CHAPTER 3

COMPLIANCE AUDIT

Animal Husbandry and Dairying Department and Revenue and Disaster Management Department

3.1 Suspected embezzlement

Suspected embezzlement of ₹ 1.54 lakh occurred in the Sub Division Office, Kaithal due to short accountal and non-accountal of Government receipts in the Cash Book and suspected embezzlement of ₹ 1.02 lakh occurred in the office of Deputy Commissioner, Bhiwani (Nazir Branch) by increasing the amount of vouchers in the abstracts, fraudulently and drawing the contingent bills with increased amount.

(i) Rule 2.1(b) of Punjab Financial Rules Volume-I (applicable to Haryana State) provides that every Government employee is personally responsible for the money which passes through his hands and for the prompt record of receipts and payments in the relevant account as well as for the correctness of the account in every respect. Rule 2.2 (iii) provides that the Cash Book should be closed regularly and completely checked. The head of the office should verify the totalling of the Cash Book or have this done by some responsible subordinate other than the writer of the Cash Book and initial it as correct. Further, Rule 2.33 states that every Government employee should realise fully and clearly that he will be held personally responsible for any loss sustained by Government through fraud or negligence on his part, and that he will also be held personally responsible for any loss arising from fraud or negligence on the part of any other Government employee to the extent to which it may be shown that he contributed to the loss by his own action or negligence.

The office of Sub Divisional Officer, Animal Husbandry and Dairying Department, Kaithal (SDO) was assigned with the responsibility of collecting Artificial Insemination (AI) fee received by 36 Veterinary Hospitals in its jurisdiction. The collected receipts were subsequently deposited with the Semen Bank Officer, Haryana Live Stock Board after closing of month.

During audit (May 2018) of Cash Book maintained in the SDO office, it was noticed that for nine months between the period September 2014 and March 2018 the total of receipts were understated at the closing of month and hence the receipts were short accounted for ₹ 99,914 as detailed in **Table 3.1**.

Table 3.1: Detail of short accountal of receipts in Cash Book

(Amount in ₹)

Month	Totals as per Cash Book	Actual Totals worked out	Amount of Short accountal/ Suspected embezzlement
September 2014	2,63,816	2,78,816	15,000
January 2017	2,61,262	2,72,422	11,160
February 2017	2,65,740	2,75,930	10,190
March 2017	3,53,268	3,65,328	12,060
August 2017	2,80,966	2,90,986	10,020
November 2017	3,59,530	3,71,044	11,514
December 2017	4,25,498	4,40,048	14,550
January 2018	3,83,552	3,95,732	12,180
March 2018	4,84,304	4,87,544	3,240
Total	**30,77,936**	**31,77,850**	**99,914**

(Source: Information compiled from Cash Book and Receipt Book)

This amount was never deposited with the Semen Bank Officer and suspectedly embezzled. It was also found that ₹ 54,460[1] received from two veterinary hospitals in February and March 2018 were not entered in the Cash Book and further not deposited with Semen Bank Officer. Thus, total suspected embezzlement of ₹ 1,54,374 had occurred.

Audit observed that the suspected embezzlement occurred due to intentional reduction in the monthly totals which ultimately led to short accounting of monthly receipts and by not making entry of receipts in the Cash Book. It is also observed that the Drawing and Disbursing Officer (DDO) cannot be spared of the responsibility as the monthly closure certificates of Cash Book were signed by the DDO.

In reply to the audit observations, the SDO intimated (April 2019) that ₹ 1.54 lakh have been deposited with the Semen Bank Officer in July 2018. The reply was incomplete as to the officers/officials responsible for the embezzlement have not been identified and investigation has not been conducted regarding loopholes in the system for facilitating misappropriation of Government receipts of ₹ 1.54 lakh.

The matter was referred (April 2019) to the Additional Chief Secretary, Animal Husbandry and Dairying Department, Haryana and subsequent reminders were issued in May 2019 and May 2020; their reply was awaited (September 2020).

[1] (i) Government Veterinary Hospital (GVH), Habri (Kaithal), 78 dated 19 February 2018: ₹ 22,500 and (ii) GVH, Padla (Kaithal), March 2018: ₹ 31,960.

Recommendation: The State Government may consider conducting thorough investigation in this case and fix responsibility of the delinquent officers/officials.

(ii) Rule 2.31 of the Punjab Financial Rules, as applicable to Haryana, provides that the drawer of bill for contingent expenses will be held responsible for any overcharges, frauds and misappropriations. Therefore, he should exercise various financial checks to detect immediately any attempt of defalcation and should pay special care to those points in financial processing at which leakage may occur. Rule 8.26 further provides that the controlling officer is required to see that items of expenditure included in a contingent bill are of obvious necessity and are at fair and reasonable rates; that the requisite vouchers are in order; and that the calculations are correct.

During test check of records (February 2019) in the office of the Deputy Commissioner (DC), Bhiwani, it was noticed that while drawing seven contingent bills between the period September 2016 and March 2017, the amount was overcharged by ₹ 1.02 lakh by fraudulently increasing amounts in respect of 20 vouchers in abstracts attached with the contingent bills. Against the actual amount of ₹ 16,624/-, payable for tea and snacks served in various meetings, ₹ 1,18,804/- were drawn by the District Revenue Officer, Bhiwani in the name of the then clerk of Nazir Branch. Hence, an amount of ₹ 1,02,180/- was over charged. All these contingent bills and abstracts of vouchers were signed by the City Magistrate, Bhiwani.

Thus, the drawing and controlling officers in the office of Deputy Commissioner, Bhiwani failed to apply requisite financial checks in drawing contingent bills which resulted in suspected embezzlement of ₹ 1.02 lakh.

The Additional Chief Secretary, Revenue and Disaster Management replied (June 2020) that the amount of ₹ 1.24 lakh including interest has been recovered from the concerned official and the official has been chargesheeted under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 2016.

The reply is not convincing as action has not been taken against the drawing officer. Further, investigation has not been conducted for strengthening internal control system to ensure that no such irregularity occur in future. Final action against the delinquent official is awaited.

Recommendation: The State Government may consider fixing responsibility on drawing officer for not applying checks while drawing contingent bills resulting in overcharging and misappropriation of

Government funds. The matter requires thorough investigation for strengthening the internal control mechanism.

AYUSH Department

3.2 Loss of revenue

Shri Krishna Government Ayurvedic College, Kurukshetra did not comply with instructions of the State Government for charging fee for *Panchkarma* therapies which resulted into loss of revenue of ₹ 82.48 lakh.

Shri Krishna Government Ayurvedic College, Kurukshetra is being run under the aegis of AYUSH Department, Haryana. The college provides *panchkarma* Therapies and Procedures to the patients.

The Director General, AYUSH (DG) Haryana issued instructions on 4th November 2015 to the Principal of the college that Government has taken a decision to make available *panchkarma* therapies to the patients as well as to common people who want to avail these facilities and to charge fee on prescribed rates for eight therapies ***(Appendix 3.1)*** with effect from 9th November 2015.

The DG, AYUSH, on 26th November 2015, invited suggestions and comments from the college regarding charging rates for the *panchkarma* therapies as some District Ayurveda Officers gave a feedback that the rates fixed were quite high and there was resentment amongst people. The college intimated (December 2015) that performing the *panchkarma* therapies is essential for practical teaching of the students and rates for the therapies were quite high. Hence, it was requested by the college to withdraw prescribed charges. However, the DG did not withdraw the prescribed charges and instructed (May 2016) to ensure compliance of the instructions for charging fee.

During the scrutiny of records (June 2019) of Shri Krishna Government Ayurvedic College, Kurukshetra, it was observed that in contravention of departmental instructions, the college continued to provide the therapies without charging any fee. As per information made available by the College, during April 2016 to May 2019 the college performed 36,431 *panchkarma* therapies on OPD and IPD patients without charging any fee, which resulted into loss of revenue to the extent of ₹ 82.48 lakh[2] to the State exchequer.

[2] (i) Sarwang Swedan; ₹ 70.72 lakh (35,358 OPDs * ₹ 200 per OPD) (ii) Nasyam; ₹ 1.56 lakh (782 OPDs * ₹ 200 per OPD) (iii) Shiro Dhara; ₹ 10.20 lakh (2913 OPDs * ₹ 350 per OPD)

On being pointed out by Audit, Principal of the college stated (June 2019) that proposal was sent (December 2015) to the DG, AYUSH for not charging the fee for *panchkarma* therapies but no instructions were received regarding the same. As a result, fee could not be charged. It was further contested that during 2015-17 the college did not perform one of the therapies (Sarwang Swedan).

The reply was factually incorrect as the DG, AYUSH had issued instructions in May 2016 for compliance of orders of charging the prescribed fee for various therapies. Further, the statement that no therapy for Sarwang Swedan was provided in the college during 2015-17 was not maintainable as the audit observation is based on the information supplied by the college itself. DG, AYUSH in its reply (September 2019) had also acknowledged that no instructions were issued for not charging fee and non-compliance was at the level of college. Further, the college has started charging the prescribed fee since August 2019.

The matter was referred to the State Government in October 2019 and subsequent reminders were issued in December 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility on the Principal, Shri Krishna Government Ayurvedic College, Kurukshetra for non-compliance of departmental instructions and incurring a revenue loss of ₹ 82.48 lakh.

School Education Department

3.3 Double disbursement of scholarships

Non observance of the codal provisions and inadequate internal control in Directorates of Elementary Education and Secondary Education led to double disbursement of ₹ 30.76 crore to the beneficiaries. The Directorates had also kept the unutilised funds blocked in current account resulting into avoidable loss of interest.

Rule 2.2 of the Punjab Financial Rules, as applicable to the Haryana Government, provides that all the monetary transactions are entered in the Cash Book as soon as they occur and attested by the head of office in token of this check. The Cash Book should be reconciled on a monthly basis and closed regularly. Further, Rule 2.10 provides that no money should be withdrawn from the treasury unless it is required for immediate disbursement. As per RBI

instructions, Government Departments/bodies are allowed to open savings account with an authorisation from the respective Departments/bodies.

(i) During Audit (January 2019) in the office of the Director, Elementary Education, Haryana, Panchkula (DEE), it was noticed that an amount of ₹ 66.31 crore was drawn (February 2017) by the DEE from the treasury for disbursement of cash award[3] to 6.41 lakh students belonging to Scheduled Castes (SC). The amount was deposited in current account maintained with the State Bank of India (the bank). The DEE issued (March 2017) authority letters to the bank for disbursement of ₹ 65.02 crore to 5.27 lakh beneficiary SC students alongwith list and *Aadhaar* linked bank account numbers of the beneficiaries. Out of this, an authority letter was for disbursing ₹ 10.21 crore as cash award to one lakh students. The bank debited ₹ 10.21 crore in March 2017. During audit it came to notice that the account was again debited in April 2017 with the same amount of ₹ 10.21 crore. Hence, the amount was withdrawn twice. However, the Direct Benefit Transaction (DBT) valuing ₹ 2.02 crore in respect of 20,455 beneficiaries failed due to mismatch in data and ₹ 8.19 crore were paid twice to the beneficiaries.

Audit noticed that the Department had neither maintained the Cash Book nor obtained monthly bank statements for reconciliation, which was in gross contravention of the codal provisions. After being pointed out by Audit, the Department requested (February 2019) the bank to provide the bank account statement, details of disbursal of amount for the year 2016-17 and refund the amount along with penal interest which is indicative of failure of internal control in the Department. Thus, due to not complying with codal provisions and failure of internal control, double payment of ₹ 8.19 crore as scholarship occurred and remained unnoticed for more than 22 months. The bank credited ₹ 8.19 crore in July 2019 i.e. after 27 months.

On being pointed out by Audit, the DEE confirmed (February 2019) that second disbursal of ₹ 10.21 crore was made by the bank without any authority letter and bank account could not be reconciled as bank statements were not obtained from the bank. The DEE further intimated (August 2019) that the amount of ₹ 8.19 crore had been deposited in Government receipt head.

The reply itself points out that the DEE had not maintained proper Cash Book and had not carried out monthly reconciliation with the bank statement which was violation of the applicable financial rules. Interest amount for the period of 27 months had also not been recovered from the bank. Further, the amount

[3] One-time cash award to students of Scheduled Castes of classes 1st to 8th

received as refund should be booked as decrease in expenditure head instead of depositing as revenue receipts of the department.

(ii) It was seen during Audit (January-February 2019) in the office of the Director, Secondary Education (DSE), Haryana that a current account was opened (December 2016) with State Bank of India (the bank) and an amount of ₹ 154.27 crore was transferred in the account during the period between December 2016 and March 2017 for disbursement of scholarships to students of classes 9th to 12th. DSE issued (March 2017) an authority letter to the bank for disbursal of ₹ 28.45 crore of monthly stipend to 1.08 lakh students belonging to SC and Below Poverty Line (BPL) categories which was debited by the bank in March 2017. However, the bank again debited the same amount in March 2017 itself without any authority letter.

Audit observed the same irregularity of not maintaining the Cash Book and not obtaining bank statements for reconciliation led to double disbursal. The DSE lodged an FIR only in September 2018 against the bank for not providing the bank statements. The bank provided the bank statements in October 2018 wherein it was found that the DBT for ₹ 28.45 crore (₹ 27.26 crore + ₹ 1.19 crore) had been debited twice resulting into double payment of ₹ 22.57 crore as DBT valuing ₹ 5.88 crore to 22,200 beneficiaries failed due to mismatch in data. The bank refunded the excess paid amount to the DSE in January 2019 i.e. after more than 21 months with a request to refund the excess amount from the future scholarships of students who have been given double credit. Had the DSE maintained proper Cash Book and carried out monthly reconciliation with the bank statement as required under the financial rules, the double disbursal could have been avoided.

The DSE replied (August 2020) that they lodged an FIR in September 2018 against the bank for not providing the bank statements. The bank provided the bank statements in October 2018 wherein the double disbursal of ₹ 22.57 crore was noticed. The bank refunded the excess paid amount to the DSE in January 2019 i.e. after more than 21 months.

The reply itself points out that the DSE had not maintained proper Cash Book and had not carried out monthly reconciliation with the bank statement which was violation of financial rules. Interest amount for the period of 21 months had also not been recovered from the bank.

Thus, non-observance of the codal provisions and inadequate internal control in Directorates of Elementary Education and Secondary Education resulted in double payment of ₹ 30.76 crore to the beneficiaries by the bank leading to blockade of Government funds for more than 20 months. Further, the wrongly disbursed Government funds should have been recovered from the bank along

with interest at the rate not less than the State Government paid on borrowings i.e. 8.1 *per cent* per annum. Thus, ₹ 4.69 crore[4] were recoverable from the bank as interest.

Audit further noticed that the funds were kept parked in current account instead of refunding the unutilised funds to the State Exchequer or keeping the funds into saving bank accounts resulting into avoidable loss of interest.

The matter was referred to the State Government in May 2019 and subsequent reminders were issued in July 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility of officers concerned for not complying with codal provisions and for failure of internal control which led to double disbursement of ₹ 30.76 crore and for parking of funds in current account which resulted in avoidable loss of interest.

Finance Department

3.4 Excess payment to the pensioners

Due to non-reconciliation of monthly scrolls submitted by the Central Pension Processing Centre, excess pension of ₹ 81.68 lakh was disbursed to 84 pensioners during April 2012 to May 2018 by not deducting/discontinuing the deduction of commuted portion of pension.

Rule 95 of Haryana Civil Services (Pension) Rules provides that a Government employee, on retirement from service, who is entitled for pension may opt for commutation of a fraction not exceeding 40 *per cent* of his pension for a lump sum payment. The commutation of pension shall be subject to reduction in the amount of pension for a period of 15 years or upto the recovery of commuted value with interest, whichever is later. Thereafter, the commuted portion of pension shall be restored. The pensions to State pensioners are disbursed through Centralised Pension Processing Centres (CPPC) in banks which act as single window for payment of pensions. The CPPCs sends monthly scrolls directly to pension accounting authorities of the State (Director General, Treasuries and Accounts Department (DG, T&A)) for reconciliation of pension

[4] ₹ 22.57 crore for 21 months upto January 2019 @ 8.1 *per cent* per annum = ₹ 3.20 crore
₹ 8.19 core for 27 months upto July 2019 @ 8.1 *per cent* per annum = ₹ 1.49 crore

transactions. The DG, T&A is responsible for reconciliation of monthly scrolls and report discrepancies/anomalies to CPPC.

There are 2.48 lakh pensioners drawing pension from State Government Haryana. The Centralised Pension Processing Centre (CPPC) of State Bank of India (SBI) was monitoring/disbursing pension to 60,477 pensioners of Haryana Government (as of June 2018) whose bank accounts are with SBI.

Out of 60,477 pensioners, record in respect of 985 pension cases of commutation were test checked during June and July 2018 wherein it was seen that since April 2012 full monthly pension without reduction of commuted portion was being disbursed to 23 pensioners. This resulted in excess payment of ₹ 43.16 lakh to these pensioners during the period between April 2012 and May 2018. Further, deduction of commuted portion of pension discontinued without full recovery of commuted value alongwith interest in respect of another 61 pensioners which resulted into excess payment of ₹ 38.52 lakh during the period between April 2012 and May 2018. It was observed that the DG, T&A never reported these discrepancies to the CPPC.

Thus, due to non-reconciliation of monthly scrolls with the database available with the DG, T&A, an excess payment of ₹ 81.68 lakh was made to the 84 pensioners during the period between April 2012 and May 2018 on account of non-deduction/discontinuing deduction of the commuted portion of the pension. The matter needs thorough examination and excess payment along with interest thereupon, if any, needs to be recovered from the pensioners concerned. Further, monthly reconciliation of scrolls is required to check the discrepancy between authorisation by DG, T&A and credit to pensioners' accounts by banks.

On being pointed out by Audit, Director General, Treasuries and Accounts Department (DG, T&A) stated (February 2019) that the issue has been checked from the CPPC and it has been intimated by the CPPC that the recovery has been initiated from the pensioners. Further, it was intimated (June 2020) that out of total 84 accounts, where overpayment was detected by Audit, the CPPC has recovered ₹ 66.26 lakh in 73 accounts and remaining ₹ 15.42 lakh will also be recovered in monthly instalments. The reply was not convincing as DG, T&A has not ensured examination of remaining pension accounts besides, reconciliation of monthly scrolls with departmental database for checking discrepancies/anomalies.

The matter was referred (May 2019) to Additional Chief Secretary, Finance Department and subsequent reminders were issued in July 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider to issue instructions to DG, T&A for thorough examination of all the pension accounts and to ensure regular reconciliation of monthly scrolls received from CPPC with departmental database to check excess payments. Responsibility may be fixed on officers for not checking the pensioners' data processed by CPPC and for not reconciling the monthly scrolls received from the CPPC.

Food, Civil Supplies and Consumer Affairs Department

3.5 Misappropriation of paddy due to violation of laid down norms by the department.

Allotment of paddy to an unregistered miller in excess of permissible limit resulted in loss of ₹ 2.99 crore as the miller misappropriated the paddy.

As per State Government guidelines, for custom milling of paddy, the District Food Civil Supplies and Consumer Affairs Controllers (DFSCs) were authorised to issue registration certificates to rice millers after assessing financial and technical capability of the miller on the basis of income tax returns, connected electric load, per hour milling capacity of the mill, documents with regard to ownership or lease, etc. The registration certificate is issued for three years, but required to be reviewed every year by the district milling committee before allotment of paddy. A security of ₹ 10 lakh for first tonne capacity and ₹ five lakh for every additional one tonne in the shape of fixed deposit receipt (FDR) was to be obtained from the miller. Additional guarantee in shape of signed MICR cheque in favour of the DFSC of ₹ 50 lakh for each tonne milling capacity was to be obtained from the miller. Further, mills on lease could be allotted paddy upto 4,000 metric tonne (MT) for custom milling.

During scrutiny of records (July 2018 and August 2019) of DFSC, Kurukshetra, it was noticed that DFSC, Kurukshetra had issued a registration certificate to a partnership firm M/s Veer Agro Foods[5] for custom milling of paddy as the owner of a rice mill, while in actual the firm had taken a rice mill[6] on lease for Kharif Marketing Season (KMS) 2016-17. For the KMS 2017-18, the composition and address of partnership firm changed[7] as the firm took different rice mill on lease. Instead of registering the firm as new miller, after assessing the financial and technical capacity, the DFSC, Kurukshetra included the firm

5 Having two partners i.e. Mr. Anil Jangra and Mr. Manik Goyal

6 M/s Garg Rice and General Mills, Jhansa Road, Kurukshetra

7 M/s M. B. Modern Rice Mill, Salarpur Road, Kurukshetra with partners Mr. Anil Jangra and Ms. Priya Ahlawat

as registered miller with the earlier registration number. The miller deposited four signed cheques of ₹ 50 lakh each as guarantee and FDR of ₹ 10 lakh as security against the requisite FDR of ₹ 25 lakh[8]. The firm had not submitted any application for getting the new firm registered for KMS 2017-18.

Against the maximum permissible limit of 4,000 MT paddy, the Department released 10,483.80 MT paddy to the miller directly. The miller was to supply 7,024.15 MT[9] Custom Milled Rice (CMR) by the end of March 2018. The DFSC Kurukshetra conducted a physical verification of the mill in June 2018 and found a shortage of 1,138.10 MT CMR. However, upto August 2018, the firm delivered 6,171.42 MT CMR and balance 852.73 MT[10] of CMR costing ₹ 3.09 crore remained undelivered. After encashing fixed deposit receipt of ₹ 10 lakh, the department suffered a loss of ₹ 2.99 crore. Four cheques of ₹ two crore were not encashed by the bank due to insufficient balance.

The DFSC lodged FIR on 06 September 2018 against the partners of the firm. But no disciplinary action had been initiated against the defaulting officers/ officials who facilitated the allotment of paddy to an unregistered miller.

The Director General, Food, Civil Supplies and Consumer Affairs, Haryana admitted (November 2019) that 10,484 MT paddy was allotted to the miller against the permissible limit of 4,000 MT. It was also intimated that a court case for cheque bounce was pending in the District Court, Kurukshetra. Further, departmental orders were issued to take disciplinary action against the defaulting officials/officers**.** The reply is not convincing as there was lack of in-built mechanism to check the entry of unregistered millers in list of registered millers, to verify the actual milling capacity of mill, to verify the ownership/leasehold status of mill and to monitor the release of paddy to each miller. Moreover, final action against the defaulting officers/officials was still awaited (August 2020). Thus, allotment of paddy to an unregistered miller in excess of permissible limit resulted in loss of ₹ 2.99 crore.

The matter was referred (February 2020) to the State Government and subsequent reminder was issued in May 2020; their reply was awaited (September 2020).

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8 ₹ 10 lakh for first tonne and ₹ five lakh for each subsequent capacity of one tonne i.e. ₹ 10 lakh + ₹ 5 lakh * 3 = ₹ 25 lakh

9 67 *per cent* of 10,483.80 MT paddy

10 CMR to be supplied: 7,024.15 MT – CMR actually delivered: 6,171.42 MT = CMR remained undelivered: 852.73 MT

Recommendation: The State Government may consider evolving proper mechanism to verify the physical and financial capacity of the millers before allotment of paddy. Responsibility may be fixed for allotting excess paddy to an unregistered miller and causing a loss of ₹ 2.99 crore to the State exchequer.

3.6 Extra burden of interest due to delay in claiming driage charges

Five District Food, Civil Supplies and Consumer Affairs Controllers had not claimed paddy driage charges of ₹ 101.59 crore from FCI in regular bills at the time of supply of custom milled rice resulting in delayed receipt between 22 and 1,577 days which caused an interest burden amounting to ₹ 13.45 crore.

The Food, Civil Supplies and Consumer Affairs Department, Haryana procures paddy for the Central pool on behalf of the Food Corporation of India (FCI) and delivers the Custom Milled Rice (CMR) to FCI. The rates of CMR are fixed by Government of India (GoI), Department of Food and Public Distribution which include minimum support price (MSP) of paddy payable to farmers, statutory charges, interest charges for two months, milling charges, driage charges at the rate of one *per cent* of MSP and other incidental charges for each kharif marketing season (KMS).

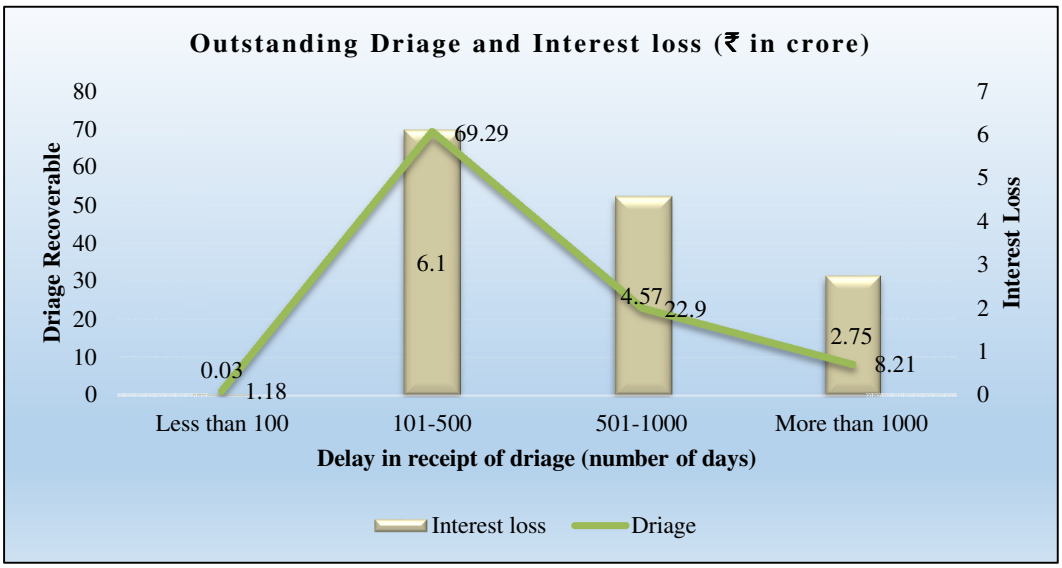
The Department procures paddy by availing Cash Credit Limit (CCL) from State Bank of India. The District Food, Civil Supplies and Consumer Affairs Controllers (DFSCs) raise bills on FCI as per rates fixed by GoI at the time of delivery of CMR to central pool and generally receive payments from the FCI within a week. The FCI allows interest for limited period of two months for delivering CMR and no interest is allowed on any supplementary bills. To minimise the interest burden on withdrawal from CCL, the State Government has stressed on delivery of CMR within prescribed time schedule.

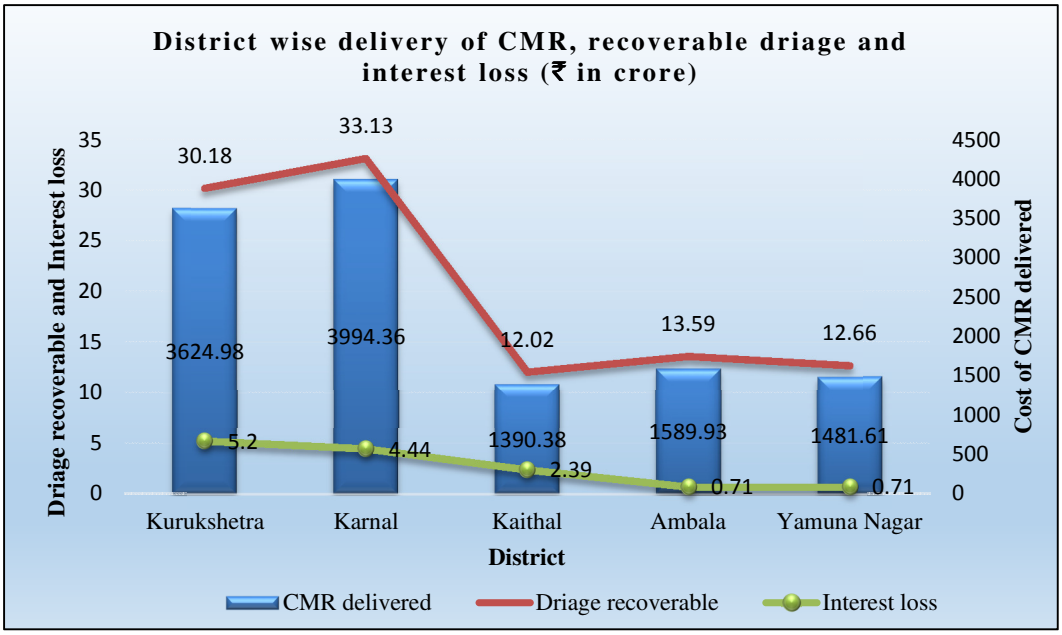
During audit of five DFSCs[11], it was found that 45.83 lakh metric tonne CMR costing ₹ 12,081 crore for KMS 2014-15 to 2017-18 was supplied between October 2014 and October 2018 to the FCI. Against this quantity, ₹ 101.59 crore were receivable as driage charges from FCI. It was seen that the DFSCs did not claim the driage charges at the time of delivery of CMR instead these were claimed through supplementary bills between July 2015 and March 2019 which resulted in delayed/non realisation of driage charges. We observed that there were delays ranging between 22 and 1,577 days in receipt of driage charges from the FCI. As such, as on 31 March 2019, against the total receivable driage

[11] (i) Ambala, (ii) Kaithal, (iii) Karnal, (iv) Kurukshetra and (v) Yamunanagar

charges of ₹ 101.59 crore, ₹ 93.58 crore had been received and ₹ 8.01 crore was pending realisation.

Due to delayed receipt of driage charges, such amount remained withdrawn from CCL for extended period resulting in extra interest burden of ₹ 13.45 crore on the State exchequer. As the FCI does not allow interest on supplementary bills, therefore, it was financially imprudent to delay the claim for the State. Age-wise and district-wise analysis of interest burden on State Exchequer due to delay in receipt of driage charges from the FCI has been presented in the Charts below.





As evident from above, out of the five test-checked districts, the loss of interest was alarming in three districts viz. Kurukshetra (₹ 5.20 crore), Karnal (₹ 4.44 crore) and Kaithal (₹ 2.39 crore).

In reply to audit observation, the Director, Food, Civil Supplies and Consumer Affairs Department stated (August 2018) that directions had been issued for claiming driage charges from FCI in timely manner in future. The reply was not complete as reasons for not claiming the driage charges at the time of supplying CMR to FCI were not specified. Despite the fact that FCI does not allow interest on supplementary bills, the driage charges were claimed through supplementary bills resulting in receipt after a delay upto 1,577 days. Further, outcome of the directions was awaited (April 2019).

Thus, due to non-claiming of paddy driage charges of ₹ 101.59 crore through regular bills at the time of supply of CMR but at a later date through supplementary bills, driage charges were received after a delay upto 1,577 days and consequently an extra burden of ₹ 13.45 crore (upto 31 March 2019) on account of interest was paid on cash credit limit.

The matter was referred (May 2019) to the Additional Chief Secretary, Food, Civil Supplies and Consumer Affairs Department, Haryana and subsequent reminders were issued in May 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility on District Food, Civil Supplies and Consumer Affairs Controllers for not claiming driage charges from Food Corporation of India in regular bills at the time of supply of custom milled rice. Instructions may also be issued for compliance in future to avoid extra burden of interest.

Forest Department

3.7 Use of forest land for non-forest purposes in Aravalli and Shivalik Hill areas

Audit noticed encroachments on forest land at six sites, due to weaknesses in exercising controls by the Forest Department. Possession of 170.74 acre land was not taken at three sites for compensatory afforestation. Compensatory afforestation was carried out only on 39.07 ha. against the availability of 122.18 ha. land. Inadequate watch and ward controls of the department led to illegal mining in forest areas. Delay in taking action against the offenders of forest rules resulted in loss of ₹ 2.74 crore. Further, the expenditure of ₹ 2.90 crore on salary of Protection Watchers was not incurred in a transparent manner.

3.7.1 Introduction

Haryana is primarily an agricultural State with almost 80 *per cent* of its land under cultivation. Out of total 44,212 square kilometers (kms) geographical area

of the State, only 3.9 *per cent* is under notified forests. Forestry activities in the State are dispersed over Shivalik Hills in north, Aravalli hills in south, sand dunes in west and wastelands, saline-alkaline lands and waterlogged sites in the central part of the State.

The Aravallis of Haryana falls in seven districts[12]. Ecological degradation in the Aravalli Region is in alarming situation due to increasing population of human and cattle, injudicious use of natural resources, unscientific mining, uncontrolled grazing and felling of trees, etc. The National Capital Region including Gurugram/Faridabad has witnessed exponential growth in terms of industries, habitations, etc., causing tremendous pressure on the limited natural resources. Resultantly, the Aravalli region remains ecologically, economically and socially backward in comparison with the other parts of the State.

The Shivalik region in Haryana is spread over 3,514 square kms in districts of Ambala, Panchkula and Yamunanagar. In less than half a century, burgeoning population of human and livestock have stressed the natural resources of Shivalik thereby threatening the survival of its flora and fauna.

Protection of forests and use of forest land for non-forest purposes is governed by Forest (Conservation) Act 1980, Environment Protection Act 1986, Punjab Land Preservation Act 1900 and rules made thereunder.

The Range Forest Officers and Foresters were responsible for protection of forests. Conservator of Forest and Divisional Forest Officers (DFO) were required to make frequent tours for inspection every month and to write an inspection note on the forest visited at the end of each month showing the state of protection of forest, encroachment of forest land, etc. The Principal Chief Conservator of Forests and other higher authorities were required to monitor the working of the Department for protection of forests.

With a view to assessing the effectiveness of Forest Department in protecting forest area under these hilly zones from illegal mining and encroachments, records for the period 2015-19 were test checked in the Office of Principal Chief Conservator of Forests and eight[13] out of ten divisional offices located in Aravalli and Shivalik areas during July 2018 to April 2019**.**

[12] (i) Gurugram, (ii) Mewat, (iii) Faridabad, (iv) Palwal, (v) Mahendragarh, (vi) Rewari and (vii) Bhiwani.

[13] (i) DFO (Territorial), Nuh, (ii) DFO, Yamunanagar, (iii) DFO, Gurugram, (iv) DFO, Mahendragarh, (v) DFO, Ambala, (vi) DFO, Rewari, (vii) DFO, Pinjore and (viii) DFO, Faridabad

3.7.2 Encroachment[14] of forest land

The Additional Chief Secretary, Government of Haryana, Forest Department desired (October 2016) to identify blank and encroached areas using Geographical Information System (GIS). In compliance, the GIS Cell identified (February 2017) that a total of 454.88 acre area (except Pinjore) under encroachment in seven test checked divisions. The Principal Chief Conservator of Forests ordered (March 2017) the Divisional Forest Officers (T) concerned to do field verification of the said encroached areas. A report regarding status of encroachment of forest land and its eviction was sent to Government in September 2018. Scrutiny of this data revealed that there was a significant difference in data of encroachment on forest land as per divisional records (185.528 ha) and GIS Survey (1,125.01 ha). The area freed from encroachment was only 25.28 ha as against the encroachment of 1,125.01 ha. The division-wise detail of area under encroachment as per GIS survey, divisional records and area freed from encroachment is given in ***Appendix 3.2***.

Thus, the divisional officers were oblivious of the actual forest land under encroachment, which clearly indicates lack of proper watch and ward by the Forest Department to protect/maintain the forest land.

Though field verification of encroachment with reference to data of GIS survey was stated to have been carried out by the divisions but no documentary evidence in support of having field verification done, was available with the divisions. As there was a significant difference of 939.482 ha in encroached area as per GIS survey and divisional records, a joint physical verification of five sites[15] in five districts was conducted (November 2018 to April 2019) in audit to verify the actual encroachment[16].

Chapter 5 of the Forest (Conservation) Rules and guidelines (2003) envisage that whenever clearances are accorded for diversion/de-reservation of forest land under the provisions of the Forest (Conservation) Act, 1980, certain conditions are imposed by the Ministry to minimise impact on forest land. Any violation of these conditions would lead to cancellation of sanction for non-forestry use and lease agreement would be revoked and the forest land

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14 Any unauthorised use/access of forest land for non-forest purposes is said to be encroachment on forest land.

15 (i) Near Jhir village in Nuh, (ii) Rao-Majra village in Ambala, (iii) Mukundpura village in Mahendragarh, (iv) Bawal in Rewari and (v) Radha Swami Satsang (Beas) at Bir Ghaggar in Panchkula.

16 Shown as encroached area as per GIS survey but was not recorded as encroached in divisional records.

would be restored to the Forest Department for further management as forest. Section 3B of the Act further provides that where any offence is committed by any Department of Government, the Head of Department or by any authority, every person who, at the time of offence was committed, was directly incharge of and was responsible to the authority for the conduct of business of the authority as well as the authority shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

The cases of encroachment of forest land and violation of rules and regulations detected during audit are discussed below:

(i) Forest land in Industrial Estate, Bawal (Rewari), Mustil No. 26, Khasra/ Kila no. 2 and part of Kila no. 1 of Village Suthani was under encroachment and large factories were built on this land. Audit observed (April 2019) that the above cited area was transferred (2009) to the Forest Department by Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) for developing forest in the area in lieu of forest land taken for Kundli-Manesar-Palwal Expressway. There was no encroachment on the land at the time of transfer of land to Forest Department. Thus, the Forest Department failed to protect the forest area from encroachment (construction of factories).

	
Building constructed at Bawal (Rewari) Kila number 2 (15.04.2019)	**Factory constructed at Kila number 1 (15.04.2019)**

(ii) The land measuring 2.42 acre[17] of Rao-Majra village of Hamidpur beat (Naraingarh block of Ambala district) which was recorded as protected forest but was being used by farmers for agriculture purpose. This was tantamount to encroachment of forest land.

[17] Murabba number/killa number 30//7,8,9, 33//11, 23//1,2 (Naraingarh range)


Protected forest used for agricultural purpose by farmers Rao-Majra (Ambala) (20.02.2019)

(iii) In Narnaul range (Mahendragarh), *pakka structures* were constructed in Mukundpura village and adjoining *dhanis* (Chirag and Dhun) at six[18] sites. According to Revenue records, these sites were part of reserve forest and were, thus, tantamount to encroachment of forest land.



Dhani Chirag (08.02.2019) | **Mukundpura (08.02.2019)** | **Dhani Dhun (08.02.2019)**

(iv) In exercise of powers conferred by sub-section (1) and section 3 (2) (v) of the Environment (Protection) Act, 1986 read with Rule 5 of the Environment (Protection) Rules 1986, the Ministry of Environment and Forests, Government of India (GoI) prohibited (May 1992) carrying out construction of any cluster of dwelling units, farm houses, sheds, community centres, etc., in specified areas of Aravalli Range which were causing environmental degradation. It was seen that in Jhir village (Nuh) (a specified area of Aravalli Range), *pakka* structures were constructed by the residents on forest land and were living illegally for the last seven-eight years which indicates that the Department was not aware of encroachment on the forest land and had not done watch and ward of the forest area to protect it from illegal activities.

[18] Between coordinates (i) 27º59'5.45"N and 76º4'31.81"E, (ii) 27º59'19.69"N and 76º4'44.80"E, (iii) 27º59'58.62"N and 76º4'22.44"E, (iv) 27º57'29.89"N and 76º4'7.99"E, (v) 28º0'3.80"N and 76º4'23.28"E; and (vi) 28º0'0.88"N and 76º4'21.55"E.

Village Jhir (Nuh) (29.11.2018) 27º48'14.00"N 76º55'48.00"E

(v) Radha Swami Satsang (Beas) requested (April 1992) the Forest Department to divert 100 acres (40.34 ha) of protected forest land for setting up a Satsang Centre at Bir Ghaggar. The permission was granted for diversion of land for setting up Satsang Centre in January 1998 subject to the conditions that legal status of forest land shall remain unchanged and the forest land diverted would be utilised only for plantation of trees and no construction would be undertaken in the area.

Due to encroachment on 35 acre land, the Forest Department and Radha Swami Satsang (Beas) executed a lease agreement for 28 years for 65 acre of land in November 2009. Subsequently, possession of additional 19.50 acre (Total 84.50 acre) land was also given by April 2011 after getting the land freed from encroachment.

Construction activities were carried out by the Radha Swami Satsang Society on the said forest land in violation of the terms and conditions of lease agreement. As per Forest (Conservation) Rules and guidelines, the lease was to be terminated and sanction was to be cancelled and possession of the land was to be taken by the Forest Department. According to Google imagery (coordinates were between 30º43'57.23"N and 76º53'48.26"E,), the buildings were constructed between January 2006 and April 2009.

Radha Swami Satsang Centre at Bir Ghaggar (26.04.2019)

Radha Swami Satsang Centre at Bir Ghaggar

Thus, the Department failed to protect the forest area from non-forest activities.

(vi) An area of 497.325 acre land was acquired (2004) by the State Government for setting up of Police Training and Research Centre in Bhondsi village of Gurugram district. Out of this, 395.956 acre land was covered under Sections 4 and 5 of Punjab Land Preservation Act, 1900 (PLPA). The Forest Department officials visited the site (March 2008) and intimated to the Police Department about construction activities on the said land in violation of provisions of PLPA. No damage report was chalked out by the concerned officials for violations of PLPA.

Further, initially in October 2009, the proposal was for diversion of 24.28 ha. (60 acre) of forest land and in lieu of this 59.1 acre of land of Irrigation Department was transferred (December 2011) to Forest Department in Indri (Karnal). The matter was again discussed (December 2012) in the meeting of State Advisory Group of Ministry of Environment and Forests (MoEF) under Forest Conservation Act, 1980 wherein it was decided that a revised layout plan showing all the buildings, structures and other facilities including dimensions, total built-up area etc. would be submitted by the user agency in order to ascertain the requirement of obtaining environment clearance. In the meantime, new guidelines were issued by MoEF (July 2014) for sending proposal for diversion of forest land online. Thereafter, a field visit was done by forest officials in December 2015 and it was observed that actual area being utilised by the user agency for non-forest purpose was more than 300 acre. It was further suggested that a fresh proposal as per actual area must be sent by the user agency. The proposal for diversion of 160.97 ha of forest land was sent (August 2017) to GoI and the total compensation for afforestation was worked out to be ₹ 26.42 crore. However, the case had not yet been finalised (August 2019). Thus, due to indifferent approach of the Forest Department, the forest land was being utilised illegally for construction activities i.e. construction of buildings for training centre for more than 15 years without payment of compensation and non-transfer of equivalent non-forest land for forestry.

Thus, due to improper monitoring by the departmental authorities, encroachment of forest land was taking place continuously. Audit observed that proper inspection as per requirement of Haryana Forest Manual to protect forest area from any unauthorised activity was not carried out as no records in support of inspection having been carried out by the officers were available with the division to verify as to whether inspection were conducted by staff of Forest Department. Further, the Range Forest Officers and Foresters responsible to check protection of forests also did not perform their duties properly to protect the forests from encroachments.

Audit further observed that despite the provisions in the Forest (Conservation) Act, 1980 for prosecution against the departmental officers, no action was initiated against the officers for their failure to protect the forests from encroachment.

3.7.3 Failure to increase forest cover due to non-receipt of possession of non-forest land and delay in plantation

Paragraph 4.5.1 of the Haryana Forest Policy-2006 provides that Forest land should not be treated merely as a source readily available to be utilised for various projects and programmes, but as a national asset, which requires to be properly safeguarded for providing sustained benefits to the entire community. Further, paragraph 3.4(i) of the guidelines issued under Forest Conservation Act, 1980 states that equivalent non-forest land identified for the purpose of compensatory afforestation was to be transferred to the Forest Department and the transfer must take place prior to the commencement of project. Scrutiny of records revealed that the department diverted forest land for non-forest purposes but failed to get possession of the non-forest land in lieu of that as discussed below:

(i) Haryana Urban Development Authority (HUDA[19]) utilised 12.79 ha. (31.59 acre) forest land for development works from time to time. In lieu of this, HUDA agreed (May 1997) to transfer 31.38 acre land to Forest Department along Gurgaon Water Supply (GWS) Channel but later on, in October 1998, HUDA agreed to transfer 24.24 acre of land to Forest Department at different locations in the State. No reasons for change of locations and decrease in area from 31.38 acre to 24.24 acre were on record. The land (24.24 acre) was mutated between June 2006 and October 2010 in favour of Forest Department but the possession could not be taken due to encroachments. As the transfer of non-forest land to Forest Department was to be taken prior to the commencement of the projects, granting permission for diverting forest land to HUDA without possession was not appropriate. This resulted in decrease in forest area.

(ii) The National Highway Authority of India (NHAI) applied (August 2010) for diversion of 10.86 ha of forest land for widening of NH-8 to the Forest Department. NHAI agreed (November 2011) to give non-forest land measuring 27 acre 3 Kanal of Pavti village in Bawal sub division in lieu of diverted equivalent forest land. Scrutiny of records of the office of Divisional Forest Officer (T) Rewari revealed that this non-forest land had not been transferred to

[19] Currently known as Haryana Shehri Vikas Pradhikaran (HSVP)

Forest Department (June 2019). As per rules, the same was to be transferred to Forest Department before granting final approval.

(iii) The HSIIDC had applied (November 2006) for diversion of 89 acre of forest land for construction of Kundli-Manesar-Palwal expressway. In lieu of this, 111.78 acre land (Industrial Estate; Bahadurgarh: 46 acre and Growth center Bawal: 65.78 acre) was to be transferred to Forest Department for compensatory afforestation by HSIIDC. Scrutiny of records revealed that the land transferred to Forest Department in Growth Center, Bawal was already a green belt which was mandatory to be developed for maintaining ecological balance as per Environmental rules while developing an industrial estate. Thus, HSIIDC had transferred green belt land to Forest Department instead of non-forest land for developing forest. The then Range Officer had objected (January 2008) the transferring of green belt and had asked HSIIDC to transfer some other land to Forest Department in lieu of green belt area. Further action taken in this matter was not on record of the Forest Department and no land had been transferred to the Forest Department in lieu of green belt area (May 2019).

(iv) While according approval, the GoI directed that compensatory afforestation should be done within one year of issue of approval order of diversion of land. Forest Department diverted 44.65 ha. of land in 75 cases in Rewari division and approval for diversion was received in these cases during 2015-18. The Department had carried out compensatory afforestation only on 23.37 ha. of the diverted land while no compensatory afforestation had been carried out on the remaining 21.28 ha diverted land. Similarly, Divisional Forest Office (T), Gurugram, diverted 77.53 ha. of land in 74 cases during this period. However, compensatory afforestation was carried out on merely 15.70 ha land. Thus, the Forest Department was slow in carrying out compensatory afforestation, resulting in decrease in forest area.

3.7.4 Poor/inadequate control

(i) Damage to forest property due to illegal activities on forest land

The Department detected 10,436 cases of encroachments/ illicit felling of trees/illegal mining during April 2015 to March 2019 in test checked divisions and realised revenue of ₹ 2.56 crore as damage charges ***(Appendix 3.3)***. Thus, natural resources in the forest areas were continued to be damaged illegally. Besides, Audit conducted joint inspection (between November 2018 and February 2019) with departmental officials at three[20] sites on the basis of

[20] (i) Khudana village in Mahendragarh, (ii) Khod Basai and (iii) Hirwari Bamatheri in Nuh.

Google imagery where suspected illegal activities were being done as detailed below:

- In Khod Basai (Nuh Division) illegal mining was taking place as fresh debris of stone was lying at site. **(27.11.2018)**

- In Hirwari Bamatheri (Firozpur Jhirka range in Nuh Division) area, sand was extracted from bhood areas and fresh traces of tractor tyres were also noticed. **(29.11.2018)**

- In Khudana (Mahendragarh) instances of fresh mining were noticed. Departmental officials stated that damage reports were being chalked out against the offenders whenever cases of mining were observed. **(12.02.2019)**

As evident from the above, illegal mining was being done by offenders in the areas where departmental action was lacking. Audit recommends that these cases are based on test-check of few cases; the department should evolve proper system to control unauthorised activities in forest areas with the help of Google imagery or any other system.

(ii) Loss of revenue due to time barred cases of illegal mining, construction and encroachment

Paragraph 17.79 of the Haryana Forest Manual 2015 *inter-alia* stipulates that prosecution cases should be finalised within two months of the issue of the damage report.

During test check of records of Divisional Forest Officer (T), Faridabad, it was observed that 46 cases of illegal felling of trees, illegal mining and illegal encroachment, on which penalty of ₹ 2.18 crore was leviable, were not filed in the Environment Courts, within the stipulated period of two months and had become time barred. DFO Faridabad recommended (June 2018) to Conservator of Forest, South circle, Gurugram that action against the then Forest Range Officer, Faridabad must be taken as he was responsible for failure of filing the cases in Environment Courts, with a copy to Chief Conservator of Forest (Protection-II) Gurugram. No action has been taken against the defaulting officer. However, during exit meeting held in July 2018, the Divisional Office stated that the matter was under investigation.

Similarly, 176 cases of time barred damage reports (2015-19) involving damage charges of ₹ 55.63 lakh were also noticed in four[21] divisions.

Thus, due to not taking action within stipulated period of two months, 222 damage reports had become time barred. This resulted in loss to the State Exchequer of ₹ 2.74 crore due to non-recovery of damage charges. It is recommended that the department may initiate disciplinary action against the defaulting officers for the loss of revenue due to failure in filing the cases in the Environment Courts within the stipulated time period.

3.7.5 Irregularities in outsourcing of services

The State Government through its policy (February 2009) allowed outsourcing of auxiliary or supporting services/activities in Government departments/ organisations.

The State Government further issued (February 2014) guidelines for compliance of labour laws in respect of outsourcing agreements. It provides that the principal employer should supervise the disbursement of wages; audit the record of wages and leave etc; and obtain copies of monthly contributions of Provident Fund (PF) and Employees State Insurance (ESI) along with the corresponding list of workers. Separate Escrow accounts[22] were to be opened and deposit of ESI and PF should be validated only if the dossier of workers and

[21] (i) Gurugram: 34 cases: ₹ 8.58 lakh, (ii) Nuh: 87 cases: ₹ 24.04 lakh, (iii) Yamunanagar: 33 cases: ₹ 10.40 lakh and (iv) Ambala: 22 cases: ₹ 12.61 lakh.

[22] An escrow account is a temporary pass through account held by a third party during the process of a transaction between two parties. This is a temporary account as it operates until the completion of a transaction process, which is implemented after all the conditions between both the parties are settled.

their account numbers are provided. No bill of the service provider should be paid unless a copy of such dossier is provided.

To stop illegal mining in the area falling under Aravalli hills, Protection Watchers were deployed on various sensitive areas (mining prone area). Five[23] divisional offices had spent ₹ 2.90 crore on salary of Protection Watchers during 2015-18. The divisions were unable to provide documents relating to tenders executed for hiring of Protection Watchers. As a result, it could not be ensured that the Protection Watchers were deployed by calling tenders in a transparent manner. The department neither had any data regarding persons employed as Protection Watchers nor had any record regarding their ESI/PF contributions, in the absence of which authenticity of these protection watchers whether they were actually been employed/hired or not could not be ascertained. Further, the objective of stopping illegal mining by deploying Protection Watchers could not be fully achieved as cases of illegal mining were noticed by Audit during physical verification of sites.

3.7.6 Conclusions

The delicate ecology under the forest cover in Aravalli and Shivalik range constantly suffered due to encroachments and unauthorised activities. The Government of Haryana was ineffective in checking illegal mining, and controlling offenders and expenditure incurred on surveillance, watch and ward of the forests did not bear desired results.

3.7.7 Recommendations

The Government may consider the following:

- **Carrying out field verification of encroachment of land with reference to data of GIS survey, and take appropriate action to get land freed from encroachment;**
- **Strengthening the watch and ward and monitoring mechanism to eliminate the encroachment and other illegal activities to protect the forest areas;**
- **Strengthening the mechanism to obtain possession of land for carrying out compensatory afforestation as provided in the guidelines issued under the Forest (Conservation) Act, 1980; and**

[23] (i) DFO (T) Faridabad, (ii) DFO (T) Gurugram, (iii) DFO (T) Mahendragarh, (iv) DFO (T) Nuh and (v) DFO (T) Rewari.

- **Fixation of responsibility for the failures of the departmental officers in carrying out their duties for protection of forests and initiating prosecution proceedings as per provisions of the Forest (Conservation) Act, 1980.**

These points were referred to the Government in November 2019 but their reply was awaited (September 2020).

Home Department

3.8 Unauthorised use of golf course on Government land

The golf course developed on Government land with Government resources at 3rd Battalion, Haryana Armed Police, Hisar was allowed for use by private persons unauthorisedly for more than five years. Revenue amounting to ₹ 80.87 lakh generated by its Management Committee was kept outside the Government account.

Section 3(a) of the Public Premises and Land (Eviction and Rent Recovery) Act, 1972 states that a person shall be deemed to be in unauthorised occupation of any public premises if he enters into possession thereof otherwise than under and in pursuance of any allotment, lease or grant. Further, Section 3(c)(i) of the Public Premises and Land (Eviction and Rent Recovery) Act, 1972 and Rule 3.29 of Punjab Police Rules, Volume I (PPR) specifically prohibit the use/lease of public premises without the permission of the State Government. Further, Rule 4.1 of the Punjab Financial Rules (PFR) provides that the departmental controlling officers should see that all sums due to Government are regularly and promptly assessed, realised and duly credited into the treasury.

The 3rd Battalion, Haryana Armed Police (HAP), Hisar occupies approximately 83 acres of land. It imparts training to the newly recruited constables of the Haryana Police. Out of total area of 83 acres, the Commandant, 3rd Battalion developed a golf course in 55 acres with the approval of Director General of Police, Haryana (DGP) and formally started the golf course in October 2010 under the name of Haryana Armed Police Green Golf Course, Hisar. In November 2013, the golf course was opened to private persons by allowing membership. Private persons were made members to make the golf course self sustainable and for generating funds for its upkeep and maintenance. A Managing Committee under the chairmanship of Inspector General of Police, Hisar Range was also set up for managing the affairs of the golf course like a private enterprise. The Managing Committee generated and retained the revenue of ₹ 80.87 lakh upto December 2018 as membership and maintenance

fee whereas Government resources were used on payment of electricity and water charges and deployment of manpower for operation and maintenance of the golf course.

Managing the affairs of the golf course through a Managing Committee and allowing membership to private persons in the golf course was tantamount to leasing it out to a private body as permission/sanction of the Government was not obtained for constructing the golf course on the Government land and funds generated by the body were being kept outside the Government account and were spent by the body without following the Government rules and regulations.

The Director General of Police, Haryana replied (April 2019) that membership fee and maintenance charges were being deposited in a separate bank account and were managed by a Committee headed by Inspector General, Hisar Range. The operation of this account was done as per procedure prescribed in the constitution of the club. All expenditures were incurred strictly as per constitution of the club.

The reply was not tenable as funds generated by way of membership and maintenance fee were kept out of Consolidated Fund of the State without specific authorisation. Further, Government resources were being used for operation and maintenance of golf course as payments of electricity and water charges were made from the government funds and police manpower was deployed for development of the golf course.

Thus, the golf course was leased out to a private body without specific approval of the Government by violating the provisions of Section 3(a) and 3(c)(i) of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 and was under unauthorised use of a private body for more than five years. Audit further observed that more than 2/3rd of the area allotted for the battalion by the Government was utilised for the golf course, without payment of any lease money to the Government. The action of the Police Department was in violation of extant Government rules and regulations.

The matter was referred to the State Government in March 2019, subsequent reminders were issued in June 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility for violating the provisions of Sections 3(a) and 3(c)(i) of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 and allowing unauthorised use Government land by a private body for golf course.

Housing Department
(Housing Board Haryana)

3.9 Avoidable payment of income tax and non-realisation of interest

By not reducing the unrealisable amount of surrendered properties from the income, in the subsequent year, avoidable payment of income tax to the extent ₹ 1.45 crore was made. Further, excess refund of ₹ 0.41 crore was made in seven cases due to ignoring of the interest on outstanding amount till the date of surrender.

The Housing Board, Haryana (HBH) was established in May 1971 under the Haryana Housing Board Act, 1971. The HBH decided (June 2013) to dispose off built up houses/flats, shops and commercial sites through auction. The successful bidder had to deposit 25 *per cent* of auction amount on the spot and 15 *per cent* within 30 days from the date of acceptance of the bid. Remaining 60 *per cent* of auction amount was to be deposited through monthly/half yearly equal instalments which included interest at the rate of 10 *per cent* per annum on the outstanding amount. As per policy (May 1985), the HBH allows surrender of properties after forfeiting 10 *per cent* of the total bid amount and charging interest on overdue instalments.

During test check of records (March 2017) in the office of Chief Administrator, HBH, it came to notice that in the financial year 2013-14, the HBH sold 25 properties by auction for ₹ 11.35 crore against the book value of ₹ 1.65 crore. The HBH earned income of ₹ 9.70 crore from these properties which was accounted as income from auctioned properties in the financial statements for the year 2013-14. These 25 properties also include four shop cum offices[24] (SCOs) situated at Dadri Gate, Bhiwani which were auctioned for ₹ 5.04 crore against the book value of ₹ 0.85 crore and earned income was ₹ 4.19 crore.

The buyers of these four SCOs surrendered the properties in May 2015 and July 2015. During audit, the following irregularities were noticed in the accounting treatment of surrendered properties and charging of forfeited amount as well as interest on overdue amount:-

- The income earned from auction of four SCOs i.e. ₹ 4.19 crore was taken as accrued income from auction of properties in the financial statements for the year 2013-14. However, at the event of surrender and refund of deposited amount, the income for the year 2015-16 was not reduced and

[24] Shop cum office numbers 5, 6, 7 and 8 situated in Bhiwani town at Dadri Gate.

adjustment of income tax to the extent of ₹ 1.45 crore was not claimed in the financial statements of 2015-16.

On being pointed out, the Chief Accounts Officer, HBH (CAO) stated (October 2019) that in accordance with accounting policy of the HBH the book value of surrendered properties has been revised to equal to the bid amount and the forfeited amount has been reduced from the revised book value of the properties concerned. The accrued income of surrendered property cannot be reversed by adjustment and the final adjustment would be made at the time of re-auction of surrendered property.

The reply was not acceptable as income tax to the extent of ₹ 1.45 crore could have been saved by reducing the income from auctioned properties in the year 2015-16 as ₹ 4.19 crore would never be realised as the properties had been surrendered. Further, in contravention to the accounting policy, the HBH had taken the stock of surrendered properties on market value instead of original cost of property.

- As per 1985 policy in respect of surrendering the property, the bidder was liable to pay 10 *per cent* of bid value and interest on overdue instalments. During scrutiny of calculation sheets of refund in the above four surrendered properties it was found that except one property (SCO No. 5) the interest was ignored which resulted in excess refund of ₹ 0.29 crore in three properties. The same irregularity was also noticed in other four properties wherein excess refund of ₹ 0.12 crore was made. Thus, in seven cases excess refund ₹ 0.41 crore was made by not taking into account the interest on outstanding amount.

The CAO stated (October 2017) that in case of SCO No. 5, the interest was deducted on overdue instalments as per policy. In other cases, the instalments were received on due dates, therefore, interest was not realisable.

The reply was not acceptable as the ten half yearly equal instalments of the 60 *per cent* bid amount include principal as well as interest on outstanding amount till the due date of instalment. The HBH considered the whole instalment as principal amount and refunded the whole amount after deducting only 10 *per cent* of bid value. By ignoring interest component of the paid instalments a loss of ₹ 0.41 crore was caused to the HBH.

Thus, by not reducing the unrealisable amount of surrendered properties from the income of the HBH in the subsequent year, avoidable payment of income tax to the extent ₹ 1.45 crore was made and loss of ₹ 0.41 crore caused to the

HBH by not recovering interest on outstanding amounts till the date of surrender of seven properties.

The matter has been referred (January 2020) to the State Government and subsequent reminder was issued in May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility on officers for not complying with the accounting policy and not reducing the unrealisable amount of surrendered properties from the income, in the subsequent year which resulted in avoidable payment of income tax and for excess refund by ignoring the interest on outstanding amount.

Public Health Engineering Department

3.10 Injudicious expenditure on new water supply scheme

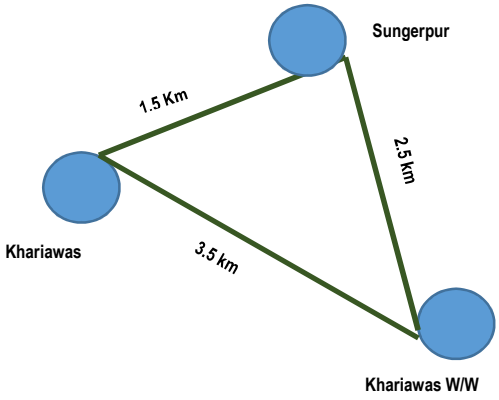
Instead of laying 1.5 km separate pipeline for supplying drinking water to village Khariawas, the department opted for construction of independent water works after laying 6 km pipeline for carrying canal water and treated water and incurred an injudicious and avoidable expenditure of ₹ 1.48 crore.

Para 10.1 of the State PWD code provides that the estimate of the project should be a cost effective proposal. Alongwith estimated expenditure to be incurred, it should explain in clear terms the objective to be gained and reasons for proposing the estimated project in preference to others. Section 3(i) of the Haryana Underground Pipeline (Acquisition of Right of User in Land) Act, 2008 authorises the State Government to acquire the right of user in any land for laying underground pipeline for carrying water or gas from one locality to another locality in public interest. Further, Rule 2.10 (a) of the Punjab Financial Rules (Vol. I) (as applicable in Haryana) demands that every Government employee should exercise same vigilance in respect of expenditure incurred from public funds as a person of ordinary prudence would exercise in respect of his own money.

During audit (August 2018) of the office of Executive Engineer, Public Health Engineering Division, Tosham, District Bhiwani (EE), it came to notice that the water supply scheme of village Sungerpur was supplying water to approximately 5,000 inhabitants of two villages namely, Sungerpur and Khariawas. The drinking water to the village Khariawas was being carried through a 1.5 km long pipeline from water works Sungerpur. As the water allowance was 66 litres per capita per day (LPCD), the scheme was augmented in 2012 for supplying 70 LPCD water to the prospective population of both the

villages upto the year 2026 with an expenditure of ₹ 0.79 crore. As the inhabitants of village Khariawas were facing problem due to defects and punctures in pipeline meant for carrying treated water, an estimate for ₹ 0.31 crore was approved in April 2013 for laying a new pipeline for carrying treated water from water works Sungerpur to village Khariawas and the work was completed in August 2013.

However, it was noticed that a new estimate for construction of an independent water works at Khariawas was proposed in September 2013 for water allowance of 70 LPCD for the prospective population of village Khariawas upto year 2027. The basis for new estimate was taken that the pipeline laid from water works Sungerpur to Khariawas was punctured by the Sungerpur inhabitants and sufficient water was not reaching to Khariawas. The estimate was administratively approved by the Water Supply and Sewerage Board in July 2014 for ₹ 2.36 crore. The land was provided by the village panchayat free of cost, which was 3.5 km away from the village *abadi* for which Ductile Iron (DI) pipeline was proposed. The raw water was to be carried through 2.5 km DI pipeline from water works Sungerpur as no separate source for raw water was identified.



The work of construction of water works alongwith laying of DI pipes and pumping machinery for carrying raw water as well as treated water was awarded to a contractor in September 2016 for an agreement amount of ₹ 0.60 crore (excluding the cost of pipes). The work was completed in August 2018 and an expenditure of ₹ 1.48 crore had been incurred on the work so far which included contractor payment of ₹ 0.60 crore and cost of pipes ₹ 0.88 crore.

Audit observed that the expenditure incurred on construction of new water supply scheme Khariawas was injudicious in light of the following audit observations:

- The department had augmented the water supply scheme Sungerpur only in the year 2012 for catering the need of 70 LPCD drinking water for the prospective population of both the villages upto the year 2026. So there was no instant need for construction of new water works for village Khariawas.

- The DI rising main had been laid in 2013, from water works Sungerpur for supplying 70 LPCD water to Khariawas with a cost of ₹ 0.31 crore. The water generally runs in rising main by pressure through pumping

and it is not possible to puncture the pipeline by the villagers without connivance of departmental officials.

- Further, instead of opting for laying underground DI pipeline for only 1.5 km by acquiring user right, if need arises, the department opted for constructing a new independent water works for supplying same 70 LPCD water to village Khariawas by laying six km DI rising main for carrying raw water and treated water.

The Additional Chief Secretary, Public Health Engineering Department stated (June 2020) that new water works was constructed on demand of villagers due to puncturing of rising main by the inhabitants, illegal connections and shortage of power supply. The reply was not maintainable as the demand of villagers of supplying adequate quantity of water could have been met out by laying underground pipe line and illegal connections were to be controlled by the department itself.

Thus, the expenditure of ₹ 1.48 crore incurred on construction of new water works at village Khariawas was injudicious and avoidable.

Recommendation: The State Government may consider fixing responsibility on officers responsible for proposing an injudicious proposal and for incurring avoidable expenditure.

3.11 Unfruitful expenditure on incomplete work

The water supply scheme for village Bhurawas, district Jhajjar remained incomplete even after seven years from the targeted date of completion due to starting the work without assessing the site conditions, which resulted in unfruitful expenditure of ₹ 1.29 crore, besides potable water could not be provided to villagers.

Paragraph 10.1.3 of the Haryana PWD Code provides that while preparing the estimate of any project the site shall be inspected to ascertain field conditions and the fact of visit should be clearly brought in the estimate. Paragraph 16.37.1 observes that time overruns are likely to result in higher project cost, contractual claims and delay in the use of facility. The measures to mitigate time overrun include effective enforcement of contractual clauses. As per paragraph 6.5.1 of the Code, the Divisional Officer is responsible for the execution and management of all works within his division. He is responsible for administration of contracts, quality of works and their timely completion.

With the objective to provide potable drinking water to population of 4,000 inhabitants of village Bhurawas, district Jhajjar, an estimate of ₹ 1.32 crore was

prepared in May 2011 for which administrative approval of ₹ 1.22 crore was accorded in February 2012. The work was awarded (August 2011) to a contractor for ₹ 1.25 crore with a completion time limit of 12 months i.e. upto August 2012.

During scrutiny of records (July 2018) relating to the work in the office of Executive Engineer, Public Health Engineering Division No. 1, Jhajjar (EE), it was noticed that the contractor intimated in October 2012 and January 2013 i.e. after targeted date of completion that the work of Storage and Sedimentation Tank (SS Tank) could not be completed due to rise in sub-soil water level at the site. The contractor was granted (July 2013) time extension upto March 2014 to complete the work. As per 4th running bill paid in June 2014, the contractor had executed the work to the tune of ₹ 0.83 crore and had constructed almost 90 *per cent* of the civil structures. Thereafter, no work was executed and the site left abandoned since June 2014. The EE imposed (December 2015) penalty of ₹ 0.12 crore on the agency as per clause-2 of the contract agreement for delaying the completion of work and instructed the contractor to execute the balance work at the earliest.

In the meanwhile, the estimate of the work was revised (February 2017) to ₹ 2.12 crore due to change in site condition and change in policy to use Ductile Iron (DI) pipes instead of Asbestos Cement (AC) pipes and revised administrative approval was granted for ₹ 2.12 crore in April 2017. However, effective monitoring and follow up was not done by the department to get the work completed. After almost six years from the actual due date of completion, the EE rescinded (May 2018) the agreement under clause 3C of the agreement for getting the work completed at the risk and cost of the contractor. An expenditure of ₹ 1.29 crore has been incurred on the work till date (July 2019) which include contractor payment and cost of pipes issued on work.

During joint physical verification of the site (July 2018), it was observed that the works viz. inlet channel for raw water, SS tank, suction and scouring well, filter beds, pump chamber, etc. were lying incomplete as depicted in the photographs:

Photograph showing incomplete and non-functional filter beds at water works Bhurawas (10 July 2018)

Photograph showing non-functional SS tank at water works Bhurawas (10 July 2018)

Thus, the detailed estimate was prepared and work was awarded to the contractor without assessing the site conditions which resulted in non-completion of project and the expenditure of ₹ 1.29 crore incurred on the work rendered unfruitful and exposed to degeneration with the passage of time. Besides, objective of the scheme of providing potable water to the inhabitants of village Bhurawas could not be achieved. As such, due to non-execution of 10 *per cent* work, 90 *per cent* expenditure of ₹ 1.29 crore on incomplete project was lying unfruitful since June 2014 i.e. for six years.

The Additional Chief Secretary, Public Health Engineering Department endorsed (June 2020) the reply of Engineer-in-Chief (January 2020) which stated that the work could not be completed within time limit (i.e. up to 20 August 2012) due to the rise in sub-soil water level at the site and electric line and poles were passing over the land given by the Panchayat. The balance work has been taken up and targeted to be completed by 31 March 2020.

The reply was not maintainable as the department prepared estimate and started the work without assessing site conditions such as higher level of sub-soil water which resulted in inordinate delay in execution of work and still after eight years of targeted date of completion, 90 *per cent* investment of ₹ 1.29 crore was lying unfruitful due to non-execution of only 10 *per cent* work.

Recommendation: The State Government may consider fixing responsibility on officers for not assessing the site conditions while preparing detailed estimate and before starting the work resulting in incomplete water supply scheme even after eight years of targeted date of completion.

Public Works Department (Buildings and Roads)

3.12 Unfruitful expenditure on widening and strengthening of link road

Despite knowing the fact that the land for construction of 3.430 km road belonged to private persons, the department incurred ₹ 6.30 crore on construction of 10.57 km road (km zero to km 7.370 and km 10.800 to km 14.000). Resultantly, the expenditure remained unfruitful as both ends remained separate and the road could not be utilised by the commuters.

Para 15.1.4(a) of the State PWD Code stipulates that before commencement of a work, it should be seen that the land/site on which construction is to take place is in the possession of the department (preferably without encumbrances).

The Public Works Department (Buildings and Roads) had constructed a 14 kilometer (km) long link road from Sadhaura to village Mugalwali via

villages Rattuwala and Safilpur in Yamuna Nagar district in 1992. The road from km 7.370 to 10.800 (3.430 km) was constructed on private land without acquiring it and paying compensation to land owners. A landowner filed a civil suit in the Court in November 2010 for getting the land vacated. The Court decided (January 2014) the case in favour of plaintiff and directed the department to handover the vacant possession of land to the plaintiff.

The department filed an appeal, against the above decision, in the District Court, which was dismissed in March 2017, and further appeal filed by the department in the High Court of Punjab and Haryana was also dismissed in September 2017.

In the meanwhile, the department prepared an estimate for widening and strengthening of total 14 km length of the link road which was administratively approved by the State Government in May 2016 for ₹ 8.55 crore.

During audit of records (February 2019) in the office of the Executive Engineer, Provincial Division, PWD (B&R) Naraingarh (EE), it was noticed that the above cited work was awarded (November 2016) to a contractor at an agreement amount of ₹ 8.32 crore with a time limit of nine months. The contractor started the work in March 2017 and executed the work upto km 7.370 and from km 10.800 to km 14.000 by December 2017. But no work could be executed between km 7.370 and km 10.800 due to non-availability of land as it belonged to private persons. The department finalised the agreement in December 2017 and made (January 2019) a final payment of ₹ 6.25 crore to the contractor for the work done by him in kms zero to 7.370 and 10.800 to 14.000. A total expenditure of ₹ 6.30 crore had been incurred on the project so far (July 2019). The road between km 7.370 and 10.800 remained unrepaired and was found almost in non-existent condition. During physical verification (February 2019) alongwith departmental officers it was observed that the road was not through as both the ends remained separate due to non-existence of road.

Photograph showing non-existent Sadhaura – Mugalwali road via Rattuwala and Safilpur as on 14 February 2019.

Thus, due to commencement of work despite knowing the fact that encumbrance free land was not in possession of the department and the land belonged to private persons, the expenditure of ₹ 6.30 crore incurred on partially constructed road remained unfruitful as the commuters were unable to utilise the road for going from Sadhaura to Mugalwali via Rattuwala and Safilpur.

On being pointed out by Audit (February 2019), the EE replied (February 2020) that only one landowner had approached the Court before the preparation of estimate. Though the stretch between km 7.370 to km 10.800 remained unconstructed, commuters of five villages were using the constructed road i.e. from km zero to km 7.370 and km 10.800 to km 14.000. Further, there was a proposal to complete the work by realigning the road through available consolidated path parallel to the existing metalled road. But the work could not be started due to encroachments on this consolidated path.

The reply was not tenable, as the Court had directed (January 2014) to hand over the vacant possession of the land in question to the landowners. In the absence of availability of encumbrance free land, the expenditure of ₹ 6.30 crore incurred on constructed road, without joining both the ends, remained unfruitful. The department had incurred the expenditure even after knowing the fact that the through road from km zero to km 14.000 was not feasible due to non-availability of land with the department. The proposal regarding re-alignment of road through consolidated path has also not been finalised so far (February 2020) due to encroachment.

The matter was referred (December 2019) to Additional Chief Secretary, Public Works Department (Buildings and Roads) and subsequent reminders were issued in January 2020 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility for incurring expenditure on construction of road without ensuring availability of land for joining both ends of the road.

Science and Technology Department

3.13 Unfruitful expenditure on non-functional cafeteria

Expenditure of ₹ 0.82 crore incurred on the construction of a cafeteria in Kalpana Chawla Memorial Planetarium at Kurukshetra remained unfruitful, due to lack of a firm plan of utilisation by the Haryana State Council for Science and Technology.

Rule 2.10 (a) of the Punjab Financial Rules, Volume-I as applicable to the State of Haryana provides that every Government employee incurring or sanctioning expenditure from the revenues of the State should be guided by high standards of financial propriety. Rule 2.10 (a) (1) further provides that every Government employee is expected to exercise the same vigilance in respect of expenditure incurred from public money as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

During audit (August 2019) of Haryana State Council for Science and Technology (HSCST), it was observed that the Kalpana Chawla Memorial Planetarium at Kurukshetra (KCMP) was constructed in 2007 with the joint collaboration of HSCST and National Council of Science Museums, Ministry of Culture, Government of India in the memory of Late Astronaut Ms. Kalpana Chawla. The Planetarium was receiving at an average 1.25 lakh visitors annually, out of which half were students. As the KCMP is located outside the main city, the Chairman, Executive Committee of the HSCST decided (March 2015) to provide a cafeteria for the visitors in the campus without any proposal as how this was to be run after construction.

The cafeteria was got constructed from Haryana Tourism Corporation Limited, (HTCL) at a total cost of ₹ 0.82 crore including furniture and fixture for ₹ 0.10 crore in July 2016. However, the department took over the possession of the cafeteria in January 2017. No concrete efforts were made to start the cafeteria and to provide food items to visitors till September 2017, after more than one year of completion of the facility, when the Secretary, Executive Committee, HSCST requested the Managing Director, HTCL to take over the cafeteria on lease basis. There were further delays, as the officers of HTCL visited the cafeteria in November 2018 (after lapse of fourteen months) to study the feasibility of the proposal. After visiting the KCMP campus, the HTCL replied (November 2018) that the proposal was not financially viable and due to shortage of manpower, they would be unable to run the cafeteria. After that, the HSCST constituted (January 2019) a three member departmental committee to call tenders for giving the cafeteria on lease. But the tenders were never called and cafeteria was not put to use. As a result, even after lapse of three years, the cafeteria remained non-functional (February 2020).

The Additional Chief Secretary, Department of Science and Technology intimated (February 2020) that the Committee constituted for calling e-tender has written to HTCL and Public Works Department (Building and Roads) for assessing the annual rent for the food complex so that minimum reserve amount for lease could be fixed to call tenders and efforts would be made to make the cafeteria functional during 2020-21.

Thus, construction of the cafeteria without a prior firm plan of utilisation, rendered the expenditure of ₹ 0.82 crore unfruitful, and exposed to depreciation, while the intended benefits from the investment could not be derived (February 2020).

Recommendation: The department may firm up a plan of action for putting the asset created to use for the purpose intended in a time bound manner.

Town and Country Planning Department

3.14 Enforcement of Land Use Regulations in Urban and Controlled Areas

Unauthorised colonies grew in the State due to non-compliance to the extant provisions in the Acts and Rules. There were instances of granting of licences in excess of permissible area, delay in initiation of action for cancellation of licences, etc. Further, construction of buildings without approval of building plans, issuance of part occupation certificate without recovering External Development Charges, non-development of colonies of cancelled licences, non-recovery of revised licence fee, non-obtaining/ revalidation of bank guarantees, etc. were also observed. Change of Land Use permissions were granted in violation of rules. Besides compliance issues, total financial implication of this audit is ₹ 91.19 crore. Apart from these issues, an amount of ₹ 15,216.61 crore was outstanding against the colonisers on account of pending External Development Charges/ Infrastructure Development Charges for 1 to 16 years.

3.14.1 Introduction

Town and Country Planning Department (TCPD) is the nodal department to regulate urban development in the State. The Department carries out functions of prevention of unauthorised and unplanned construction and regulation of planned urban development under the Punjab New Capital Periphery (Control) Act, 1971 and Haryana Development and Regulation of Urban Areas (HDRUA) Act, 1975 and Rules made thereunder in the year 1976. The Department also grants change of land use (CLU) permission for residential, industrial, commercial, institutional, farm house, recreational use, etc. under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development (PSRCARUD) Act, 1963 and Rules made thereunder in 1965. About 27 *per cent* of the total geographical area of the State has been declared as Controlled Area by the Government. The TCPD is the regulating authority in respect of controlled and restricted areas around towns in the State. In municipal areas, the concerned municipalities are the regulating authorities for urban development.

The Principal Secretary (PS) to Government of Haryana, TCPD is overall in-charge of the Department. The Director General (DG) is head of the Department who is assisted by two Chief Town Planners (CTPs). Further, there are five Senior Town Planners at circle level and District Town Planners (DTPs)

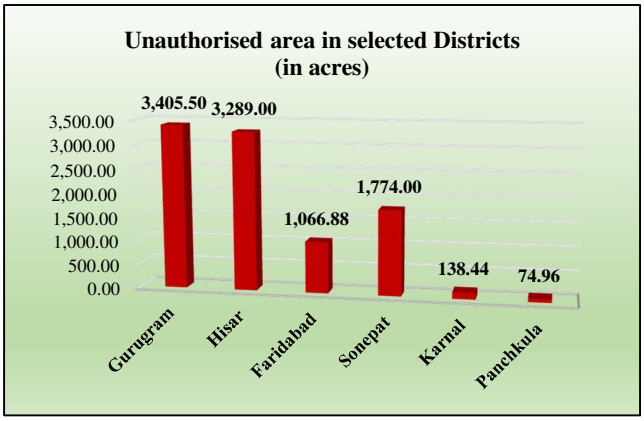
at district level (except district Charkhi Dadri whose charge is looked after by DTP, Bhiwani) for enforcement of rules and regulations.

With a view to assessing enforcement of land use regulations, records of Director General (DG), TCPD, and six[25] District Town Planners (DTPs) out of 22 districts in the State for the period 2014-19 were test checked during March to July 2019. The selection of districts for test-check was done by adopting Random Sampling Method.

3.14.2 Growth of unauthorised colonies

Under Section 3 and Section 7 of the HDRUA Act, grant of licence by the TCPD is mandatory for developing a colony, transfer or agree to transfer plots in a colony/ make an advertisement or receive any amount in respect thereof and erect or re-erect any building in any colony. Further, 'No Objection Certificate' (NOC) issued by the TCPD is required for registering a sale or lease deed in respect of any agricultural land having an area of less than two kanals[26] in an urban area or as may be notified specifically by the Government under Section 4(1) of PSRCARUD Act.

Scrutiny of records of selected districts showed that 5,144 unauthorised colonies with an area measuring 9,748.777 acres (39.45 sq. km.) as of March 2019 ***(Appendix 3.4)*** had grown in the controlled areas. Audit observed that neither any licence as required under Section 3 nor any exemption under Section 9 of the HDRUA Act was obtained. The unauthorised area comprises 0.83 *per cent* of the total Controlled Area (4,758.99 sq. km.) under the selected districts. Out of these, 892 colonies had developed during last five years i.e. 2014-19. Growth of unauthorised colonies was alarming in Gurugram, Hisar, Faridabad and Sonepat districts.



Audit carried a detailed scrutiny of one case of development of unauthorised colony in Karnal, and observed that the level of compliance with Acts and Rules

[25] (i) Faridabad, (ii) Gurugram, (iii) Hisar, (iv) Karnal, (v) Panchkula and (vi) Sonepat.

[26] One Kanal of land comprises of 605 square yard of land

by the concerned authorities was poor and the department failed to control the development of unauthorised colonies, as discussed below:

i. The department detected (2012) an unauthorised colony spread over an area about 5.5 acres in village Mangalpur, Karnal, while Part II of the colony was detected in adjoining areas in 2017. However, no licence as required under Section 3 or exemption if any under Section 9 of the HDRUA Act was obtained.

ii. DTP, Karnal issued (June 2012) show cause notices to colonisers of the area and passed restoration order under Section 10 (2) of the Act. However, no concrete action was taken against the colonisers between June 2012 and January 2018, when the restoration orders were passed again. As such, department lost the crucial time to stop the activities of the colonisers before it gained ground.

iii. A joint demolition operations was undertaken only in March, June and September 2018, with the help of District Administration, in which road network, under construction houses/Damp-Proof Course (DPC) level structure were demolished. However, by that time, some houses were constructed and occupied at the site, which could not be demolished due to resistance from the public. The coloniser again constructed roads to develop unauthorised colony.

iv. Office of the Deputy Commissioner (DC), Karnal had instructed (June 2012) all the Tehsildars/Naib Tehsildars under District Karnal not to register *bainama*[27] entry without obtaining NOC from DTP in unauthorised colonies. DTP, Karnal also issued similar instructions (June 2012 and February 2018) to Tehsildar, Karnal. In violation of these instructions, 34 sale deeds were executed by Tehsildar in the colony without obtaining NOC. Audit observed that no action was initiated by the DC Karnal against the Tehsildar for this act of violation of instructions.

Thus, the department proved ineffective in restoration of the area and initiating prosecution proceedings against the colonisers from the initial stage. Timely and appropriate action would have ensured that the coloniser obtained a licence, proper development took place, besides the department would have earned revenue on account of licence fees, External Development Charges (EDC), Infrastructure Development Charges (IDC), etc.

Recommendation: The Government may consider evolving proper monitoring mechanism to control the growth of unauthorised colonies, and initiate action against defaulting Tehsildars for registering sale documents

[27] Bainama signifies conveyance deed for sale of property.

pertaining to the unauthorised colonies in violation of orders of the competent authority.

The Director General, TCPD stated (October 2020) that DTPs concerned were taking action such as issue of show cause notices, passing of restoration orders, demolishing of unauthorised construction, lodging of First Information Reports, etc regularly against the unauthorised colonisers. The reply is not convincing as efforts of the Department are not effective as growth of unauthorised colonies was showing increasing trend. As regards unauthorised colonies spread over in Karnal district, it was stated that Additional Deputy Commissioner was asked (June 2018) to conduct an inquiry into the matter but their report was awaited (October 2020). It was also added that Additional Chief Secretary, Revenue had been requested for taking disciplinary action against the Tehsildar for execution of sale deeds despite the communication made by DTP Karnal not to register sale deeds in the unauthorised colony. Thus, effective action had not yet been taken in the matter.

3.14.3 Licences for development of colonies

The Department grants licences to the private colonisers for development of residential, commercial and industrial areas in accordance with HDRUA Act and Rules framed thereunder. A total of 322 licences were passed through various processes in test checked districts during 2014-19. Of the 41 test checked licences, building plans were not approved in 14 cases and Part Occupation Certificates (POC)/ Occupation Certificates (OC) were not granted in 34 cases. Scrutiny of licence cases brought out the following shortcomings:

3.14.3.1 Licences granted in excess of permissible area

To regulate the development of urbanised sector in harmonious manner, Government framed (December 2006) a policy for grant of licences and permission for change of land use (CLU). Paragraph 3 of the policy provides that the area under Residential Group Housing (RGH) should not exceed 20 *percent* of the net planned area of the Sector. Issue of licence in excess of norms would hamper the development of areas in harmonious manner. Further, there was no relaxation in the policy.

The net planned area of Sector 37D, Gurugram was 533.22 acres. Therefore, licences for RGH were to be granted upto an area of 106.64 acres i.e. 20 *per cent* of net planned area. The Department had issued licences for RGH for an area of 115.512 acre upto 2009 which was already in excess of the permissible limits. Further, another licence number 94 of 2011 for land area measuring 19.74 acre was granted. Audit observed that the department had obtained the

approval of the Government in November 2010 on the plea that the applicant was senior to the applicants to whom the licences had already been granted and the applicant in question was not at fault. This violated the provisions of the policy for granting licence as there was no relaxation envisaged in the policy.

DG, TCPD stated (October 2020) that a conscious decision was taken to grant license on 19.744 acres of land as the application was received in 2007 and the same was existing in the seniority. It was also added that the relaxation was given as a special case. The reply is not tenable as there was no provision for relaxation in the policy of 2006.

3.14.3.2 Delay in initiation of action for cancellation of licence

Rule 13 of the HDRUA Rules provides for renewal of licence in cases where the coloniser fails to complete the development work in the colonies within a period of two years. The Licensees are required to get the licences renewed by submitting the applications along with renewal fee at prescribed rates. The licence is liable to be cancelled in case of non-renewal after giving proper notices.

Licence number 1 of 2002 over an area of 5.61 acres was granted (December 2002) for setting up a commercial colony in the revenue estate of village Patti Mehar, Ambala City. The validity period of the licence was two years i.e. up to December 2004. Audit observed (September 2018) that neither did the licensee apply for renewal of licence nor did the department take cognisance of the matter till October 2013 when a show cause notice was issued i.e after the lapse of nine years of licence period. Thereafter, the licence was cancelled in July 2015. It was seen that the licensee had sold land measuring 2,368 square yard through sale deed although the layout plan was not approved which was the basic requirement for registration of sale deeds under the provisions of Section 7A of the HDRUA Act.

After cancellation of the licence (July 2015), licensed colony was taken over by the TCPD under its jurisdiction. A Public Notice was embedded at site advising the general public not to indulge in sale/purchase transactions with the licensees in respect of the said colony. The Department instructed (November 2017 and June 2018) the Tehsildar, Ambala and Deputy Commissioner-cum-Registrar Revenue not to register sale deed in the colony. Despite this, 16 sale deeds (12.89 Marla) were executed during the period from February 2016 to May 2018 by Tehsildar after cancellation of licence. No action was taken against the Tehsildar for non-compliance of instructions of the department.

Thus, the Department failed to initiate action against the licensee for non-renewal of licence and sale of land without approval of layout plan of the colony. Further, execution of sale deeds of a cancelled colony was illegitimate and against the extant rules. The department may evolve proper mechanism for monitoring the renewal of licences and action against defaulting developers. Responsibility needs to be fixed for the registration of sale deeds in cancelled colonies despite the instructions of the department. There was also lack of co-ordination between TCPD and Registration Authorities.

DG, TCPD stated (October 2020) that necessary action was initiated against the coloniser in April 2014 and the licence was cancelled in July 2015. It was also added that action in the matter regarding non-compliance of public notice has now been initiated by the revenue authorities. The reply indicates that there was abnormal delay in initiating action against the coloniser as well as Registration Authorities.

3.14.3.3 Lack of action against defaulting developer

License number 30 of 2009 was granted (July 2009) for setting up of a Group Housing Colony at village Nangal Moginand in Sector 30, Panchkula. The Developer had committed the following violations:

(i) Construction of four blocks (31,882.036 sqm) without approval of building plans in contravention of Section 3 B of the HDRUA Act.

(ii) The Developer had not submitted the documents in compliance with HDRUA Rules 26, 27 and 28 relating to accounting of sale proceeds for plots sold and bank account details of the developer.

(iii) An amount of ₹ 31.89 crore was due for recovery on account of External Development Charges[28] (EDC) as of March 2019 which was not paid as of September 2019.

No action was taken against the developer by the Department for these violations, although the Government was empowered to cancel the licence under Section 8 of the HDRUA Act, 1975 for contravening any of the conditions of licence or the provisions of the Act or Rules made thereunder. Thus, the Department had not been enforcing the rules and regulations to protect the interests of purchasers of land in the licensed colonies and was extending undue favour to the licensee. Non-enforcement of recovery of EDC would also affect

[28] EDC include expenditure on infrastructure development works like water supply, sewerage, drains, provisions of treatment and disposal of sewage, sullage and storm water, road, electrical works, solid waste management, etc.

the external development in the area as these works were to be executed out of these charges.

DG, TCPD stated (October 2020) that it was a serious lapse on the part of the coloniser and after giving a final opportunity to deposit the dues, completion of formalities for approval of building plan and renewal of licence, action regarding cancellation of licence would be taken as per Act/Rules.

3.14.3.4 Part occupation certificate issued without recovering EDC

As per instruction issued (April 2013) by the Government, for grant of Occupation Certificate or Completion/ Part Completion Certificate, balance EDC is required to be paid in full by the developer.

Part Occupation Certificate (POC) was granted in July 2018 to Ultratech Township Developers Private Limited, Karnal bearing licence number 46 of 2011 without recovering EDC of ₹ 3.20 crore including interest. The outstanding amount of EDC had accumulated to ₹ 7.13 crore as of June 2020. This tantamounts to extending undue favour to the developer. Responsibility needs to be fixed for issuance of POC without recovering EDC.

DG, TCPD stated (October 2020) that the licensee had adopted EDC relief policy (April 2016), according to which third instalment of EDC was not due before grant of POC. The reply is not convincing as the coloniser had not even deposited earliest instalments which were overdue.

3.14.3.5 Non-development of colonies of cancelled licences

As per provisions of Section 8 (1) of HDRUA Act, 1975 a licence is liable to be cancelled by the Department if the coloniser contravenes any of the conditions of the licence or the provisions of the Act or the Rules made thereunder. After the cancellation, as per Section 8 (2) of the Act, the Department may carry development works in the colony and recover the charges incurred on the said development works from the coloniser and the plot-holders.

The Department had cancelled four[29] licences in test checked districts between July 2015 and July 2018 having an area of 26.12 acres and taken over the colonies under its jurisdiction. Committees under the Chairmanship of the Administrators, Haryana Urban Development Authority (HUDA) of the concerned areas were also constituted to make an assessment of the amount which was to be incurred on deficient development works in the licensed

[29] License numbers (i) 01/2002 (5.61 acre) of Ambala, (ii) 54/2009 (6.08 acre) of Hisar, (iii) 10/2010 (10.93 acre) of Faridabad and (iv) 169/2008 (3.50 acre) of Sonepat

colonies. Audit observed that after taking possession of the colonies, the *ibid* committees had neither assessed the amount required for carrying out development works nor were development works carried out. Thus, the Department was not discharging its duty of completing cancelled licensed colonies.

DG, TCPD stated (October 2020) that out of four cases, in one case the coloniser had appealed to Principal Secretary, TCPD against cancellation of licence and in other two cases appropriate action would be taken as per rules. However, no reply was furnished in respect of remaining one case. Thus, appropriate action for development of cancelled colonies was lacking on the part of the department.

3.14.3.6 Short-transfer of Economically Weaker Sections plots/ flats

Government formulated (July 2013) a policy regarding allotment/transfer of Economically Weaker Sections (EWS) plots/flats in the licensed colonies. The licensees were to transfer all the EWS category plots to Housing Board Haryana (HBH) within six months after approval of zoning plan. Regarding allotment of EWS flats, complete scheme was to be floated by the licensees within four months from issuance of occupation/part-occupation certificate (POC) of EWS flats. For delay in allotment of EWS plots/flats, the colonisers were liable to be penalised with composition charges as per policy of the Government declared in August 2013.

Scrutiny of records of selected districts revealed that 56 developers/licensees had transferred 11,531 EWS plots as against the total 17,960 EWS plots and 6,429 were not transferred to HBH. Similarly, 48 developers/licensees had allotted/transferred 4,988 flats as against the total 7,915 EWS flats and 2,927 flats were not transferred to HBH/allotted to eligible candidates (***Appendix 3.5***). No monitoring mechanism had been evolved to ensure allotment of plots/flats to EWS categories. The department had not initiated any action against defaulter developers/licensees. The composition charges were not recovered as provided in the policy. Thus, the Department was not protecting the interests of EWSs as per policy of the Government. Responsibility needs to be fixed for not initiating action against defaulters.

DG, TCPD stated (October 2020) that the Housing Board Haryana (HBH) had not even allotted the transferred plots/flats to the beneficiaries. It was also added that as and when HBH demand for further plots/flats, the department would direct the colonisers to transfer the required plots/flats to HBH. The reply is not convincing as plots/flats were required to be transferred to HBH as per policy of July 2013.

3.14.3.7 Non-recovery of External Development Charges/Infrastructure Development Charges

As per Section 3(3) of HDRUA Act and Rule 11 (C) of Rules made thereunder, the applicant should undertake to pay proportionate EDC. The charges should be paid within 30 days from the date of grant of licence or in eight equal quarterly installments along with interest. Section 3A of the Act further provides that any coloniser to whom a licence has been given shall deposit Infrastructure Development Charges (IDC) in two equal installments. Further, as per agreement entered by coloniser with the Department, if coloniser breaches any of the terms and conditions of the agreement or violate any provisions of Act and Rules, the Director is empowered to cancel the licence.

Scrutiny of records in the office of the Director, TCPD revealed that in 601 cases, an amount of ₹ 15,216.61 crore on account of EDC (₹ 14,383 crore) and IDC (₹ 833.61 crore) was pending for recovery against the colonisers for one to 16 years as per detail given in **Table 3.2**.

Table 3.2 : Detail of recoverable EDC/IDC from colonisers

(₹ in crore)

Period	Total Number of Licences	Amount of EDC recoverable	Amount of IDC recoverable	Total recoverable EDC and IDC
Licences issued upto 2009	154	2,881.48	128.57	3,010.05
Licences issued from January 2010 to December 2014	361	10,947.97	548.84	11,496.81
Licences issued from January 2015 to March 2019	86	553.55	156.20	709.75
Grand Total	**601**	**14,383.00**	**833.61**	**15,216.61**

Audit observed that the Department had not taken adequate action against the defaulters, although the amount of ₹ 3,010.05 crore was outstanding for more than 10 years in respect of 154 cases. Director was empowered to cancel the licences of the colonisers but the licences were not cancelled.

As the outstanding amount is huge, the recovery of EDC and IDC needs to be monitored at the Government level. Further, the Government should consider initiating action, as per rules, to cancel the licences and take possession of plots of the defaulter colonisers while ensuring the protection of interests of genuine end buyers of plots/apartments.

DG, TCPD stated (October 2020) that due to proper internal checks and balances, no major default risk was faced by the Department despite certain delays in recovery of EDC. The reply is not convincing as huge amount was outstanding against the colonisers for the last one to 16 years, appropriate action such as cancellation of licences was required to be taken to recover the outstanding amount.

3.14.3.8 Non-recovery of revised licence fee

State Government revised (August 2013) licence fee and the revised rates were effective from 1 June 2012. Rate of licence fee was further revised in February 2015 and the revised rates were effective from 4 April 2014.

Scrutiny of records revealed that licence fee was charged at the pre-revised rates from eight developers in four[30] selected districts during the period from July 2012 to June 2014 resulting in loss of revenue to ₹ 13.14 crore. On being pointed out by audit, demand notices for ₹ 9.05 crore (including interest) were issued against four[31] licensees by the Department but the recovery had not been made (June 2020).

The Department may re-check all the cases of licence fees to ensure recovery of licence fee at the revised rates to avoid loss of revenue to the Government. Responsibility needs to be fixed for non-recovery of licence fee at the revised rates.

DG, TCPD stated (October 2020) that the Department had identified and demanded difference of licence fee in a few cases. Audit is of the opinion that the Department should re-check all the cases to ensure recovery of licence fee at revised rates.

3.14.3.9 Bank-guarantees not obtained from colonisers

According to clause 7 of Affordable Housing Policy 2013 (August 2013), as a matter of security against any possible delinquencies in completion of the project, the colonisers were required to furnish bank guarantee against the total realisation from the project at the rate of 10/15 *per cent* according to the location of the project within 90 days of the date of commencement of the project. A total of 73 licences were granted to the developers/colonisers under the policy during the period from 2014 to 2019.

Audit observed that no bank guarantees were being taken from the colonisers against the total realisation from the project as envisaged in policy. The Chief

[30] (i) Faridabad, (ii) Gurugram, (iii) Panchkula and (iv) Sonepat.

[31] (i) Panchkula: ₹ 2.22 crore, (ii) Gurugram: ₹ 4.96 crore, (iii) Sonepat: ₹ 1.30 crore and (iv) Faridabad: ₹ 0.57 crore

Town Planner also directed (July 2018) all DTPs to issue notices to the colonisers for submission of bank guarantees within 15 days but the bank guarantees were not submitted (September 2019).

Further, a licence bearing number 70 of 2014 granted to SRS Real Estates Limited, Palwal was cancelled in August 2018 due to non-completion of project within stipulated period of four years. However, as no bank guarantee was taken against the total realisation from the allottees, no amount could be realised to carry out development works.

The Department stated (July 2019 and October 2020) that the clause 7.1 of the notification had been omitted in July 2019. The reply is not tenable as the condition of the policy was omitted in July 2019 whereas bank guarantees were required to be taken on the projects approved prior to July 2019.

3.14.3.10 Non-revalidation of bank guarantees

As per provision of Rule 11 of HDRUA Rules, colonisers were required to furnish bank guarantee equivalent to 25 *per cent* of the estimated cost of development works. In the event of breach of any clause of agreement by the colonisers, the Department was entitled to cancel the licence granted and the bank guarantee in that event was required to be encashed.

Audit observed that the validity period of 18 bank guarantees in seven cases involving ₹ 26.13 crore ***(Appendix 3.6)*** though expired between November 2003 and March 2019, were not got revalidated by the colonisers even though the works were not completed. Thus, the Department was not enforcing the provisions of HDRUA Rules to protect the interests of buyers of plots in licensed colonies. The matter needs to be examined in detail to fix the responsibility.

DG, TCPD stated (October 2020) that one bank guarantee (out of 18) for ₹ 11.98 lakh had been encashed. For rest of the cases, it was stated that licences had been cancelled, cases were pending in courts, letters issued to banks for revalidation/revocation of bank guarantees, etc. The fact remains that the department was not prompt for revalidation/revocation of bank guarantees to protect the interest of buyers of plots/flats holders as per HDRUA Rules.

3.14.3.11 Non-recovery of demolition charges

Section 12(3) of PSRCARUD Act and Section 10(3) of HDRUA Act, 1975 provide that recovery of expenditure incurred on giving effect to restoration orders passed under Section 12(2) of Act, 1963 and section 10(2) of Act, 1975 should be made from the offenders as arrears of land revenue. An expenditure

of ₹ 1.14 crore was incurred during April 2008 to March 2019 on demolition of unauthorised construction/structures in selected districts against which only ₹ 0.18 crore was recovered by the DTPs ***(Appendix 3.7)***. Efforts for recovery such as recovery orders as arrears of land revenue as per provision in the Acts were not made by the Department.

DG, TCPD stated (October 2020) that a reference had been made to the concerned Deputy Commissioners for recovery of demolition charges as arrear of land revenue.

3.14.4 Change of Land Use Permission

The department grants CLU permission for residential/industrial/commercial/ institutional/farm house/recreational use under the PSRCARUD Act, 1963 and its Rules, 1965. A total of 71 CLU cases were selected (out of 646) in test checked districts. Out of these 71 cases, building plans were approved in 55 cases and Part Occupation/Occupation certificates (OC) were issued in 30 cases.

3.14.4.1 Grant of CLU permissions in violation of rules and regulations

(i) Government of India (GoI) vide notification (May 1994) imposed restrictions on the use and enjoyment of land lying in the vicinity of distance of approximately 914.40 meters (1,000 yards) from the crest of the outer parapet of Terminal Ballistics Research Laboratory (TBRL), Range Ramgarh.

The Executive Officer, Municipal Corporation, Panchkula was requested (December 2017) to grant of land use permission for setting up of an Educational Institute (Bhartiya Bhavan Vidyalaya) in Municipal area falling in the revenue estate of village Moginand, Sector-30, Panchkula. DTP, Panchkula sent (January 2018) a report stating that requirement of NOC from defence authorities was not applicable for the site. Accordingly, CLU was granted by Urban Local Bodies (ULB) Department.

Audit observed that the site of Educational Institute falls within the vicinity of 1,000 yards of TBRL and DTP, Panchkula sent the report without proper verification and taking into consideration the notification of GoI issued in May 1994.

DTP (Enforcement) Panchkula admitted the facts and stated (May 2019) that distance of the site in question falls within the restricted belt of TBRL, Range Ramgarh. No action was taken by the Department to fix responsibility.

DG, TCPD stated (October 2020) that CLU permission was granted by Urban Local Bodies Department. Therefore, any query in the matter may be sought from that department. The reply is not tenable as CLU was granted by ULB Department on the basis of report of DTP, Panchkula. Therefore, responsibility needs to be fixed for submission of incorrect report on the basis of which CLU was granted.

(ii) In view of the volume of traffic movement originating and destined to industrial units falling in industrial/agriculture zone and warehouses in the industrial zone, the Government revised (November 2011) policy regarding minimum width of approach/revenue rasta for grant of CLU permission. Condition number (iv) of the policy stipulates that the applications for sites having approach from existing rasta not less than 33 feet can be considered for CLU permission.

The department granted CLU permission in January 2015 for setting up of an Industrial Unit in village Garnala, District Ambala. Building plan for construction of Industrial Unit was approved in June 2015. Audit scrutiny revealed that on the basis of shazra plan submitted (September 2010) with application for grant of CLU permission, the width of the approach road from which site was approachable was indicated as 38.5 feet (7 Karam). On the basis of a complaint against the CLU applicant, the matter regarding width of approach road was examined by DTP Ambala and it was found that width of the approach road was 22 ft (4 Karam) for which a revised shazra plan was also placed on record (April 2018). The Senior Town Planner, Panchkula also stated in July 2018 that the width of approach road in front of the site in question is 22 feet. Thus, CLU permission was granted to the applicant on the basis of incorrect shazra plan. Audit observed that the incorrect report regarding width of approach road, on the basis of which CLU permission granted, was prepared by the Patwari and Junior Engineer of DTP office and submitted to DTP. No action was taken by the Department to fix the responsibility for submitting incorrect shazra plan.

Thus, the CLU was granted in violation of policy of the Government regarding minimum width of revenue rasta for industrial units falling in industrial/agriculture zone and warehouses in the industrial zone which may hamper smooth flow of traffic.

DG, TCPD stated (October 2020) that the matter was again inquired by STP Panchkula who reported that 30 feet metalled road was at site. It was further added that PWD B&R, Ambala has also informed that the width of the road from Garnala to Barnala was 30 feet. The reply is not convincing as PWD B&R Ambala informed that width of the road was ranging between 25 and 33 feet

and as per Shazra plan width of the road was 22 feet. The reply furnished by the department is contradictory; therefore, the matter needs to be properly investigated.

(iii) DTP (Enforcement), Gurugram granted a CLU in June 2016 to a company for setting up Asian Tennis Centre for Excellence in village Jhund Sarai Veeran, Sector 97, Gurugram. The land falls in Controlled area declared in January 1994. As per proposal of published Draft Development Plan of Gurugram-Manesar Urban-Complex (GMUC)-2031 AD, entire area of the site falls in Transport and Communication Zone. Use of land for sports purpose did not fall in the permissible activity in the area. This was tantamount to extending undue favour to the applicant in disregard of rules and regulations.

Recommendation: Department may examine all similar cases of irregular grant of CLU and take corrective action.

3.14.4.2 Violations of conditions of CLU permission

The applicants desiring to seek permission for CLU for any purpose are required to submit their applications in prescribed form to Director, under PSRCARUD Rules. After fulfilling the conditions laid down in Rules, the Director shall grant the permission to the applicants.

According to terms and conditions of the Building Plan, the CLU holders are required to get the Occupation Certificate (OC) from the competent authority before occupying the building or part thereof. The building plan is approved with the condition that the OC will stand automatically cancelled if the permitted use of the building or part thereof is changed or any additional construction in the said building is raised without approval of the competent authority.

A joint physical verification of 25 CLU sites carried out with departmental officials brought out the violations detailed in **Table 3.3**.

Table 3.3: Detail of violations in selected CLU cases

Type of violations	Number of cases in selected District						
	Karnal	Panchkula	Gurugram	Hisar	Faridabad	Sonepat	Total
Unauthorised construction in CLU area	4	1	2	3	2	8	**20**
Construction of gate post/boundary wall/parking area in green belts	4	1	3	1	0	8	**17**
Covering of additional land adjoining CLU area and carrying out unauthorised construction	4	0	3	2	2	2	**13**
Utilisation of land for the purpose other than that mentioned in the CLU permission	4	0	0	0	1	0	**5**
Utilisation of buildings without obtaining OC	2	1	1	0	1	2	**7**

(Source: Cases of violation noticed during joint physical verification)

Audit observed that the department had not initiated any action against the CLU applicants for violation of the terms and conditions. DTPs were responsible to check these violations. However, they had not discharged their duties. Further, proper mechanism to monitor these violations had not been evolved at the directorate level.

Five DTPs concerned accepted the violations in respect of nine cases[32] and stated that appropriate action has been initiated against the defaulters while DTPs Karnal and Sonepat stated (March-July 2019) that since the area falls in the jurisdiction of respective Municipal Corporations, appropriate action was required to be taken by them. However, the fact remains that action had neither been taken by the Department nor by Municipal Corporations against the defaulting CLU holders. Proper co-ordination should be evolved with Municipal Corporations for taking action where CLU was issued by TCPD.

DG, TCPD stated (October 2020) that in 15 out of 25 cases appropriate action was required to be taken by the concerned Municipal Corporation, and in one case by Gurugram Metropolitan Development Authority (GMDA) since the areas fall in their respective jurisdiction. It was also added that appropriate action had been initiated in respect of eight cases. However, no reply was furnished in remaining one case. The fact remains that action had neither been taken by the Department nor by Municipal Corporations/GMDA against the 16 defaulting CLU holders. Proper co-ordination should be evolved with

[32] Faridabad-02, Hisar-02, Panchkula-01, Sonepat-03 and Karnal-01

Municipal Corporations/GMDA for taking action where CLU was issued by TCPD.

3.14.4.3 Non-recovery of External Development Charges

External Development Charges in case of change of land use was fixed by HUDA in July 2002. EDC was not chargeable in the cases of CLU allowed in the agriculture zone. In other cases, 10 *per cent* EDC was to be recovered at the time of grant of permission and the balance 90 *per cent* in installments i.e. 40 *per cent* at the time of acquisition of land for the Sector by HUDA in which the said area falls and balance 50 *per cent* amount in four equal annual installments along with interest at the rate of 15 *per cent* per annum.

Scrutiny of records of test checked cases revealed that the Department recovered only 10 *per cent* amount of the EDC in four[33] cases and 50 *per cent* amount in two cases of Sector 32, Karnal. As the area of Sector 32, Karnal was notified in December 2002 and Sector 88, Faridabad in August 2008 under Section 6 of the Land Acquisition Act, 1894 by HUDA, full amount of EDC was recoverable from CLU applicants. Audit, however, observed that the Department neither demanded EDC of ₹ 11.22 crore from applicants nor these applicants deposited the amount ***(Appendix 3.8)***. Audit further observed that Department had not initiated any action to recover the balance amount of EDC.

Recommendation: The Department may examine all similar CLU cases of non-recovery of EDC and take corrective action.

DG, TCPD stated (October 2020) that three cases were being transferred to Urban Local Bodies Department for recovery of EDC as these cases fall in the jurisdiction of Municipal Corporation, Karnal. It was also assured that the Department would take coercive action for recovery of EDC in other CLU cases.

3.14.4.4 Grant of Occupation Certificate to incomplete building

The Department granted CLU permission in December 2011 (valid upto November 2013) to applicants for setting up of a dispensary. Occupation Certificate was issued (January 2015) by the STP Gurugram for Basement-1 (1547.88 sqm), Basement-2 (1437.05 sqm) and Ground Floor (957.99 sqm).

Joint physical verification of the site along with staff of the DTP in August 2019 revealed that doors and windows were not fixed; toilets, railing of stairs, plaster

[33] One case of Sector 32, Karnal and three cases of Sector 88, Faridabad.

of buildings, pucca approach road, etc were also not complete as shown in photographs below:

		
Toilet on ground floor	**Railing of stairs Ground to Basement**	**Ground floor area**

Occupation Certificate was granted to the applicants although the building was incomplete which was against the norms. The department had extended undue benefit to the applicant.

DG, TCPD stated (October 2020) that the complete status report of the case was awaited from DTP (Enforcement) Gurugram and final report would be sent after receipt of the same.

3.14.4.5 Irregular utilisation of agriculture warehouse

The Department granted CLU permission (March 2012) for setting up of an agriculture warehouse in 78,255.43 sqm area in village Dukheri, Ambala. Rate of conversion charges was ₹ 50 per sqm in respect of agriculture warehouse. If the godown is found to be used for storage of non-agriculture produce (for which conversion charges are higher i.e. ₹ 75 per sqm), an amount equivalent to double the difference of conversion charges would be recovered along with interest at 12 *per cent* per annum from the date of grant of change of land use permission.

The POC of two Sheds (2 and 3) was granted by the Department (August 2014). As per report of the DTP Ambala, six godowns/shed occupied at site were being used for logistic purpose i.e. storage of medicines, cosmetic goods, paint material, etc. instead of agriculture godown purpose.

The Department issued (October 2016) show cause notice to the applicants as to why not the application for grant of OC be rejected and action taken for violation of terms and conditions of permission of CLU. The Department did

not take any further action for recovery of difference of conversion charges resulting in loss of revenue of ₹ 0.72 crore[34].

DG, TCPD stated (October 2020) that further action in the matter would be taken as per Act/Rules on receipt of the action taken report from DTP Ambala.

3.14.4.6 Fulfillment of the terms and conditions not ensured

As per terms and conditions of CLU permission, it was mandatory for applicants to provide 75 *per cent* of employment to domiciles of Haryana where the posts were not of technical nature and a quarterly statement in this regard was required to be furnished to the concerned General Manager, District Industries Centre (DIC).

In selected districts, the required quarterly statement was not being furnished by CLU applicants. It showed that proper monitoring was not done by DTPs/DG, TCPD and DIC offices to ensure the compliance with the terms and conditions of CLU.

3.14.5 Conclusions

Extant provisions in the Acts and Rules to control unauthorised colonies/ constructions were not being enforced due to which unauthorised colonies grew in the State. There were instances of granting of licences to a colony in excess of permissible area, delay in initiation of action for cancellation of licences, etc. Further, construction of buildings without approval of building plans, issuance of part occupation certificate without recovering EDC, non-development of colonies of cancelled licences, non-transfer of EWS plots/flats, non-recovery of EDC/ IDC, non-recovery of revised licence fee, non-obtaining/revalidation of bank guarantees, etc. were also observed.

Apart from above, CLU permissions were granted in violation of rules and terms and conditions of CLU. Cases of non-recovery of EDC, grant of occupation certificate for incomplete building, utilisation of agriculture warehouse for storing non-agriculture produce, etc. came to notice. Surveillance system of the department was not effective.

3.14.6 Recommendations

The Government may consider the following:

- **evolving proper mechanism to control the growth of unauthorised colonies in coordination with revenue authorities and municipalities;**

[34] 78,255.43 sqm * ₹ 50/sqm = ₹ 39,12,772/-
₹ 39,12,772 * 12% per annum * 7 year = ₹ 32,86,728/-
Total = ₹ 71,99,500/-

- **evolving proper system for monitoring the renewal of licences, action against defaulting developers and monitoring the recovery of EDC and IDC;**
- **re-checking of all the cases of licence fees to ensure recovery of licence fee at revised rates to avoid loss of revenue;**
- **examining all cases of irregular grant of CLU and take corrective action; and**
- **fixation of responsibility of officers for failure to control the growth of unauthorised colonies, registration of sale deeds in unauthorised and cancelled colonies and non-recovery of licence fee at revised rates.**

These points were referred to the Government in January 2020, their reply was awaited (October 2020).

Town and Country Planning Department
Haryana Shehri Vikas Pradhikaran (HSVP)

3.15 Excess payment to contractor

The Executive Engineer, HSVP, Sonepat violated the provisions of contract document and made excess payment of more than ₹ 5.61 crore to the contractor by not recovering the amount of decrease in cost of bitumen/emulsion.

The award letter and additional conditions for bitumen rates of the contract entered into for construction of twelve sector dividing master roads in Urban Estate, Sonepat provided that the rate of bitumen/emulsion at the refinery on the date of receipt of tender to be considered as base rate. If during execution of works, the rate of bitumen/emulsion increases or decreases at refinery the difference in cost shall be paid/recovered from the contractor, subject to the condition that no increase in prices of bitumen/emulsion was to be reimbursed to the contractor beyond the original time period allowed for contractor as per contract agreement irrespective of extension in time limit granted to the agency for any reason whatsoever.

The Chief Engineer, Haryana Shehri Vikas Pradhikaran (HSVP), Panchkula approved (March 2014) a Detailed Notice Inviting Tender (DNIT) for ₹ 82.74 crore for construction of 12 sector dividing master roads[35] in Urban Estate, Sonepat. Tenders for the work were opened in June 2014 wherein three contractors participated. The Executive Engineer (EE), HSVP Sonepat awarded

[35] 65 metre, 60 metre and 45 metre roads between Sectors 30/37, 34/35, 35/36, 32/33, 4/32, 26/26A, 26A/34, 34/33, 27/33 and 26/33 in Urban Estate, Sonepat

the work (August 2014) to L1[36] for ₹ 70.08 crore (15.30 *per cent* below the DNIT amount), with a time limit of nine months i.e. upto May 2015. The agreement was eventually enhanced (February 2017) under Clause 41 of the contract by the Chief Engineer, HSVP upto ₹ 90.88 crore and the time limit was extended under Clause 5 of the contract upto September 2017. The contractor completed the entire work by September 2017 and was paid total ₹ 90.31 crore upto May 2019.

Scrutiny of records (January 2018) relating to the work in the office of the EE, HSVP, Sonepat revealed that during the period between June 2014 and September 2017 (the period of execution of the work), the prices of bitumen/emulsion decreased considerably. But the EE violated the conditions laid in contract document and did not make any recovery on this account from the bills of the contractor.

It was observed that payment for total 4,862.72 MT bitumen/emulsion was made for executing various bituminous items of the work ***(Appendix 3.9)***. But the EE had not maintained proper record for receipt and consumption of bitumen on work and could produce invoices for only 3,326.54 MT bitumen/emulsion consumed on the work. Bill wise comparison of base rate and actual rate for 3,326.54 MT quantity showed that ₹ 5.61 crore were recoverable from the contractor ***(Appendices 3.10 A and 3.10 B)***. For balance quantity of 1,536.18 MT the recoverable amount could not be calculated due to non-availability of invoices or bitumen register.

On being pointed out by Audit, the Chief Engineer-I, HSVP, Panchkula intimated (July 2020) that the amount of ₹ 5.65 crore has been recovered from the contractor from final bill of the work, security deposits of contractor for this work and by another division in Panchkula. The reply was not correct as the amount was only withheld as deposits of the contractor from the payable amounts and not yet booked as reduction in expenditure of the work. Further, amount recoverable for balance quantity of 1,536.18 MT bitumen has not been worked out.

The matter was referred (December 2019) to the State Government and subsequent reminders were issued in March 2020 and May 2020; their reply was awaited (September 2020).

Recommendation: Department may consider fixing responsibility on officers concerned for not implementing clauses of agreement which led to excess payment of more than ₹ 5.61 crore. Recovery may be made from

[36] M/S KCC Buildcon Pvt. Ltd., Gurugram

the contractor for entire quantity of bitumen consumed in the work. Further, suitable instructions may be issued to all the field offices for compliance of clauses of contract.

3.16 Execution of works irregularly and without calling tenders

The HSVP got executed four works valuing ₹ 16.11 crore irregularly without obtaining administrative approval and technical sanction from the competent authorities. These works were awarded to a contractor on nomination basis without inviting competitive tenders, disguising these as enhancements of an agreement of ₹ 0.19 crore to ₹ 16.30 crore. Further, in contravention of codal provisions, Government interest was not protected as performance guarantee of ₹ 0.81 crore was not obtained.

Paragraphs 9.1.1 of the Haryana PWD Code provides that for every work proposed to be carried out, administrative approval from competent authority and technical sanction from the competent engineering officer in respect of specifications and soundness of the proposal are mandatory. The instructions issued (June 2017) by Haryana Shehri Vikas Pradhikaran (HSVP) stipulate that Chairman, HSVP is authorised to accord administrative approval for works between ₹ 10 crore and ₹ 20 crore and the estimates of these works are required to be got scrutinised from Engineer-in-Chief, Public Works Department (Buildings and Roads) or Public Health Engineering Department, as the case may be.

As per paragraph 13.7.2 of the PWD code and Government instructions, tenders for works should invariably be invited in the most transparent manner and every work above ₹ one lakh can be awarded only through e-tendering process.

Executive Engineer, Haryana Shehri Vikas Pradhikaran (HSVP) Division No. III, Gurugram (EE) had got executed a work of installation of water supply motor worth ₹ 0.19 crore from M/s Grover Appliances, (the contractor) in June 2013. After more than three years of completion of this work, four new works valuing ₹ 16.11 crore were awarded to the same contractor on nomination basis between February 2017 and August 2018 by disguising them as enhancements to the earlier agreement of June 2013. The works were carried out from savings of earlier administrative approval[37] of ₹ 498.05 crore dated January 2012. Payment of ₹ 12.94 crore had been made to the contractor (March 2018). Further, payment was held up as the enhancement case upto ₹ 16.30 crore was

[37] Master water supply scheme (Distribution Mains) for new sectors 58 to 115 (for zone IV to VIII) urban estate, Gurugram for ₹ 498.05 crore endorsed vide Chief Administrative, HSVP memo number 2655 dated 19 January 2012.

submitted (August 2018) for ex-post facto approval and the same has not been sanctioned by the competent authority so far (May 2019). Details of works awarded to the contractor are given in **Table 3.4**.

Table 3.4: Details of works awarded to M/s Grover Appliances

SI. No.	Description of work	Date of enhancement	Cost of new work awarded (₹ in crore)	Agreement enhanced upto (₹ in crore)	Agreement enhanced by	Reasons given for awarding new works
1.	Additional work at intermediate boosting station at Sector-51, Gurugram	23 February 2017	1.95	0.19 to 2.14	Additional Chief Engineer, HSVP, Gurugram	To maintain proper water supply before summer season
2.	Additional work at intermediate boosting station at Sector-16, Gurugram	23 August 2017	4.04	2.14 to 6.18	Chief Engineer, HSVP, Panchkula	For bifurcation of common header for independent functioning of line from WTP Basai to Dundhahera.
3.	Upgradation of the Water Treatment Plant (WTP), Basai and work of common header of WTP Chandu Budhera, Gurugram and online booster station at Sector 5, Gurugram (Phase-I)	6 December 2017	6.78	6.18 to 12.96	Chief Engineer, HSVP, Panchkula	Upgradation of machinery and increasing the capacity of WTP, Basai
4.	Upgradation of the WTP, Basai and work of common header of WTP Chandu Budhera, Gurugram and online booster station at Sector-05, Gurugram (Phase-II)	Concurrence 19 November 2018	3.34	16.30	Chief Engineer, Infra-II, Gurugram Metropolitan Development Authority, Gurugram	Additional works carried out by the contractor such as replacement of machinery, installation of water flow meters, submersible pumps, etc.
Total			**16.11**	**0.19 to 16.30**		

Source: Information compiled from HSVP record.

As depicted from the table above, four new works costing ₹ 16.11 crore were awarded to the contractor on nomination basis under the camouflage of enhancements of an agreement of ₹ 0.19 crore upto ₹ 16.30 crore which was irregular in the absence of administrative approval from the Chairman, HSVP and technical sanction from the competent authority. Further, the works were awarded after more than three years of completion of initial work.

Following irregularities were noticed:

- Awarding of four new works worth ₹ 16.11 crore disguising them as enhancements was irregular in absence of administrative approval from the Chairman, HSVP.

- Detail estimate for obtaining technical sanction for ensuring soundness and necessity of proposal was not prepared. The economy factor also cannot be assessed in absence of the detailed estimate.

- The work was awarded to the contractor without calling for tenders which exterminated the principle of competitiveness in awarding and execution of works. Awarding four new works under the camouflage of enhancement of an agreement from ₹ 0.19 crore upto ₹ 16.30 crore after more than three years of completion of original work tantamount to undue benefit to the contractor and goes against the spirit of fair and competitive bidding.

- Performance security of ₹ 0.81 crore (five *per cent* of contract price of ₹ 16.11 crore) was required to be obtained from the contractor as per paragraph 13.12.1 of the PWD code for keeping the same as surety for ensuring the satisfactory completion of work by the contractor and for protecting Government interest. However, it was not obtained.

On being pointed out by audit, the EE, Division No.-IV, Gurugram stated (January 2020) that works were awarded to the contractor through enhancement due to urgency for proper maintenance of water supply and major repair. The enhancement of works were approved by the competent authority.

The reply of the department was not tenable as each work was a new work and before incurring any expenditure on a new work, administrative approval and technical sanction from the competent authorities are mandatory. Further, these works were awarded to the contractor on a nomination basis disguising them as enhancements in original agreement and codal provision was violated which stipulates that work can be awarded only after inviting tenders in the most transparent manner. Thus, awarding new works by enhancing the original contract of ₹ 0.19 crore upto ₹ 16.30 crore after more than three years of completion of original work was arbitrary and irregular. The argument of urgency is not acceptable as these works were awarded over a long period of time between February 2017 and November 2018. Moreover, Government interest remained unprotected as performance guarantee of ₹ 0.81 crore was not obtained from the contractor.

The matter was referred to the State Government in October 2019 and subsequent reminders were issued in December 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The State Government may consider fixing responsibility on officers of HSVP for violating the codal provisions and

Government instructions for extending undue benefit to a contractor against the spirit of fair and competitive bidding by awarding new works of such magnitude without calling tenders.

Transport Department

3.17 Excess expenditure due to award of work at higher rates

The General Manager, Gurugram Depot of Haryana Roadways awarded the cleaning work of bus stands, workshop and buses to L5 bidder arbitrarily and extended the agreement upto 52 months. This resulted in excess expenditure of ₹ 1.03 crore.

The State Government issued a policy in February 2009 for outsourcing and contractual engagement. The policy provides that the services such as cleaning of premises, horticultural work, housekeeping, etc. can be outsourced as and when required. It provides that the nature of service required to be outsourced should be specified and clearly defined in the tender notice as well as contract document instead of only mentioning the number of personnel required to perform the services. The tender form and the contract document shall be finalised with the approval of the head of the department, depending upon the existing delegation of powers in the department. Open tenders can then be invited and decided in a transparent manner through a competitive bidding process. As per policy guidelines issued (May 2010) by the State Government, Department of Industries and Commerce, the negotiation can be held only with the L1 bidder and on failure of negotiation, fresh tenders will be invited.

The General Manager, Haryana Roadways, Gurugram Depot (GM) invited (June 2014) tenders for cleaning activity which included cleaning of three bus stands[38], workshop, office building and ordinary as well as Volvo buses for a period of six months. The conditions of the tender document, *inter alia*, provided that the bidders were to submit the technical bid along with supporting financial, tax, technical and experience documents. The financial bids of only technically qualified bidders were to be opened. In response, seven parties submitted their bids. All the bidders were found technically qualified,

[38] Gurugram, Sohna and Pataudi

resultantly financial bids of all the seven bidders were opened (June 2014). The rates quoted by L1 (Firm A[39]) were ₹ 3.25 lakh per month[40].

Audit observed the following deviations in the matter:

1. Rates of L1 were ignored on the pretext of offering opportunity to bidders with good track record. This was done despite the L1 bidder clearing the technical bid with due experience and track record documents supporting the same.

2. Negotiations were held with L5 (Firm B[41]) and L7 (Firm C[42]) bidders and work was allotted (July 2014) to L5 at a negotiated rate of ₹ 4.70 lakh per month, initially for six months. However, this was extended multiple times, upto October 2018, for a total of 46 months. On account of difference in rates between L1 and L5 (₹ 3.25 lakh per month and ₹ 4.70 lakh per month), department incurred extra expenditure of ₹ 1.03 crore.

3. As per tender document and award letter, ₹ 29 per bus per day was payable to the contractor for complete washing and cleaning of ordinary buses. However, from the first month i.e. July 2014 instead of composite work of washing and cleaning of buses, only cleaning work was got executed from the contractor and a payment at the rate of ₹ 26 per bus per day was made. It was found that during July 2014 to October 2018 composite washing and cleaning of 68,816 buses was executed and payment of ₹ 19.96 lakh were made while cleaning (without washing) of 2,26,324 buses was got done during the same period and payment of ₹ 58.84 lakh was made for it. The execution of cleaning work only was irregular and the basis for arriving at the rate of ₹ 26 per bus per day for only cleaning work was not available on record.

Thus, due to not considering the financial bid of L1 and awarding the outsourcing work to L5 bidder arbitrarily, excess expenditure of ₹ 1.03 crore was incurred. This irregularity was pointed out earlier in December 2016 by Audit, but the department extended the Firm B's contract upto October 2018.

The Director, State Transport stated (June 2020) that the rates quoted by L1 were not viable and to maintain cleanliness at depots, buses, etc. contract was awarded to L5. The reply was not tenable as all the firms were technically

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39 M/s Public Security and Placement Services, Hisar

40 For cleaning of Gurugram bus stand and workshop ₹ 1.80 lakh per month, Sohna bus stand @ ₹ 48,000 per month, Pataudi Bus stand ₹ 45,000 per month, Ordinary buses ₹ 11.66 per bus per day and Volvo buses ₹ 1,093.75 per bus per month.

41 M/s Jai Hind Enterprises, Gurugram

42 M/s R.S. Enterprises, Gurugram

qualifying but the Tender Evaluation Committee ignored first four bidders and picked up L5 bidder directly for negotiation and disrupted the transparent and competitive bidding process. No justifiable reasons were recorded in the minutes for ignoring the L1 bidder, despite the fact that L1 bidder was more experienced and financially sound than the L5 bidder ***(Appendix 3.11)***. The undue favour to the L5 bidder resulted in excess expenditure of ₹ 1.03 crore.

The matter was referred (April 2019) to Additional Chief Secretary, Transport Department and subsequent reminders were issued in June 2019 and May 2020; their reply was awaited (September 2020).

Recommendation: The Government may consider fixing responsibility on officials/officers concerned for vitiating the transparent and competitive bidding process and extending undue benefit to a contractor by awarding work at higher rates.

Chandigarh
Dated: 10 December 2020

(FAISAL IMAM)
Accountant General (Audit), Haryana

Countersigned

New Delhi
Dated: 22 December 2020

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India