the date of Government order empanelling them. From 2012 onwards, Government reduced the period of empanelment of service providers from three years to one year and thereafter their empanelment would be considered based on reassessment of their eligibility. If the Government or KSSM receives any complaint against any of the service providers, it would be looked into and if found correct, that service provider would be removed from the list without further notice.

We noticed that some ULBs<sup>21</sup> had issued notices or initiated Revenue Recovery Action/Legal action against certain service providers who have defaulted viz., KAICO, Jyothi Biogas, SunTech, GreenTech etc. Of the 38 community level plants installed in 21 ULBs, 10 plants were installed by KAICO. Out of these, construction of six plants was incomplete and the remaining four plants were defunct. Though the ULBs had initiated action against the service providers, they did not intimate the matter to KSSM. KSSM, therefore, could not recommend the Government for excluding the defaulted service providers from the list of approved ones.

KSSM could not adhere to the evaluation procedures to identify non performing agencies during empanelment.

#### **4.1.8 Conclusion**

Though the responsibility of management of solid waste is vested with ULBs, due to improper planning, compliance of standards as stipulated in the Rules could not be ensured besides polluting the environment and idling of plants. Defective implementation led to idling of seven plants in five ULBs, installed at a cost of ₹84.12 lakh. In six ULBs, non-installation of pulveriser for Crushing the waste and the absence of skilled man-power for segregation of waste had made eight plants defunct thereby, the amount spent ₹103.21 lakh for their construction had become infructuous. In the case of installation of house-hold bio-gas plants, six ULBs were unable to achieve even 50 *per cent* of the proposed target. Further, KSSM though entrusted with the responsibility of providing technical and financial support to the ULBs, failed to monitor functioning of the plants as well as utilization of funds. This had resulted in blocking up of Government money of ₹670.9 lakh with the ULBs. KSSM also failed to evaluate the performance of the service providers before their continued empanelment.

## **4.2 PROCUREMENT OF GOODS AND SERVICES BY LOCAL SELF GOVERNMENT INSTITUTIONS**

### **4.2.1 Introduction**

Kerala Panchayat Raj Act, 1994 (KPR Act) and Kerala Municipality Act, 1994 (KM Act) entrusted Local Self Government Institutions (LSGIs) with such powers, functions and responsibilities to enable them to function as Institutions of Local Self Government. Subsequently, a major portion of the state fund was transferred to the LSGIs for implementation of various schemes and projects. LSGIs in the course of carrying out various schemes and projects, had to spend a sizeable amount of their funds for procurement of goods and services. KPR Act, KM Act, Kerala Stores Purchase Rules and Kerala Panchayat Raj (Execution of Public Works) Rules 1997 provide the legal foundation for the procurement system and management in LSGIs. In November 2010, GoK issued separate guidelines for the procurement of goods and services in LSGIs to suit their

<sup>21</sup> Thiruvananthapuram Corporation, Vatakara, Kanhangad, Changanassery Municipalities

requirements. According to the guidelines, procurement is the process of obtaining goods and services (including consultancy) spanning the ‘whole life costing’<sup>22</sup> of the asset or service contract.

“Goods” means all articles and materials (other than cash and documents) which come into the possession of a local government for their use and includes raw material, construction material, spare and spare parts, seeds, medicines and medical equipments, road dressing materials etc.

“Services” means services of intellectual nature performed by individual consultants or consulting firms having necessary specialized professional expertise, experience and relevant qualification.

Goods and services are procured by LSGIs for performing administrative and mandatory functions, by utilizing own sources of funds and funds that are set apart in the approved projects of LSGIs during a specified financial year.

#### **4.2.2 Audit Objective**

The objective of audit was to ascertain whether the procurement of goods and services by the LSGIs under various schemes and projects were carried out in accordance with the provisions contained in the guidelines on Procurement of Goods and Services in LSGIs, Stores Purchase Manual (SPM), Plan Guidelines for LSGIs and various Government Orders.

#### **4.2.3 Audit Scope and Methodology**

We conducted an assessment of the procurement of goods and services covering the period from 2011-12 to 2015-16. An entry conference (29 June 2016) was conducted with Principal Secretary, Local Self Government Department (LSGD). Audit methodology included scrutiny of records maintained in the LSGIs, collection of data from Information Kerala Mission (IKM), LSGD etc. An Exit Conference was conducted in March 2017 with the Secretary, LSGD during which the audit findings were discussed in detail. 43 Grama Panchayats (GPs), 19 Block Panchayats (BPs), five District Panchayats (DPs), eight Municipalities and two Municipal Corporations were selected for audit by using Probability Proportional to Size Without Replacement (PPSWOR) method. List of selected LSGIs is given in **Appendix XXV**.

#### **4.2.4 Procurement framework**

A Procurement Team led by the Secretary or Implementing Officer (IO) and supported by Assistants/Clerks from various sections was established at every LSGI for the procurement of Goods and Services. The Secretary/IO was the designated Procurement Officer of an LSGI. The Procurement Team would be guided and supervised by LSG Procurement Committee. The factual accuracy of the materials placed before the committee and the observance of the rules in

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<sup>22</sup>‘Whole Life Costing’ is defined as being from the initial definition of the need through to the end of the useful life of the asset and its subsequent disposal or to the end of the service contract.

undertaking various steps before bringing the proposals before the committee would be the sole responsibility of the Secretary/Purchasing Officer of the LSGI.

Procurement projects emerge through Working Group proposals, discussion with Stakeholders, Grama Sabha/Ward Sabha approvals, Development Seminars, Committee/Council decisions and District Planning Committee approval.

LSGIs adopt various procurement methods based on the complexity of the items, their value and availability of suitable market to source the same. The methods include petty purchases, local shopping through quotations, single tendering, limited tendering, open tendering, rate contract, and community/beneficiary based direct implementation.

#### **4.2.5 Audit Findings**

Audit findings relating to procurement of goods and services in test checked LSGIs are given in the succeeding paragraphs.

#### **4.2.6 Assessing requirement of goods and services**

Procurement process starts with assessing the requirements and ensuring the availability of funds to meet the expenditure.

##### **4.2.6.1 Procurement Planning**

Para 2.3 of the Guidelines for the procurement of Goods and Services stipulates that the LSGIs have to prepare a procurement plan to assess the bulk requirement of goods, works and services at the beginning of the financial year so as to ensure an effective method of budget execution and expenditure management. The procurement plan should include proposed methods of procurement, estimated costs, procurement schedule etc. with an objective to purchase them in economic lots at competitive rates.

We noticed that none of the test checked LSGIs had prepared procurement plan as envisaged in the guidelines. Absence of procurement plan led to the following lapses:

- (i) According to para 7.33 (c) of SPM, rush of purchases towards end of the financial year should be avoided. Further, GoK issued instructions (June 2012) that plan expenditure during the month of March should be limited to 10 *per cent* of the total expenditure. However, we observed that LSGIs procured majority of the goods at the fag end of the year leading to rush of expenditure in the month of March. It was noticed that in 16, 12 and 22 test checked LSGIs, more than 80 *per cent* of the total expenditure on procurement took place in March during 2013-14, 2014-15 and 2015-16 respectively. In 2015-16, in four institutions, 100 *per cent* expenditure on procurement took place in March 2016 as detailed in **Appendix XXVI**.

It was observed that during 2013-14 to 2015-16, test checked LSGIs incurred 64 to 67 per cent of their total expenditure on purchases during the month of March as shown in **Table 4.4** below:-

**Table -4.4: Rush of expenditure in the month of March**

Financial Year	Total expenditure incurred on procurement (₹ in crore)	Total expenditure on procurement in the month of March (₹ in crore)	Percentage of expenditure in March
2013-2014	66.21	43.90	66.30
2014-2015	72.59	48.78	67.20
2015-2016	63.13	40.22	63.70

We observed that absence of procurement plan led to rush of purchase at the fag end of the year. Director of Panchayat replied (February 2017) that delay in formulation of projects, delay in obtaining approval for the projects, delay in completing tender procedures etc. led to the utilization of major portion of funds in the month of March.

(ii) Chalakkudy Municipality formulated (June 2015) a project “Distribution of motorized vehicles and other equipment for differently-abled” during 2015-16. The Municipality selected (March 2016) Kerala State Handicapped persons’ Welfare Corporation Ltd. (KSHWC)<sup>23</sup> for the supply of scooters. Based on a proforma invoice for an amount of ₹10 lakh from the KSHWC, the IO (ICDS Supervisor) drew a Demand Draft (March 2016) for ₹10 lakh in favour of KSHWC. Neither a purchase order was issued fixing specification, make of the scooter, time of supply etc., nor an agreement executed with the KSHWC. Instead the Demand Draft purchased was kept with the Municipality (November 2016) to avoid lapse of funds. The Secretary replied (November 2016) that action would be taken to obtain the equipments from KSHWC. Failure to prepare procurement plan led to drawing funds at the fag end of the year to avoid lapse of funds. GoK issued instructions (June 2012) that funds should not be drawn and kept as DD/Cheque to avoid lapse of fund in expectation of future expenditure and such cases would be viewed as irregularity of serious nature and responsibility and accountability would be fixed accordingly and interest @12 per cent would be charged. However, no action has been taken against the erred official so far.

(iii) Article 94 of Kerala Financial Code Vol. I (KFC) stipulated that no money might be drawn from the treasury until it is required for immediate disbursement. Thrissur Municipal Corporation drew funds amounting to ₹10 lakh as Demand Drafts from treasury at the fag end of the year during the period 2012-13 to 2015-16, which were paid in advance to Kerala State Homoeopathic Co-

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<sup>23</sup> A public sector undertaking under GoK to provide assistance to physically challenged

operative Pharmacy Ltd. (HOMCO)<sup>24</sup> for supply of Homoeo Medicines for Government Homoeo Dispensary, Ayyanthol. However, during 2012-13 to 2015-16, the Corporation issued supply order to HOMCO after two to 14 months of payment of advance. We observed that funds were drawn and advance payments were made to avoid lapse of funds for medicines not required for immediate use.

The delay in placing supply orders after advancing huge amounts violating Article 94 of the KFC resulted in giving undue financial benefit to HOMCO. Details are given in **Appendix XXVII**.

(iv) Thrissur DP formulated a project for a road work during 2012-13 which included procurement of bitumen for an amount of ₹1.27 lakh. The DP drew a Demand Draft for ₹1.27 lakh for purchase of bitumen (March 2013). However, the project was cancelled (November 2013) and the amount was refunded to the treasury after a period of seven months. Secretary, Thrissur DP replied that Demand Draft was drawn to utilize the fund within the financial year. Drawal of funds from the treasury without ensuring actual requirement violated the provisions of the KFC.

#### **4.2.7 Procurement Committee**

The guidelines for Procurement of Goods and Services envisaged formation of a Procurement Committee with President/Chairperson/Mayor of LSGI as Chairperson, Secretary of the LSGI as Convener and all Standing Committee Chairpersons, IO/ex-officio Secretaries concerned and two nominees from Social Audit Committee as members. The Procurement Committee was to scrutinize the proposals for procurement and make appropriate decision/recommendations. All the procurements in the LSGI would be guided and supervised by the Procurement Committee.

Of the test checked 77 LSGIs, Procurement committees were not constituted in 19 LSGIs as detailed in **Appendix XXV**. In the absence of Procurement Committee the inherent risk of improper purchases could not be ruled out.

##### **4.2.7.1 Improper decisions of Procurement Committee/DP Committee**

We noticed the following instances of improper/wrong decision taken by the Procurement Committee/DP Committee.

Para 3.2 of the Guidelines for Procurement of Goods and Services in LSGIs stipulated tender procedure for purchases above ₹one lakh and para 9.18 (ii) of the SPM stipulated that other conditions being equal, the lowest tender should be accepted.

(a) Alappuzha DP formulated a project ‘Scooter for Disabled persons’ in 2012-13 at a project cost of ₹35 lakh. The IO (District Social Justice Officer)

<sup>24</sup> HOMCO is a Co-operative Society functioning under the administrative control of GoK established with the objective to manufacture and sale Homoeopathic medicines

invited tenders in March 2013 and six offers were received. The IO proposed accepting the lowest offer of M/s. Mera Mobike, Perinthalmanna (₹53,295 per unit). However, the DP Committee accepted the offer of M/s. East Venice Hero, who was L4 (₹58,575 per unit) and it was recorded in the minutes of the DP Committee that the decision was taken based on the recommendation of the Procurement Committee in meeting dated 23 March 2013. After negotiation the rate was reduced to ₹56,962 per unit and the firm supplied 61 scooters with side wheel for ₹34.75 lakh and the amount was paid on 30 March 2013.

However, we observed that the procurement committee which met on 23 March 2013 had not made any such recommendation. The decision of the DP Committee, accepting higher offer in violation of the provisions of the SPM, resulted in avoidable extra expenditure of ₹2.24 lakh.

(b) Alappuzha DP formulated a project in 2013-14 for installing fire extinguishers in 20 Government Schools at a cost of ₹10 lakh. Quoting Government order (January 2013), the IO (Deputy Director of Education) requested (November 2013) the DP to permit direct purchase of fire extinguishers from SIDCO. The Procurement Committee agreed (January 2014) to purchase the fire extinguishers directly from SIDCO and the IO purchased 142 fire extinguishers from SIDCO for ₹10 lakh in February 2014. We observed that Government Order quoted by the IO does not grant permission for direct purchase of fire extinguishers. The DP replied that the purchase was made based on the decision of the Procurement Committee. Scrutiny of the minutes of the meeting of Procurement Committee held on 08 January 2014 revealed that decision was taken to purchase fire extinguishers from SIDCO. However, the decision of the procurement committee is not tenable as the Government did not permit purchase of fire extinguishers from SIDCO without observing tender formalities. This led to reduced competition and violation of para 3.2 of the guidelines.

## **4.2.8 Execution of Procurement**

### **4.2.8.1 Procurement without complying with tender formalities**

According to para 3.2 of Guidelines for Procurement of Goods and Services, procurements above ₹one lakh should be carried out through tender process. We observed that three<sup>25</sup> LSGIs purchased various equipments for a total cost of ₹12.30 lakh without following any tender process, even though the total value of each purchase was above ₹one lakh.

### **Procurement without tendering from Public Sector Undertakings**

(a) GoK permitted LSGIs to purchase certain items viz., wooden furniture, steel furniture, steel fabricated hospital furniture, hospital equipments, laboratory

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<sup>25</sup>Pazhayannur BP (March 2012), Ponnani (March 2012) and Kayamkulam (October 2015) Municipalities



equipments, computers etc. directly from SIDCO<sup>26</sup> without following tender formalities. We observed that eight LSGIs procured goods such as street light fittings, high mast light, air conditioner, telescope etc., which were not permitted by GoK, worth ₹58.66 lakh from SIDCO without observing tender formalities. Details are given in **Appendix XXVIII**.

(b) GoK permitted (November 2009) LSGIs to directly purchase from Kerala Agro Industries Corporation Ltd (KAICO)<sup>27</sup>, agricultural machinery and equipments manufactured by them without observing tender formalities. However, Thrissur Corporation purchased medical equipments worth ₹63.84 lakh from KAICO, during 2014-15 and 2015-16, without observing tender formalities. Failure to invite open tender involves risk of not obtaining of best competitive rates for procurement. The Secretary, Thrissur Corporation replied that decision for the purchase from KAICO was taken by the Palliative Care Management Committee (PMC)<sup>28</sup>. The reply is not tenable as PMC is not empowered to grant permission to purchase without tendering.

#### **4.2.8.2 Avoidable expenditure due to non acceptance of a lower offer**

Thrissur Corporation invited tenders for the purchase of 1000 LED lights (May 2014) for an estimated cost of ₹140 lakh. 12 firms submitted their tenders. The L1 bid was rejected due to incorrect/unsuitable specification. Offer of M/s Crompton Greaves (₹79.89 lakh), which was L2 was rejected due to non submission of preliminary agreement. The L3 bid was rejected due to submission of time barred test reports. The L4 bid of M/s. V Tech Electrical, Thrissur for an amount of ₹101.41 lakh was accepted and payment made (August 2015) after receipt of materials. We observed that as per General Condition No.32 of Stores Purchase Manual, tenders without an agreement on stamp paper will be rejected but in deserving cases, where agreement has not been received, the Purchase Officer may exercise his discretion and call upon such tenderer to execute the preliminary agreement. However, Secretary, Thrissur Corporation, did not exercise the powers vested with him for accepting the L2 bid which resulted in avoidable expenditure of ₹21.52 lakh.

#### **4.2.8.3 Delay in supply of medicines**

GoK permitted (March 2013) LSGIs to make payments in advance to the HOMCO and Kerala Medical Services Corporation Ltd (KMSCL)<sup>29</sup> for supply of homoeopathic medicines and allopathic medicines respectively. According to para 9.60 of SPM, an agreement should be entered into with the supplier for the

<sup>26</sup>A Government owned Public Sector Corporation established for the development and promotion of Small Scale Industries

<sup>27</sup> KAICO – A joint venture of GoI and GoK for promoting mechanization and modern technology in agriculture

<sup>28</sup> Palliative Care Management Committee constituted by the LSGI to supervise overall activities of Pain and Palliative Care projects.

<sup>29</sup> KMSCL – a Government company established to act as a Central Procurement Agency for all essential drugs.

satisfactory fulfillment of the contract embodying the conditions of the supply order. Further, para 10.30 of SPM stipulates a suitable provision in the terms and conditions of the contract for claiming liquidated damages of appropriate amount from the supplier to take care of delay in supplies for which supplier is responsible.

(i) LSGIs issued supply orders to HOMCO for purchase of medicines and paid whole amount as advance without executing any agreement. We noticed that there was delay up to 12 months in supply of medicines in 55 cases in 24 test checked LSGIs and in six other cases medicines valuing ₹15.5 lakh were not supplied so far (October 2016). Details are given in **Appendix XXIX**. Though HOMCO repeatedly failed to supply medicines in time, in the absence of an agreement, LSGIs could not claim any liquidated damages for the delay in supply of medicines. Medical Officers in charge of the dispensaries replied that delayed supply/non-supply of medicines adversely affected the functioning of the dispensaries. Failure of LSGIs to comply with the provisions in SPM resulted in delayed/non-supply of medicines and blocking of funds with HOMCO.

(ii) Thrissur Corporation issued supply orders worth ₹11.18 lakh to KMSCL during 2011-12 to 2012-13<sup>30</sup> for supply of allopathic medicines for Community Health Centre (CHC), Ollur and paid the entire amount as advance. Against these supply orders, KMSCL have supplied medicines worth ₹6.75 lakh only (October 2016). We observed that the Corporation failed to execute agreement with the KMSCL as envisaged in the SPM and did not take any action to obtain balance quantity of medicines worth ₹4.43 lakh from KMSCL. The Corporation replied that steps will be initiated to obtain the medicines from KMSCL. Failure on the part of Thrissur Corporation to execute an agreement with KMSCL to obtain medicines in time resulted in non-supply and blocking of funds with KMSCL for more than three years.

#### **4.2.8.4 Purchases resulting in wasteful/infructuous expenditure**

According to para 2.2 of Guidelines for procurement of Goods and Services in LSGIs, the procurement process begins with identification of requirement of goods. LSGIs initiated procurement of goods without assessing the need/without ensuring availability of necessary infrastructure as detailed below.

(i) Based on proposals from State seed farms, Thrissur DP purchased five thresher cum winnower<sup>31</sup> with five hp electric motor prime mover for ₹6.28 lakh (March 2013) for five state seed farms to avoid rental expenditure during harvest. We noticed that the machinery were not installed in the farms for want of three phase electric connection and working place to install the machinery. Hence, the test run of the machinery was not conducted. DP replied that lapses of the officers in charge of the farms in providing working places and ensuring three phase

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<sup>30</sup> ₹2.85 lakh (February 2012); ₹0.33 lakh (April 2012) and ₹8 lakh (March 2013)

<sup>31</sup> Machine for threshing and winnowing of paddy.

electric connection had led to non installation of the machines so far (November 2016). The reply was not tenable as it was the responsibility of the DP to ensure availability of necessary infrastructure before effecting procurement. Thus purchase of machinery by the IO (Asst. Executive Engineer, Agriculture) without ensuring required infrastructure led to infructuous expenditure of ₹6.28 lakh, besides incurring expenditure towards rent on machinery.

(ii) Kozhikode DP formulated a project during 2011-12 for installation of plastic recycling unit at Taluk level, by utilizing Nirmal Gram Puraskar award<sup>32</sup> with the objective of collecting and recycling plastic waste within the DP area and thereby generating self employment for 20 persons. It was decided to select one Grama Panchyat having required infrastructure for installing the machine and handover the machine to that Grama Panchayat. The DP purchased (October 2011) the machine at a total cost of ₹9.10 lakh and kept it in the Industrial Estate building of Peruvayal GP. We observed that the DP could provide necessary electric connection only in December 2015. It was also seen that the machine had not been handed over to the Peruvayal GP and the machine has not been put to use till date (February 2017). Thus undue delay on the part of the DP to obtain electric connection and transfer the machinery to the GP for operation resulted in unfruitful expenditure of ₹9.10 lakh besides denial of employment to needy persons.

(iii) Wayanad DP formulated a project in 2011-12 to install solar fencing to protect the lives and assets of ethnic Scheduled Tribes, living in areas surrounded by thick forests from wild elephants. The DP executed (March 2012) an agreement with Agency for Non-conventional Energy and Rural Technology (ANERT)<sup>33</sup> and paid an amount of ₹72.19 lakh (April 2012) with a condition to complete the work in nine months. The DP accepted the sketches of 17 sites prepared by the agency. In September 2012 the agency revised the project cost to ₹117.76 lakh and the DP permitted (December 2012) them to utilize the difference of ₹45.57 lakh from the amount deposited with the agency for another project. The agency awarded the work to a private firm with time for completion of work by June 2013. In July 2014, ANERT reported that works of 15 sites were completed and works was not executed in the remaining two sites. The Dy. Forest Conservator had also reported (June 2014) that the fencing was not constructed in a scientific way and was broken in some places and elephants were entering from the forest. Subsequently, Program Officer, ANERT reported (November 2014) that of the 15 sites completed, 12 sites were inspected and found to be non functional. Based on various complaints received regarding non-functioning of

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<sup>32</sup> Nirmal Gram Puraskar is instituted by Ministry of Drinking Water and Sanitation with the objective to promote safe sanitation and clean environment in rural India.

<sup>33</sup> ANERT- an autonomous organisation under Government of Kerala- is the State Nodal Agency for implementing schemes and projects in the field of Non-Conventional Energy, Energy Conservation and Rural Technology.

the fences, the ANERT conducted another inspection (January 2016) of all the 15 sites and found that none of the fencing were working.

We observed that as per the agreement, quality assurance and rectification of defects during the progress of the work was the responsibility of the ANERT. As per clause No. 12 and 13 of the agreement, DP was to constitute a monitoring committee for monitoring the progress of the work by inspecting the site as and when required and the defects noticed by the committee were to be rectified by the implementing agency. Even though a monitoring committee was constituted by the DP, it had never met or monitored the progress of the installation of solar fencing.

Thus, failure of the monitoring committee to properly monitor the progress of installation of solar fencing and bring the defects to the notice of ANERT for rectification led to infructuous expenditure of ₹1.18 crore besides denial of intended benefits to the targeted tribal people.

(iv) Section 148 of KFC and Section 12.20 of SPM stipulated that payment for supplies shall not be made till the quality and quantity of the materials received is verified and taken to stock. Alappuzha DP formulated a project in 2011-12 for purchase of 25 twelve spindle charkas for Eramalloor and Uzhuva Women Khadi Spinning centres for ₹8.65 lakh. The objective of the project was to replace 20 year old charkas in the spinning units, thereby providing better wages to women weavers and producing better quality threads. The IO invited tenders and selected Coimbatore North Sarvodaya Sankh as the supplier at the cost of ₹7.14 lakh for 25 charkhas. The firm supplied the entire quantity and full payment for the supply (₹7.14 lakh) was made in March 2012.

The Instructors in charge of Departmental Spinning units reported that none of the Charkhas purchased were working from the day these were installed. We noticed that DP requested the supplier to rectify the defects only in November 2013, after the lapse of more than a year. However, the firm had not carried out the work so far (January 2017). It was the responsibility of the purchasing officer to ensure quality, specification, working conditions etc., of the materials purchased before paying the supplier. Failure on the part of the IO<sup>34</sup> to ensure the quality of the charkhas purchased before effecting payment led to wasteful expenditure of ₹7.14 lakh and deprived the women weavers of the intended benefits. Secretary, Alappuzha DP replied that the charkhas would be put to use after carrying out necessary repairs. We observed that DP had failed to initiate any action to get the charkhas repaired even though four years had elapsed since the purchase. Also no action has been taken against the erred officials so far (January 2017).

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<sup>34</sup> Project Officer, District Khadi and Village Industries Office, Alappuzha

#### 4.2.8.5 Excess payment to implementing agency

Thrissur DP formulated a project in 2010-11 for procurement and installation of bio-gas plants in 21 schools. The project was awarded to an accredited agency 'Integrated Rural Technology Centre (IRTC), Palakkad'. According to the agreement (July 2011), IRTC was to install bio-gas plants in 21 schools within a period of six months, complying with the guidelines issued by GoK (March 2011) for the installation and management of bio-gas plants. As per the rates prescribed in the guidelines, the total cost for installation of 21 bio gas plants of requisite capacity worked out to ₹30.30 lakh. However on completion of installation (March 2015), IRTC demanded ₹2.65 lakh as extra payment citing delay in handing over of the list of schools to them. The DP made a total payment of ₹32.95 lakh including ₹2.65 lakh excess, as demanded by IRTC. We observed that, the excess payment of ₹2.65 lakh to the agency was not in order as it violated the conditions of agreement. On this being pointed out, IO (District Co-ordinator, Suchitwa Mission) replied that notice has since been issued to realize excess amount of ₹2.65 lakh given to IRTC.

#### 4.2.9 Transparency in procurement

As per para 5.1 of the Guidelines, Purchasing Officer shall ensure that the procurement process is not influenced by corrupt, fraudulent, collusive, coercive and obstructive practices.

##### 4.2.9.1 Non-adherence to instructions for e-Tendering

In order to enhance transparency and efficiency in public procurement, GoK introduced (October 2012) e-Procurement System in all Departments/Boards/Public Sector Undertakings, with effect from April 2013, for all tenders above ₹ 25 lakh. The limit was further lowered to ₹five lakh in May 2015. We noticed that purchases of various items to the tune of ₹6.87 crore were carried out by four LSGIs in violation of the above government order during the audit period as detailed in **Appendix XXX**.

Thrissur Corporation replied that there was an interim stay on implementation of e- tendering by the Hon'ble High Court of Kerala in a writ petition. The reply was not tenable as the Hon'ble High Court had issued a stay order only on the implementation of e-tendering for civil works while this project was for replacing Sodium vapour lamps with LED lights and involved no civil works. Alappuzha DP replied that the lapse was due to not obtaining digital signatures of the IOs.

##### 4.2.9.2 Formation of Social Audit Committee

As per clause 4.2.4 of the Guidelines, a Social Audit Committee (SAC) should be set up in each LSGIs to augment the process of constructive engagement between the citizens and GoK such that there is an improved performance in the use of public resources to deliver goods and services. The SAC would be responsible for (1) creating awareness amongst beneficiaries and providers of local, social, productive and infrastructure services (2) bringing in greater transparency in the

procurement cycle through active involvement at critical stages and (3) improving efficiency, productivity and quality in the delivery of goods and services through oversight. SAC have to submit their findings before the Grama Sabha annually. We observed that in none of the test checked LSGIs, the SAC was constituted during the audit period.

#### **4.2.9.3 Complaint Redressal Mechanism**

Guidelines for Procurement of Goods and Services envisage that one of the important conditions of effective procurement administration is Complaint Redressal Mechanism. Complaint Redressal is essential to be followed by LSGIs while carrying out procurement of goods and services. Even though the Guidelines stipulate that all LSGIs should maintain a register of complaint redressal, none of the LSGIs test checked had maintained such a register for recording the details of complaints received and action taken thereon. Hence, we could not ascertain the details of complaints received or the effectiveness of the complaint redressal mechanism existing in the LSGIs. LSGIs replied that whenever a complaint is received it is handed over to the concerned section for taking necessary action and complaints of serious nature would also be brought to the notice of President, or Panchayat Committee/Council. However, due to lack of proper complaint redressal mechanism in the LSGIs the transparency in handling the complaints received could not be ascertained.

#### **4.2.10 Procurement of services**

##### **4.2.10.1 Excess payment to Information Kerala Mission (IKM)**

The GoK entered (October 1999) into an agreement-cum-Memorandum of Understanding with IKM for the computerization of LSGIs. Further GoK permitted (May 2009) IKM to collect charges from LSGIs for the technical support rendered by them. IKM was also entrusted (December 2012) with the implementation of e-governance activities in LSGIs.

(i) The GoK (March 2013) deducted an amount of ₹10.46 lakh from the plan allocation of Alappuzha Municipality and paid it to IKM towards the services rendered by IKM to the Municipality for the years up to 2012-13. The Municipality also effected a payment of ₹ five lakh (March 2013) to IKM for the services rendered for the year 2012-13, which resulted in duplication of payment for the year 2012-13. When IKM brought this to the notice of the Municipality (April 2013), the Municipality decided to adjust the amount against the services to be rendered by IKM during 2013-14. However, the Municipality failed to take steps to adjust the excess payment made to IKM and the excess payment of ₹five lakh still remains unadjusted (November 2016).

(ii) Wayanad DP paid ₹11.16 lakh to IKM towards charges for office computerization (April 2007). The IKM informed (May 2013) the DP that an amount of ₹5.12 lakh remained unutilized with them. But the DP failed to initiate any action to adjust the excess payment given to IKM (November 2016).

Failure on the part of LSGIs in adjusting excess payments resulted in granting undue financial benefit to IKM for services rendered.

#### **4.2.10.2 Consultancy charges paid in excess**

Mathilakam BP formulated a project to install a 5 KW Solar Power Plant through ANERT at a cost of ₹9.50 lakh plus 10 *per cent* consultancy charge. The BP deposited (March 2014) ₹10.45 lakh to the agency and entered into an agreement to complete the installation within six months. The agency installed (March 2015) the power plant for ₹6.90 lakh (six months after the agreed date) and returned (April 2016) the balance amount of ₹2.60 lakh by keeping ₹0.95 lakh as consultancy charges. We noticed that ANERT had charged consultancy charges as a percentage of the original estimate (₹9.50 lakh) instead of the actual expenditure incurred (₹6.90 lakh). This led to excess payment of consultancy charges of ₹0.26 lakh.

#### **4.2.11 Conclusion**

Non preparation of procurement plan by LSGIs led to failure in ensuring actual requirements/rush of purchases towards the fag end of the financial year. Non compliance with rules and guidelines led to purchases without tendering, acceptance of higher priced offers, delay in supply, infructuous expenditure etc. Non constitution of Social Audit Committee, absence of complaint redressal mechanism and not resorting to e-tendering indicated lack of transparency in procurement.

## **OTHER COMPLIANCE AUDIT OBSERVATIONS**

### **4.3 Unfruitful expenditure of ₹39.82 lakh due to collapse of a school building**

**Negligence in the construction of a school building resulted in its collapse, endangering the lives of students and rendered the expenditure of ₹39.82 lakh spent for its construction and demolition of the remnants unfruitful.**

According to para 1402 of the PWD manual, every work shall be properly investigated and all relevant data collected and correlated before finalising the design and estimate for the work. It further stipulates that a detailed investigation of all the data required for designing the work at the site or along the alignment finally chosen should be collected. As per para 1407 and 1408, regarding the selection of site, it is stated that the site shall be explored in detail so as to obtain knowledge of the type, uniformity, consistency, thickness, sequence and dip of strata and of the ground water considerations and the nature of soil and bearing capacity shall be ascertained by test piling.

Alappuzha DP constructed (January 2012) a two storied building at a cost of ₹35.18 lakh to accommodate 12 class rooms and a staircase in Avitom Thirunal Vocational Higher Secondary School (School), Mankompu in Pulinkunnu Grama Panchayat. The work was executed by a beneficiary committee consisting of the Headmistress of the School as its Convenor. The supervision of the work and approval of work bills for payment was entrusted to the Executive Engineer (EE), LSGD. The building was put to use in 2012. A portion of this newly constructed building collapsed while the school was functioning during August 2014. The students were immediately evacuated from the building and a major tragedy was averted. The remnants of the collapsed building were demolished (October 2015) by spending ₹4.64 lakh.

In reply to an audit query EE, LSGD stated (November 2016) that soil test was not conducted before preparation of the plan and estimate and the reason for collapse was stated as foundation failure. In his preliminary report also, he has stated that the foundation and building structure was designed without ensuring its load bearing capacity. Further, the foundation was built by using laterite blocks and the pillars were constructed with bricks instead of concrete.

We also observed that another school building adjacent to the collapsed building was constructed in accordance with the provisions of PWD Manual. Though, it was a single storied building, the construction was made on pile driven Reinforced Cement Concrete (RCC) foundation and pillars were constructed with RCC.

Thus, the negligent manner in which the work was executed by the beneficiary committee under the supervision of EE, LSGD disregarding PWD manual



provisions led to the collapse of the school building which endangered the lives of students.

DP should have ensured that the provisions in the PWD manual are adhered to while planning and the foundation and building structure should have been designed to ensure adequate load bearing capacity. Thus, the expenditure for the construction of the school building which collapsed and the demolition of its remnants constituted an unfruitful expenditure of ₹39.82 lakh.

The matter was referred to Government in January 2017; reply was awaited (March 2017).

#### **4.4 Idle investment on the construction of an Agricultural Trading and Marketing Complex**

**Failure to ensure supervision of the work by the Block Panchayat led to the stoppage of construction besides non-achievement of objectives and idle investment of ₹54.48 lakh.**

Attappady Block Panchayat (BP) formulated a project for the construction of Agricultural trading and marketing complex building at Agali (2008-2009) at an estimated cost of ₹69.78 lakh from Development fund and Backward Regions Grant Fund (BRGF)<sup>35</sup>. The objective of the project was to market agricultural produce of peasants including Scheduled castes and Scheduled tribes, by avoiding middlemen.

The project was taken as a spill over project in 2009-10, as it could not be executed in 2008-09. As decided by the BP Committee, the construction was entrusted to Kerala State Nirmithi Kendra (KSNK)<sup>36</sup> for ₹69.78 lakh and the agreement was executed (July 2009) between the Secretary of the BP and the Regional Engineer, KSNK.

The agreement stipulated that the construction should be completed within a period of one year from the date of payment of first instalment of advance. The BP had to release 90 per cent of the estimated amount as advances in four stages and retain 10 per cent till the completion of the work. This balance amount would be released after verification of work done by a technical committee. The agreement further stipulated constitution of a managing committee consisting of Secretary or his nominee, Director Nirmithi Kendra or his nominee and the Project Engineer deputed by Nirmithi Kendra for the supervision of the work.

We observed that though first installment of advance of ₹12 lakh was paid in September 2009, the BP could hand over the hindrance free site to KSNK only in December 2009. Due to the delay in handing over of the site, as requested (July

<sup>35</sup> A Government of India programme designed to address regional imbalances in development implemented through NABARD

<sup>36</sup> An agency whose control and administrations vests with Government, meant for construction of buildings and dissemination of innovative ideas in the field of construction.

2010) by the Regional Engineer, KSNK, the completion period was extended up to August 2011.

In addition to the advance of ₹12 lakh, BP paid (April 2010 – March 2011) ₹27.60 lakh to KSNK based on the check measurements of KSNK. In March 2011, the BP withheld the subsequent payments (3<sup>rd</sup> part bill onwards) stating that its Engineering Wing was unable to assess the value of work done by KSNK on the ground that during construction/concrete works, KSNK had not informed the LSGD



**Agricultural trading and Marketing Complex Building**

Engineering wing to be present at the site. As such they did not know the type or the proportion of material used for construction of the building. In the mean time, BP acceded to the request (May 2011) of KSNK for the revision of estimate to ₹77 lakh based on 2010-11 Schedule of Rates (SoR) and released (July 2011) additional amount of ₹14.88 lakh as balance of earlier advances.

KSNK, however, discontinued the construction from July 2012 citing that their 3<sup>rd</sup> part bill had not been paid. They further stated (April 2014) that the works could be resumed only if the estimate were revised based on 2014 SoR and on payment of ₹43.37 lakh as advance for the remaining works based on the revised estimate.

In August 2015, the BP decided to terminate the contract and requested the Engineering Wing to prepare an estimate limited to ₹14 lakh to complete the remaining essential works.

We observed the following:

- Managing committee, as envisaged in the agreement was not constituted by the BP on the plea that KSNK being a Government accredited agency, there was no need of any supervision by the BP or the Engineering Wing of LSGD. This was also against the provisions of Government Order (18 May 2007) that it is the duty of the Engineer of the LSGD wing to supervise and measure the works even though it was done by accredited agencies like KSNK. BP had also failed to get countercheck done by LSGD Engineering wing for the first two part bills submitted by KSNK.
- Though the payment of the 3<sup>rd</sup> part bill was withheld, BP acceded to the request of KSNK for revision of rates and subsequently paid ₹14.88 lakh as balance of advance.

In reply to an audit query regarding the status of the work, BP informed (February 2017) that the contract with KSNK was terminated in June 2016, and estimate for the remaining works was prepared for ₹14 lakh by excluding certain items in the original estimate such as electrification works, plumbing and sanitary items etc., and the work was awarded to a contractor in January 2017.

Thus, on one hand, the BP did not constitute a Managing Committee on the grounds that KSNK being a Government accredited agency did not require supervision; at the same time it withheld payment of KSNK's bills on the grounds that the LSGD Engineering wing could not assess the value of the work done by KSNK. Further, in order to avoid escalation of costs due to time over run, certain essential items of works were omitted from the original estimate. In the absence of such essential items, the building would be largely unusable even after the completion of the project.

Thus the BP's failure to ensure supervision of the work resulted in stoppage of work and non-achievement of the objectives of the project even after a lapse of more than seven years. Further, investment of ₹54.48 lakh on the project remained idle.

The matter was referred to Government in November 2016 and reply was yet to be received (March 2017).

#### 4.5 Short assessment of Entertainment Tax of Amusement Parks

**Short assessment of Entertainment Tax (ET) due to non consideration of the actual structures, buildings and area in six amusement parks resulted in loss of revenue of ₹2.07 crore.**

Amusement park is a permanent outdoor facility set up for entertainment which may include structures, buildings and area where admission is based on payment. The proprietor of an amusement park shall pay entertainment tax (ET) as fixed by the Local Authority. The ET levied on amusement parks is governed by the Kerala Local Authorities Entertainments Tax Act (ET Act), 1961 (amended in 2005). Section 3B of the ET Act effective from 01.04.1999 states that a proprietor of an amusement park shall pay an annual ET fixed by the local authority within the range of rates mentioned in the Act. The rate for each category (A to E)<sup>37</sup> is fixed on the basis of the amount invested and the area utilized for the park excluding the parking area and other unutilized/vacant area. As per explanation 2 under the above section, if both the investment and area of land do not come under any of the categories, the amusement park is to be grouped in the group with the next higher rate. The Act further states that the

<sup>37</sup> A	Investment up to ₹3 crore and area 2 hectares and below	₹3 to 6 lakh
B	Investment of above ₹3 crore but below ₹10 crore and area above 2 hectares but below 4 hectares	₹10 to 15 lakh
C	Investment of ₹10 crore and above but below ₹20 crore and area 4 hectares and above but below 6 hectares	₹25 to 30 lakh
D	Investment of ₹20 crores and above but below ₹50 crores and area 6 hectares and above but below 10 hectares	₹50 to 60 lakh
E	Investment of ₹50 crore and above and area 10 hectares and above	₹80 to 100 lakh

annual ET leviable shall be relaxed<sup>38</sup> during the first four years of the operation of the park.

By considering the fixed assets held by the parks as the investment made for determination of the ET, scrutiny of the records of the six amusement parks for the period from 2011-12 to 2015-16 revealed that the ET was fixed without considering the actual structures, buildings and area. This resulted in short assessment of ET which led to loss of revenue of ₹2.07 crore to the LSGIs as shown in **Table 4.5** below.

**Table 4.5: Short assessment and realization of ET by LSGIs**

Sl. No	Name of the LSGI/Park	Year	Investment (₹ in lakh)	Exemption granted by LSGI (Per cent)	ET Payable (₹ in lakh)	ET after the eligible exemption (₹ in lakh)	ET fixed and collected (₹ in lakh)	Short assessment (₹ in lakh)
1	Anthoor Municipality : Vismaya Infotainment Centre	2011-12	2214.63	---	50	50	25	25
		2012-13	2063.68	---	50	50	25	25
<b>Total</b>								<b>50</b>
2	Moorkanad GP : Flora Fantasia Amusement Park (Started functioning in 2012-13)	2012-13	2822.89	60	50	20	10	10
		2013-14	2556.05	40	50	30	15	15
		2014-15	2215.28	20	50	40	20	20
<b>Total</b>								<b>45</b>
3	Malampuzha GP : Fantasy Amusement Park	2013-14	511.73	---	10	10	3	7
		2014-15	505.44	---	10	10	3	7
<b>Total</b>								<b>14</b>
4	Thrikka-langode GP : Silsila Amusement Park (Started functioning in 2012-13)	2012-13	52.23	60	3	1.2	0.069	1.131
		2013-14	44.40	40	3	1.8	0.065	1.735
		2014-15	37.74	20	3	2.4	0.179	2.221
<b>Total</b>								<b>5.087</b>
5	Pariyaram GP: Dream World Water Park	2011-12	324.84	---	10	10	3.30	6.70
		2012-13	307.38	---	10	10	3.30	6.70
		2013-14	338.11	---	10	10	3.45	6.55
		2014-15	312.70	---	10	10	3.47	6.53
		2015-16	301.95	---	10	10	3.47	6.53
<b>Total</b>								<b>33.01</b>
6	Manickal GP: Happy Land Amusements and Resorts (P) Ltd.	2011-12	108.72	---	25	25	10	15
		2012-13	114.63	---	25	25	10	15
		2013-14	110.65	---	25	25	10	15
		2014-15	105.31	---	25	25	10	15
<b>Total</b>								<b>60</b>
<b>Grand total</b>								<b>207.09</b>

<sup>38</sup> First year - Sixty per cent  
 Second year - Forty per cent  
 Third year - Twenty per cent  
 Fourth year - Ten per cent

In reply to the audit query regarding the short assessment of ET, four LSGIs replied that they had issued notices for assessment and levy of tax under section 3B of the ET Act to the parks concerned. In respect of Dream World Water Park in Pariyaram GP, the proprietor had obtained stay orders from the Hon'ble High Court of Kerala. Manickal GP had stated that after considering an appeal from the Park that the ET levied was very high, the Panchayat Committee has decided to fix the ET at ₹10 lakh as against ₹25 lakh payable. However, the GP failed to obtain prior approval from Government as stipulated in the ET Act. The LSGIs had further stated that they had assessed the ET under Section 3<sup>39</sup> and 3A<sup>40</sup> of the Act, instead of assessing them under Section 3B which led to substantial reduction of revenue.

Thus, failure of LSGIs to assess ET on the basis of actual structures, buildings and area held by the parks as envisaged in section 3B of the ET Act resulted in short assessment and a loss of revenue of ₹2.07 crore, which calls for fixing of responsibility.

The matter was referred to Government in January 2017; reply had not been received (March 2017).

**4.6 Non-collection of Service Tax from tenants resulted in loss of ₹27.81 lakh and avoidable interest of ₹24.07 lakh due to belated filing of declaration.**

**Failure to collect ST from tenants and payment of the same from its own fund resulted in a loss of ₹27.81 lakh, besides avoidable interest of ₹24.07 lakh due to belated filing of declaration of ST by Neyyattinkara Municipality**

Section 65 (105) (zzzz) of the Finance Act, 1994 stipulates levying of Service Tax (ST) in respect of renting of immovable property or any other service in relation to such renting for use in the course of, or furtherance of business or commerce with effect from 01 June 2007. The notification further stipulates that if the total rent received exceeds rupees eight lakh per year (from 01 April 2007)/ ₹10 lakh per year (from 01 April 2008), the service provider is liable to pay service tax at the rates prescribed by Central Excise Department (CED). If ST is not paid within the prescribed time, interest will be levied at the rates prescribed from time to time.

Neyyattinkara Municipality had not registered itself under ST Act and collected ST from its tenants of the shopping complex and town hall during the period 2007-08 to 2012-13. Based on the notice (July 2013) from CED and subsequent

<sup>39</sup> Levy of tax based on the price for each admission to any entertainment

<sup>40</sup> Levy of ET based on seating capacity.

introduction of Voluntary Compliance Encouragement Scheme, 2013 (VCES)<sup>41</sup>, the Municipality registered itself under the ST and declared ₹38.20 lakh as their ST liability under the VCES and paid ₹19.10 lakh (December 2013), as 50 per cent of the tax dues. Later, the Municipality revised the taxable liability as ₹33.25 lakh and paid (June 2014) ₹14.15 lakh as balance tax dues.

Though the Municipality decided (August 2011) to incorporate a provision in the agreement for levy of ST from the tenants, the same was incorporated in the agreement only in February 2014. Thus in the absence of provisions in the agreement to collect ST from the tenants, the Municipality had to pay ₹33.25 lakh as ST from its own funds, instead of collecting it from its tenants.

Subsequently, the VCES declaration made by the Municipality was rejected (May 2015) by the CED on the ground that the declarant failed to approach the designated authority before the cutoff date of 31 December 2013 for making amendments in tax dues. Due to the belated declaration, the CED had raised a demand (March 2017) for payment of interest of ₹24.07 lakh in addition to the tax already paid.

We observed that against ₹33.25 lakh ST due to be collected from the tenants the Municipality could realise only ₹5.44 lakh (2014-16) and in the absence of agreement, the chances of recovering the balance amount from the tenants was remote.

Thus, the failure of the Municipality to collect ST from tenants and payment of the same from its own fund resulted in a loss of ₹27.81 lakh, besides avoidable interest of ₹24.07 lakh due to belated filing of declaration of ST.

The matter was referred to Government in January 2017; reply had not been received (March 2017).

**4.7 Action of Municipality in continuing with the land acquisition process despite not having adequate funds led to avoidable wasteful expenditure of ₹40.09 lakh.**

**Action of Pala Municipality in continuing with the land acquisition process despite not having adequate funds led to avoidable wasteful expenditure of ₹40.09 lakh by way of establishment charges**

According to Rule 4 (1) of the Land Acquisition (LA) Rules 1990, requisition for acquisition of land shall be made to the District Collector within whose jurisdiction the land is situated. The institution/Local Authority which requires land shall deposit with the Collector or Land Acquisition Officer at the time of execution of the agreement or at any other date to be fixed by the Collector/Land

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<sup>41</sup> Under VCES defaulters such as non-filers were required to make a truthful declaration of their pending tax dues (from 01 October 2007 to 31 December 2012) and pay at least 50 per cent of that before 31 December 2013 and the remaining half was to be paid by 30 June 2014 without interest. It was further clarified that if the declarant *suo-moto* discovers any mistake by himself, he may approach the designated authority before the cutoff date of 31.12.2013 for making amendments in tax dues and to avail benefits under VCES

acquisition officer the estimated amount of compensation and the estimated amount of establishment charges likely to be incurred by the Government as may be provisionally fixed by the Collector or Land Acquisition Officer.

Based on the decision (February 2004) of the Council, the Secretary, Pala Municipality had made a requisition for the acquisition of 45.52 ares<sup>42</sup> of land in Lalam village of Meenachil Taluk for construction of a Bus Terminal at Munnani. Revenue Divisional Officer Pala (RDO) was appointed as the Land acquisition officer. Government had accorded (May 2004) sanction to acquire the above said land by invoking urgency clause u/s 17(4) of the LA Act with a condition that the entire expenses in connection with the acquisition would be borne by the Municipality.

Though land acquisition notification was published in August 2004, Hon'ble High Court of Kerala (HC) stayed (September 2004) the acquisition proceedings based on a Writ Petition filed by one of the land owners. In March 2007, while disposing the case, HC quashed the urgency clause and directed the LA Officer to proceed with the acquisition under the ordinary provisions by inviting objection from the petitioners and conducting enquiry u/s 5A of the Act.

The Municipality decided (September 2007) to pursue the land acquisition proceedings and fresh notification for acquisition was published by the RDO in April 2008.

In May 2010, the Collector fixed the price of the land as ₹228 lakh and intimated the Municipality. In February 2011, RDO requested the Municipality to intimate whether sufficient fund was available with the Municipality but the Municipality did not reply to the RDO.

Despite repeated requests from RDO in March and April 2011 to allot the award amount of ₹228 lakh for acquiring the land, the Municipality could not mobilise the funds. Though the Municipality tried (October 2011) to source fund through loan from financial institutions, the same could not materialize. Hence, the Municipality was able to remit only a total of ₹40.09 lakh in three installments from September 2011 to December 2013.

In the mean time, an affected land owner filed a suit (2011) for quashing the land acquisition. While disposing the suit (June 2015), the Hon'ble HC ordered that the time limit prescribed under Land Acquisition Act had lapsed as the Municipality had not provided the requisite fund in time. It was also ordered that further acquisition can be done under Land Acquisition, Rehabilitation and Resettlement Act 2013.

In April 2016, RDO Pala informed the Municipal Secretary that the Land acquisition procedures could not be completed as the municipality had not remitted the entire award amount in time and that the award amount of

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<sup>42</sup> One Are = 2.47 cents

₹40.09 lakh already paid by the municipality would be adjusted against establishment charges of ₹40.44 lakh and ₹0.35 lakh was to be paid by the Municipality as balance of establishment charges due from them.

The Municipal council decided (August 2016) to dispense with the decision of continuing with the land acquisition procedures taking into account the increase in estimated cost of acquisition of ₹1954.18 lakh. The Municipality had requested (July 2016) the Government to exempt the establishment charges and refund the amount already remitted.

We observed that though the District Collector had fixed the price of the land in May 2010 itself, the Municipality could mobilise only ₹40.09 lakh by December 2013 as against the required ₹228 lakh. Thus the action of the Municipality in continuing with the LA process despite not having adequate funds led to avoidable wasteful expenditure of ₹40.09 lakh besides an additional liability of ₹0.35 lakh by way of establishment charges.

The matter was referred to Government in January 2017; reply was not received (March 2017).

#### **4.8 Unfruitful expenditure on development of Kole land.**

**The objective of increasing agricultural production in Kole land could not be achieved as salt water intrusion could not be prevented despite spending ₹3.86 crore.**

Kozhikode District Panchayat (DP) decided to uplift the production sector in the district by improving paddy cultivation in the Kole lands<sup>43</sup> spread in Velom-Ayanchery area. The project envisaged adequate drainage of excess water from the paddy fields and prevention of salinity intrusion from the river to enable paddy cultivation in different crop seasons for increased agricultural production. Government entrusted (February 2008) the execution of work to Kerala Land Development Corporation (KLDC)<sup>44</sup>. An agreement was executed (March 2008) by the Secretary of the DP with KLDC with the condition that the project was to be completed within March 2009 at an agreed cost of ₹5.55 crore<sup>45</sup>. The agreement envisaged the final settlement of claim pertaining to each project or work within two months after joint inspection by the technical wing of KLDC and authorities appointed by the DP and periodical monitoring of the work by the monitoring committee appointed by the DP.

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<sup>43</sup> low-lying wet-lands.

<sup>44</sup> A PSU under the administrative control of the Agriculture Department, Government of Kerala to promote, undertake and execute land development and allied schemes for the integral development of agriculture.

<sup>45</sup> 95 per cent of which was a loan from RIDF (Rural Infrastructure Development Fund) of NABARD and the remaining 5 per cent from DP plan fund.



The work included deepening and widening of the existing canal, construction of three vented cross bars<sup>46</sup> (VCB), repair of one VCB, formation of bunds, farm roads, construction of side protection works, enhancing of pumping installations etc.

Though the work was started in October 2008, of the 6278 m farm road and 12556 m side protection envisaged, 700 m road and 7800 m side protection only were completed (May 2012). The work of deepening and widening of the 6278 m of the existing canal was completed. Against the three VCBs envisaged, only one VCB was constructed and repair work of another existing VCB had not been started.

Even after granting several extensions, KLDC could not complete the works and hence the DP decided (November 2012) to terminate the work at the risk and cost of KLDC and to recover the advance amount with 12 *per cent* interest.

Accordingly, the DP entrusted (September 2013) EE, LSGD to evaluate the works completed by KLDC. EE reported (April 2014) that (i) KLDC had failed to take measures to prevent water logging (ii) quantities of items/works recorded in the Measurement book could not be located in the site and (iii) site clearance works<sup>47</sup> could not be assessed/measured as it could be done only at the time of work or before the commencement of work.

On the plea that KLDC being a Government agency and execution of balance works with any other agency would affect the works executed, the DP decided (November 2014) to entrust the balance works to KLDC itself. But, since KLDC refused to continue the works at the existing rates, DP decided (April 2016) to close the project at the existing stage.

We observed the following:

- Against the advance of ₹4.10 crore paid, KLDC submitted claims for ₹3.86 crore only for the value of the work done. The DP had failed to recover the balance of ₹24 lakh from KLDC.
- Though the agreement condition stipulated that final settlement of claim pertaining to each project/work would be made after joint inspection by KLDC and DP, payments were released based only on the certification by KLDC which is against the agreement conditions. The Engineering Wing failed to check measure the items of work done by KLDC as stipulated by Government<sup>48</sup>.
- The decision of the DP to terminate the contract at the risk and cost of KLDC could not be invoked as such a provision was not included in the agreement.

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<sup>46</sup> Vented Cross Bars are constructed across the streams with re-inforced cement concrete on an average height of 2.5 m above bed level, with provision of shutters to discharge the flood water and silt load carried during the monsoon seasons. Earthen canals are constructed for distribution of the raised up water behind the VCB flowing by gravity to the fields.

<sup>47</sup> Clearing of jungle, formation of ring bund, pumping of water and filling of earth at the initial levels.

<sup>48</sup> GO(MS)No.133/07/LSGD dt.18/05/2007

- On a joint site verification (February 2017) by the Audit party with the engineers of the DP and KLDC, it was found that the objective of prevention of salt water intrusion was not achieved and paddy cultivation has not improved. Besides, the local people complained of depletion of well water due to over draining through canals in the absence of VCBs at proper places.

Thus, despite incurring ₹3.86 crore on the project, the DP could not achieve the objective of increasing the agricultural production in Kole land by preventing salt water intrusion. Further, absence of VCBs at proper places led to over draining through canals which resulted in depletion of well water. This rendered the entire expenditure incurred for development of Kole land infructuous.

While confirming the facts, Government stated (March 2017) that a proposal is under consideration for launching a new project by utilizing the works already executed.

Thiruvananthapuram,  
The

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Countersigned

New Delhi,  
The

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