

Chapter 3
Compliance Audit

CHAPTER 3

COMPLIANCE AUDIT

Compliance Audit of the Economic Sector departments, their field formations as well as that of the autonomous bodies brought out instances of lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These are presented in the succeeding paragraphs:

AGRICULTURE & HORTICULTURE DEPARTMENT (SERICULTURE)

3.1 Parking of funds in violation of rules

The Karnataka State Sericulture Research and Development Institute (KSSRDI) was primarily established to undertake research activities in sericulture and to find solutions for identified thrust areas. The Government released funds to KSSRDI in two installments (March 2015 & March 2016) for implementation of end-to-end computerisation project not related to research activity. During 2017-18, the Commissioner of Sericulture was only planned for audit and the progress of the implementation of the project was reviewed.

Government in violation of financial rules released ₹ 19.89 crore to a Society for implementation of a Government of India Scheme of which a major portion of the amount remained unutilised.

As per Karnataka Financial Code⁶⁴ and Karnataka Budget Manual⁶⁵, no money should be drawn from the Treasury unless the occasion so demands and no money on any account is to be drawn in advance of requirements or transferred to deposit accounts as a reserve in order to prevent it from lapsing so as to utilise the funds in subsequent financial years. The money which is not required for immediate use should be surrendered to the Government account forthwith for re-appropriation. Grants which could be spent during the financial year only should be released as Grant-In-Aid (GIA) and there should be no occasion for a rush for payment of these grants in the month of March.

Government of Karnataka (GoK) released (30 March 2015) ₹ 15.54 crore to the Commissioner of Sericulture, Bengaluru (Commissioner) for further release to the Director, Karnataka State Sericulture Research and Development Institute (KSSRDI) (a Society) as GIA. The Commissioner released the amount on the same day for implementation of Rashtriya Krishi Vikas Yojane (RKVY), a Government of India (GoI) scheme. In October 2015, GoK accorded administrative approval with an outlay of ₹ 26.44 crore for end-

⁶⁴ Article 15 and 161.

⁶⁵ Rule 230, 231 and 234.

to-end computerisation of Sericulture Department for implementation by KSSRDI. Against this, KSSRDI spent ₹ 4.39 crore between 2015-16 and 2017-18. In February 2016, the Government sanctioned ₹ 4.35 crore under RKVY and the amount was released to KSSRDI during March 2016. KSSRDI kept the GIA in Savings Bank (SB) account and unutilised amount of ₹ 17.42 crore⁶⁶, including interest earned, was also held in SB account, as of October 2018.

However, the tender for the computerisation project did not fructify as the lowest tender amount (₹ 63.78 crore) was very high compared to the amount put to tender (₹ 26.44 crore). Hence, the Tender Approving Authority rejected (May 2017) the bids and instructed to prepare a revised DPR. The Commissioner prepared a revised DPR for an amount of ₹ 62.21 crore and the approval of the Government is awaited (March 2018). KSSRDI could not utilise the entire funds and an amount of ₹ 17.42 crore was still parked in SB account (October 2018).

Scrutiny (October 2017) of records in the Office of the Commissioner showed non-observance of rules, misrepresentation of facts and lack of financial propriety, which are discussed below:

- ❖ The purpose of the GIA and the time period within which this should be utilised, required as per rules, were not specified in the order releasing GIA. The Government released the funds at the end of the financial year on two occasions only to avoid lapse of grants;
- ❖ The Commissioner furnished Utilisation Certificate (UC) to GoI stating that the funds were utilised for the purposes despite the amounts remaining unutilised in SB account. Audit scrutiny revealed that KSSRDI, being the implementing agency, had not furnished the UCs to the Commissioner. Thus, the action of Commissioner furnishing UCs to GoI was highly irregular and tantamount to misrepresentation of facts; and
- ❖ KSSRDI did not surrender the grants to the Government despite non-utilisation and the amount was parked in SB account. Incidentally, GoK had issued (January 2017) instructions to keep funds in sweep-in sweep-out accounts (combination of demand deposit and fixed deposit account offering both liquidity and higher rate of interest) only. The Society did not review its decision in conformity with the instructions by the Government and continued with SB account which had resulted in loss of interest income by ₹ 110.76 lakh⁶⁷.

⁶⁶ Inclusive of interest of ₹ 1.61 crore earned in SB account.

⁶⁷ Interest calculated for Flexi Deposit account for ₹ 16.71 crore available in account on February 2017 (8.5% as per SBI) – ₹ 213.07 lakh (A);
Interest earned from SB account from February 2017 - ₹ 102.31 lakh (B);
Loss = (A) minus (B) = ₹ 110.76 lakh.

The matter was reported to the Government in February 2018 and the Government stated (September 2018) that neither the Government nor the Department of Sericulture had directed the KSSRDI to deposit the amount in fixed deposits.

FOREST, ECOLOGY & ENVIRONMENT DEPARTMENT

3.2 Diversion of forestlands and Functioning of Karnataka State Compensatory Afforestation Fund Management and Planning Authority

3.2.1 Introduction

The Forest (Conservation) Act, 1980 was enacted by the Government of India to regulate and control the diversion of forestland for non-forest purposes. The approval to transfer forestland is granted by the Government of India subject to payment of Net Present Value (NPV), raising of Compensatory Afforestation (CA) in an equivalent non-forestland or double the area in degraded forestlands. The cost towards CA is collected from the User Agency⁶⁸. Forestland to an extent of 29,431.94 hectares had been diverted in the State for non-forest purposes up to March 2018. Forest (Conservation) Act, 1980 and Rules/guidelines made thereon intend to conserve forests by taking up Compensatory Afforestation in equivalent non-forestland/double degraded forest area and also address the environmental damage caused by diversion of forests through certain conditions/stipulations.

As per the instructions of the Supreme Court, Ad-hoc CAMPA was formed in May 2006, the guidelines for State CAMPA were issued in July 2009 while the Compensatory Afforestation Fund Act, 2016 came into effect from August 2016. The State CAMPA followed the guidelines issued during July 2009. The timeline of events in this regard has been illustrated in **Appendix 3.1**.

The Principal Chief Conservator of Forests⁶⁹ is the overall administrative head of the Karnataka Forest Department. With reference to diversion of forests for non-forest purposes, the Additional Principal Chief Conservator of Forests (APCCF), Forest Conservation (FC), is the nodal officer in the State.

The State CAMPA has a three-tier structure i.e., a *Governing Body* headed by the Chief Minister for Policy making, a Steering Committee headed by the Chief Secretary for approval of Annual Plan of Operations, monitoring utilisation of funds, *etc.* and an Executive Committee headed by the Principal Chief Conservator of Forests for preparation of APOs, supervision of works,

⁶⁸ Project proponent.

⁶⁹ Principal Chief Conservator of Forests (Head of Forest Force).

etc. The implementation of activities under CAMPA is taken up by the State Forest Divisions.

The Audit Objectives of this Thematic Audit were to assess whether;

- ❖ The diversion of forests for non-forest purposes was approved by the Competent Authority and conditions stipulated thereon were complied with; and
- ❖ Compensatory Afforestation and other activities were taken up by the State CAMPA as per instructions and guidelines issued.

The following are the sources of criteria for this Thematic Audit;

- Forest (Conservation) Act, 1980;
- Forest (Conservation) Rules, 2003;
- Karnataka Forest Act 1963; and Karnataka Forest Account Code, 1976;
- Orders of the Supreme Court on Compensatory Afforestation and CAMPA; and
- Guidelines issued by Ministry of Environment, Forests and Climate Change (MoEF), Ad-hoc CAMPA & Government of Karnataka (GoK) regarding CAMPA and plantation works.

Audit was conducted between January and July 2018 covering the period 2013-14 to 2017-18. A sample covering two⁷⁰ offices of Additional Principal Chief Conservator of Forests, 10⁷¹ out of 39 Territorial Divisions, two⁷² out of six Working Plan Units, two⁷³ out of seven Training Institutes, one⁷⁴ out of five Research Units and one⁷⁵ out of three Zoos, was selected by simple random sampling for test check of records. An Entry Meeting was held on 19 February 2018 and Exit Meeting was held on 2 November 2018.

Audit findings

Audit examined adherence to various rules and regulations by the Department towards the objectives and significant audit findings are brought out in the following paragraphs.

⁷⁰ APCCF (CAMPA) and APCCF (Forest Conservation).

⁷¹ Ballari, Belagavi, Bidar, Chikkamagalur, Chitradurga, Gadag, Kolar, Madikeri, Mangaluru and Yellapura.

⁷² Dharwad and Mysuru.

⁷³ Gungargatti and Ilawala.

⁷⁴ Chief Conservator of Forests (Research), Bengaluru.

⁷⁵ Bannerghatta Biological Park.

3.2.2 Diversion of forestland

During the period covered in Audit (2013-18), 105 cases of diversions were approved aggregating to an area of 817.83 ha in the entire State. Audit noticed shortfall in raising Compensatory Afforestation (CA) and unauthorised usage of forestlands which are discussed in the succeeding paragraphs.

3.2.2.1 Shortfall in raising Compensatory Afforestation

Between 2013 and 2018, there were 30 cases of diversion (29 per cent) in the ten test-checked divisions, where 410.17 ha of forestland was approved by MoEF for non-forest purposes and equivalent non-forestland/degraded land was received *in lieu* for the purpose of CA.

Audit scrutiny showed that the final notification for declaring the non-forest land taken for CA as Reserve Forest (RF) was outstanding in all cases and 171.14 ha of non-forest land received as compensatory land was not yet mutated. The details are shown in **Appendix 3.2**. The short recovery of CA charges is discussed in Paragraph 3.2.4.1.

For diversion of forest area for non-forest purposes, CA shall be done over an equivalent area of non-forestland⁷⁶ or twice the extent of forest area in degraded forestland or as stipulated by the MoEF/GoI. The raising of CA is one of the major stipulation to offset the loss of forestland.

In the test-checked divisions, CA was not raised as stipulated by the MoEF and shortfall in raising CA was to the extent of 33.60 per cent. The overall shortfall in raising CA for the entire State during 2013-18 was to the extent of 51 per cent. The details are given in **Table 3.1**.

Table 3.1: Shortfall in taking up compensatory afforestation

For 30 cases in 10 Test Checked Divisions		All cases of diversion 105 cases during audit period	
Total forest diversion as of March 2018	410.17 ha	Total forest diversion as of March 2018	817.83 ha
Total Compensatory Afforestation Stipulated by MoEF while according approval	470.22 ha	Total Compensatory Afforestation Stipulated by MoEF while according approval.	911.13 ha
Total Compensatory Afforestation raised	312.39 ha	Total Compensatory Afforestation raised	449.57 ha
Shortfall	157.83 ha (33.56%)	Shortfall	461.56 (50.65%)

No reasons for shortfall in achievement in raising CA were on record. The non-taking up of afforestation even after collecting the statutory charges for the purpose of raising plantations defeated the objective of compensatory

⁷⁶ Paragraph 3.2 (i), (iii) of guidelines issued on FC Act.

afforestation. In the exit meeting, the Department assured to look into the matter for taking necessary action.

3.2.2.2 Usage of forestland for non-forest purposes without prior approval

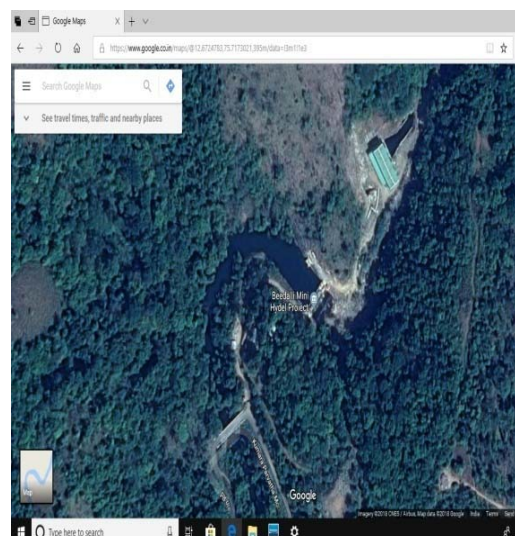
The Central Government accords approval for diversion of forestland for non-forest purposes in two stages. In Stage I, the proposal shall be agreed to in-principle, in which the conditions relating to transfer, mutation and declaration of equivalent non-forestland as RF or Protected Forest (PF) under the Indian Forest Act for CA thereon are usually stipulated. After receipt of the compliance report from the State Government in respect of the stipulated conditions, formal approval (Stage II) under the Act shall be issued. Forestlands cannot be used for non-forest purposes without the prior approval of the Central Government and hence use of such forestlands when the proposal is under the process of consideration is not appropriate. The Department should take action against the violators for unauthorised occupation of forestlands by registering Forest Offence Case and reclaim the land.

Scrutiny of records revealed that in seven out of 10 test-checked divisions, 320.88 ha of forestland in 15 cases was being used by different entities for non-forest purposes without approval from GoI (**Appendix 3.3**). The periods of unauthorised occupancy ranged from 4 to 25 years.

As could be seen from Appendix 3.3, in six cases, involving 120.36 ha (114.67 plus 5.70) of forests, Stage I approval was accorded between 1993 and 2011. As per MoEF guidelines, Stage I would be valid for five years only. As the in-principle approval stands revoked after expiry of five years, the User Agency has to apply afresh thereafter. However, revocation orders were issued only in two cases. Range offices should have booked these as Forest Offence Cases and the Divisions should have ensured that the unauthorised users were evicted. Not booking any offence case and not evicting the unauthorised users has caused environmental loss in these areas. Also, the violations were not brought to the notice of MoEF by the Department. Besides, CA in equivalent non-forestland has not been raised. As a result, neither was action taken to reclaim the land nor penal charges were levied to regularise the diversion. It is the duty of Range Forest Officers to protect every inch of forestland from such unauthorised use. Illustrative cases of structures built without approval of the diversion of forestland are depicted in **Figure 3.1 and 3.2**.



Photograph 3.1. Multi village water supply scheme works at Binkadakatti, Gadag Division



Photograph 3.2: Beedalli Mini Hydel Project in Madikeri Division

Further, the primary objective of the FC Act, of conserving the forests was defeated as the CA in 320.88 *ha* in non-forestland was not taken up despite loss of the forests.

During the Exit Meeting (November 2018), APCCF (FC) stated that action would be taken to obtain approval of the Central Government as these were projects taken up by Government agencies in public interest.

The fact, however, remains that there were 105 cases of authorised diversions in the State (39 divisions) between 2013-18, where 817.83 *ha* of forest land was diverted and 911.13 *ha* was stipulated for CA, out of which, only 449.57 *ha* (49 *per cent*) was raised with a shortfall of 461.56 *ha* (51 *per cent*).

The shortfall of 51 *per cent* in the State is indicative of laxity on the part of the Government in monitoring forest protection by minimising forest loss. Such a huge shortfall in raising CA needs to be viewed seriously and corrective measures needs to be initiated at the earliest to ensure the required compensatory afforestation.

In the test checked 10 divisions, the authorised diversions were in respect of 30 cases during the same period, where 410.17 *ha* was diverted and 470.22 *ha* was stipulated for CA. Against the stipulation of 470.22 *ha*, CA raised was for 312.39 *ha* (66 *per cent*) with a shortfall of 157.83 *ha* (34 *per cent*).

Further, 15 cases of unauthorised diversions were noticed in the test checked divisions. The possibility of more number of unauthorised diversions in the remaining 29 out of 39 divisions cannot be ruled out, which is indicative of the fact that actual CA shortfall of 51 *per cent* in the State is not a true depiction of the CA shortfall. The Government needs to immediately take a stock of all the unapproved/unauthorised diversions in the State and take corrective actions to

either get it vacated or initiate steps to approve such diversions so that forest land can be protected, all required charges are demanded and recovered as well as CA on equivalent diverted forest land raised.

3.2.2.3 *Non-renewal of lease period*

The approval to divert forestland for non-forest purposes is given for a specified period depending on the purpose of diversion and the User Agency can seek for renewal of lease period if it intends to continue the usage of forestland. As per Rule 6 (1) of the Forest Conservation Rules, 2003, the User Agency seeking renewal of lease has to apply afresh in the prescribed proforma along with the requisite information and documents, well in advance of the expiry date. This would have to be forwarded to MoEF with the necessary recommendation of the State Government. Accordingly, approval for renewal would be accorded by the Central Government stipulating certain conditions, like Net Present Value, Compensatory Afforestation/Additional Compensatory Afforestation/Penal Compensatory Afforestation, *etc.* as found necessary.

Scrutiny of records revealed that in four out of ten test-checked Divisions, in 12 cases, the lease holders continued to use 475.77 hectares of forestland without renewal of their lease for periods ranging from 6 to 18 years. The details are shown in **Appendix 3.4**. The renewal applications were received (June 2006 to April 2017) only in four of the above cases involving 173.22 ha, whereas renewal applications were not received / details not furnished in eight cases. While further details were sought for from the User Agencies in three cases, one agency had already approached the Central Empowered Committee for exemption from paying the Net Present Value (NPV).

The User Agencies had erected some structures during the period of lease, thereby modifying the land use in the leased area and continued to use them without renewal. However, the Department did not take any action either to renew the lease before expiry, or to evict the agencies from the forest area. The Divisions should have ensured that on expiry of the lease period, wherever applications for renewal were not received, Forest Offence Cases were booked and measures were taken to evict the unauthorised users. As this had not happened, the forestlands continued to be used by the User Agencies. Further, the statutory charges were not collected from user agencies for taking up Compensatory Afforestation.

During the Exit Meeting (November 2018), the APCCF (FC) stated that renewals were pending in these cases and the matter would be pursued with the User Agencies concerned.

3.2.2.4 Non-forest activities by Departmental agencies without approval

(a) Ecotourism

Any non-forest activity in the forest area requires prior approval of the Central Government under Section 2 (ii) of the FC Act, 1980. Ecotourism is a non-forest activity and hence requires prior approval of the Central Government under the FC Act.

Rule 6 (3) (a) of the Forest (Conservation) Rule, 2004, stipulates that the State Government should forward the applications within 210 days from the date of receipt of the proposal for diversion of forest land.

Audit observed that Jungle Lodges and Resorts Limited (JLR) was operating 11 cottage camps⁷⁷ with the earliest since August 1982 in the forest area spread across eight Divisions without approval from the Central Government. This was being done on the basis of lease agreements executed by the Karnataka Forest Department, for non-forest activity. During 2011-13, JLR finally applied for post-facto approval of the diversions of forestlands (45.1 ha).

Audit scrutiny further revealed that ten proposals were still pending with the Divisions concerned and one proposal was with the APCCF (Forest Conservation). Member Secretary, Central Empowered Committee (CEC) had also observed (March 2012) that tourism activities taken up by JLR required approval of the Central Government under the FC Act. Despite this, the Agency was allowed to operate in the forest area for more than six years without mandatory approval.

The PCCF in his reply (November 2018) stated that Ecotourism activity was permitted under the Government of India guidelines which was scrutinized and accepted by the Supreme Court as an activity ancillary to the conservation and development of forests and wildlife. It is promoted and supported both by the Government of India and the State Governments. It was further stated that under section 2 (iii) of the FC Act, forestland can be assigned for forest purpose (ecotourism has forest purpose) to the Agencies that are owned, managed or controlled by the Government.

The reply indicates reluctance to take appropriate action on the unauthorised usage of forestland by the Karnataka Forest Department which is responsible for enforcement of the FC Act. As public enterprises are not exempted from the purview of the Act and non-forest purpose includes any purpose other than afforestation, non-enforcement of the provisions of the FC Act will only lead to delay in tackling the issues. The *post-facto* approval is subject to payment of NPV, CA and other charges besides transfer of equivalent extent of non-forestland by JLR. Considering the prevailing charges, CA and NPV payable

⁷⁷ Out of which four camps are situated in National Parks/Wildlife sanctuaries.

by JLR for 45.1 ha of forestland works out to ₹ 10.22⁷⁸ crore besides recovery of penal charges of ₹ 8.83 crore (as of March 2018) none of which have been paid yet.

(b) Rubber and Cashew plantations

The Government of Karnataka had leased forestland to two State Government agencies – (i) Karnataka Forest Development Corporation Limited (KFDC – September 1980) and (ii) Karnataka Cashew Development Corporation Limited (KCDC – March 1980) for cultivation of rubber and cashew respectively, before the FC Act came into force (October 1980). The details of leased forestland are shown in **Table 3.2:**

Table 3.2: Details of transfer of forestland

SI No.	Details	KFDC	KCDC
1	Crop cultivated	Rubber	Cashew
2	Extent	4,443.32 ha	2,500 ha
3	Original lease period	GO issued on 27.9.1980. Lands handed over with effect from 1.7.1981	Transferred vide GO issued on 19.3.1980
4	Period of lease	20 years	30 years
5	Lease expiry date	30.6.2001	18.3.2010

(Source: Information furnished by Department)

The cultivation of Rubber and Cashew are non-forest activities as per the FC Act, 1980, and thus, the provisions of the FC Act were to be followed for renewal of lease. However, Audit observed that the Department renewed (2017) the lease period for KFDC up to 2025, with retrospective effect from 2001, without invoking provisions of the FC Act, 1980. The lease period of KCDC expired in 2010 but the forestlands continued to be with KCDC without any renewal having taken place.

Further, as statutory provisions were not followed, compensatory land for taking up of CA in equivalent area was not taken. Besides, NPV/CA charges aggregating to ₹ 913.05 crore (KCDC – ₹ 328.75 crore⁷⁹ plus KFDC – ₹ 584.30 crore⁸⁰) due for CAMPA fund were not realised.

The PCCF in his reply (November 2018) justified the action taken by the Department by stating that (i) the State Government was competent to renew the leases assigned to KFDC and KCDC prior to the FC Act, 1980 for raising and maintenance of plantations, (ii) KFDC and KCDC were public enterprises which maintained rubber and cashew plantations that were raised over

⁷⁸ CA charges of ₹ 272,000 per ha for 45.1 ha = 122,67,200 + NPV for forestland ₹ 10,43,000 for 34.83 ha of other than Wildlife sanctuaries = 363,27,690 + NPV for Wildlife sanctuaries five times of ₹10,43,000 for 10.27 ha = 535,58,050.

⁷⁹ At ₹ 10.43 lakh per ha for NPV and ₹ 2.72 lakh per ha for CA for 2,500 ha diverted for cashew plantations.

⁸⁰ At ₹ 10.43 lakh per ha for NPV and ₹ 2.72 lakh per ha for CA for 4,443.32 ha diverted for rubber plantations.

forestlands prior to the FC Act. Hence, there was no clearing of natural forests afresh for raising these plantations, and (iii) KFDC/KCDC was using forestlands for re-afforestation by rubber/ cashew only.

The reply is not acceptable as: (i) cultivation of rubber / cashew is a non-forest activity as per explanation given in Section 2 (a) of the FC Act, 1980 and hence renewal of lease period for KFDC was highly irregular,(ii) KFDC/ KCDC was replanting these forestlands by clear felling of the old plantations and hence, there was no scope for revival of natural forests, (iii) the Central Government is the competent authority to decide on the applicability of the provisions of the FC Act (especially with respect to non-forest purpose activities) which has not been followed by the State Government.

In a separate case, the Directorate of Cashew Research of the Indian Council of Agricultural Research, involved in research and academic activities on cashew, had applied for renewal of diversion of forests (80.94 ha) for non-forest purposes as brought out in Appendix 3.4. This only fortifies the point that renewal of lease for use of forestlands towards cashew cultivation required approval under FC Act.

3.2.2.5 Incorrect approvals accorded under General Approval

MoEF guidelines (January 2005) permitted the State Government(s) to grant approval for diversion of forestland, for not more than one ha in each case, for 11 categories of projects for creation of critical development and security related infrastructure under the FC Act, which is termed as the ‘General Approval’. The delegation is extended periodically and is currently valid up to December 2018, covering 13 categories.

GoK had granted (September 2005 to May 2017) diversion of forestland in 85 cases involving 60.76 ha under the General Approval. MoEF, on scrutiny of the details furnished, conveyed (June 2016) to the APCCF (FC) that certain approvals (in 19 cases) accorded by GoK included proposals for construction/installation of 11/33/400 KV Power transmission lines, approach road to mines, buildings, *etc.*, which were not covered under the category of general approval accorded by MoEF. Hence GoK was instructed to withdraw the approvals accorded, as they amounted to violation of the FC Act.

Audit observed that while orders for withdrawal of approval were issued by the State Government after 17 months, the lands had not been reclaimed (July 2018) and continued to be used by the respective User Agencies.

During the Exit Meeting (November 2018), APCCF (FC) stated that since the User Agencies were already using the forestlands, action was being taken to obtain approval of the Government of India.

3.2.2.6 *Non-resumption of forestlands for afforestation*

The Forest Department is the custodian of forestlands and on completion of the period of diversion, the land which was released for non-forest purposes is to be taken back. Also, since it is possible that the non-forest activity would have changed the nature of the land, it is necessary to take up afforestation and allied works in these areas.

Scrutiny of records in Yellapur and Mangaluru Divisions indicated that in 13 cases (**Appendix 3.5**), 53.41 hectares of lands were taken back by the Department on expiry of lease periods. As seen from *mahazar*⁸¹, these lands had buildings, residential houses, *Coconut, Arecanut, Mango, Coco* and other trees. However, the lands were not cleared and no afforestation was carried out.

PCCF in his reply stated (November 2018) that reclamation/restoration was applicable for only mining/quarrying proposals and hence was applicable for two of the 13 cases listed in the observation. It was further stated that as these sites were rocky areas, these were not suitable for vegetation.

The reply was silent about afforestation and other works carried out in the resumed forest areas other than forestlands diverted for mining/quarrying.

3.2.2.7 *Delay in transfer of title*

As per guidelines issued (February 2004) by the MoEF, Stage II clearance shall be given after the non-forestland has been mutated in favour of the Forest Department. Mutation is the change of title ownership from one person to another in the revenue records when the property is sold or transferred.

As per the information provided by the Karnataka Forest Department, non-forestland to an extent of 15,862.48⁸² ha was received for Compensatory Afforestation in *lieu* of diversion of forestland. Scrutiny in audit revealed that out of 15,862.48 ha handed over, mutation to the extent of 9,176.42 ha (58 per cent) only was done till March 2018.

Since the mutation of non-forestland was to precede the Stage II approval, for all the Stage II approvals accorded till March 2018, mutation in the name of the Forest Department should have been completed by the end of March 2018. The Divisional officers are responsible for ensuring this before diversion of forests. Not ensuring mutation of all non-forestlands is fraught with the risk of diversion of land by the Revenue Department for other purposes which would lead to defeating the purpose of afforestation as well as creating unnecessary complications.

⁸¹ Proof of procedures followed.

⁸² As per details furnished to Ad-hoc CAMPA.

PCCF replied (November 2018) that all the remaining cases of mutation would be completed at the earliest.

The fact, however, remains that the Compensatory Plantations and other mitigation measures to maintain ecological balance in equivalent extent (7785.07 hectare) of non-forest land was not taken as the forestlands were allowed to be used un-authorisedly for non-forest purposes.

3.2.2.8 Non-declaration of non-forestlands as Reserved Forests/Protected Forests

As per guidelines issued (February 2004) by the MOEF, the non-forestland received in *lieu of* diverted forestland is to be notified as Reserved Forest (RF) or Protected Forest (PF) under the relevant sections of the Indian Forest Act and the same should be communicated, along with a copy of the notification, within six months of approval of diversion. The notification of declaring as RF involves a two-stage process, *i.e.* preliminary notification (Section 4 of KFA) and final notification (Section 17 of KFA). Under Section 33 (2) (ii) of the KFA, the PCCF is empowered to declare any area as PF by issue of notification.

Audit found that no final notification was issued declaring the land received in lieu of diverted land as RF or PF. Only preliminary notification was issued under Section 4 of KFA declaring 1,271.99 ha (eight *per cent*) as RF while for the remaining 14,590.49 ha of land, neither preliminary notification was issued nor any action was taken under section 33 (2) (ii) of KFA to declare them as PF.

PCCF in reply stated (November 2018) that 4248.18 ha has been declared under Section 4 of KFA and field officers have been directed to submit the proposal simultaneously for Section 4 and Section 33 for the remaining cases. Even though the extent notified under Section 4 has increased, 73 *per cent* of non-forest land was yet to be brought under preliminary notification.

3.2.3. Planning of works

The Working Plan (WP) is approved by the Central Government for a period of ten years for each Forest Division. The WP generally contains a list of locations requiring afforestation works. Paragraph 30 of the Karnataka Forest Code provides that the works in the Annual Plan of Operations (APOs) should be drawn up from the approved WP.

3.2.3.1 Deviation from the Working Plan

Works not planned in the WP were included in the APOs approved by the Chief Conservator of Forests and executed under CAMPA. The instances of deviation, as seen by Audit, are shown below:

- ❖ The WP of three⁸³ Divisions, had listed specific locations for regeneration i.e. plantation works. However, during 2013-18, the plantation works were taken up in 380 ha of land by these Divisions in locations not included in the WP. Plantation and afforestation works in these unspecified locations were, hence unwarranted; and
- ❖ In addition, in these Divisions, afforestation works were taken up (2013-18) in 474 ha in the years other than those prescribed in the WPs. Since the afforestation had to be followed by salvaging (extraction of trees) and as these areas were not salvaged in the previous years, taking up afforestation was not justifiable.

APOs of these Divisions, which were in deviation from the Working Plans, were approved by the Chief Conservator of Forests. An expenditure of ₹ 5.32 crore was also incurred from CAMPA funds for the above afforestation works which was in deviation from the WP prescriptions. As the WP was approved by MoEF, any deviation should have prior approval of MoEF, which was not obtained in either of these areas.

PCCF replied (November 2018) that approval for deviation in respect of Gadag Division had been sought for. The plantations in Madikeri Division were raised as the Working Plan was under preparation and plantations in Mangaluru Division were raised as per the Working Scheme. The reply is not acceptable as the Working Plan approved by the MoEF covering these periods neither provided for raising plantations in these locations. However, reply was silent on the deviations in the years other than those prescribed in the WP.

3.2.3.2 Deviations from approved Annual Plan of Operations

Paragraph 30 of the Karnataka Forest Code stipulates that “an ‘Annual Plan of Operation’ must be drawn up by the Divisional Forest Officer for the working of the forests in the Division for each financial year before the date fixed for the submission of the budget estimates. No deviation from the Plan of Operation is permissible except for such deviations as may be necessitated by unforeseen events, with the previous approval of the Conservator of Forests”.

In nine test-checked Divisions, an expenditure of ₹ 1.12 crore was incurred (2013-14 to 2017-18) on 10 works not included in the APOs as shown in the **Appendix 3.6**. Thus, the expenditure incurred was irregular.

In his reply, the PCCF stated (November 2018) that sanction from the CCF has been obtained in respect of *eight* cases involving ₹ 93.63 lakh. However, all these approvals were given at the instance of audit and as the works taken up were without prior approval, post facto sanction amounted to ratification only.

⁸³ Madikeri, Mangaluru and Gadag.

With reference to Sl Nos 1 and 2 (Belagavi) of the Appendix 3.6, it was replied that payment of ₹ 7.85 lakh did not relate to that Division and EPT was taken up during 2011-12 which has been paid during 2014-15. However, payment of ₹ 7.85 lakh has been made in March 2017 towards *shamiyana* from CAMPA funds in voucher numbers 19 to 26. Also, the APO of 2011-12 did not provide execution of EPT and hence making payment towards the same as pending payment was incorrect. Therefore, the expenditure of ₹ 18.54 lakh was unauthorised.

3.2.4 Ad-hoc CAMPA – collections

3.2.4.1 Recovery of cost towards Net Present Value (NPV), Compensatory Afforestation (CA) and other charges

The NPV for every patch of forest is computed by an Expert Committee appointed by the Supreme Court and the NPV value varies depending upon the quality of forests. It ranges from ₹ 4.38 lakh per ha for Open Forests⁸⁴ to ₹ 10.43 lakh per ha for Very Dense Forests. The State Government is empowered to fix charges towards Compensatory Afforestation. Under the FC Act, ₹ 1,190.12 crore had been collected from the User Agencies towards NPV, CA and other charges. This included ₹ 218.06 crore collected between 2013-14 and 2017-18.

Audit scrutiny revealed instances of short recovery and non-recovery of statutory charges in ten test-checked Divisions, which are given below:

- ❖ **Short recovery:** The cost of CA, raising of strip plantations, raising of plantations in degraded forest areas and dwarf/medicinal plantations were to be recovered at the prescribed rates⁸⁵ in force. In seven out of ten test-checked divisions, in 14 out of 30 cases, charges as per the prescribed rates were not collected, resulting in short recovery of CA charges aggregating to ₹ 7.42 crore. The details are shown in **Appendix 3.7**.
- ❖ **Non-recovery:** Various charges to be levied are indicated in the Stage I approval which have to be collected by the State Government for credit into the CAMPA Account. The following cases of non-recovery of stipulated charges were noticed in Audit:
 - i) Cost towards planting of trees *in lieu of* felled trees was not collected in four cases in three Divisions⁸⁶ – ₹ 27.15 crore; and
 - ii) Cost towards Safety Zone Plantation was not recovered in Ballari Division – ₹ 7.90 lakh.

⁸⁴ Tree cover less than 10 per cent.

⁸⁵ ₹ 1,52,000 per ha from 1.4.2012 to 31.3.2014, ₹ 2,34,000 per ha from 1.4.2014 to 31.3.2016, ₹ 2,55,000 per ha from 1.4.2016 to 30.6.2017 and ₹ 2,72,000 per ha from 1.7.2017 onwards.

⁸⁶ Belagavi, Bidar and Mangaluru.

Except in one of the above cases at (i), even the demands were not raised for collection.

3.2.5 Raising of Compensatory Afforestation

For diversion of forest area for non-forest purposes, Compensatory Afforestation shall be done over an equivalent area of non-forestland⁸⁷ or twice the extent of forest area in a degraded forestland, as stipulated.

As of March 2017⁸⁸, a total of 29,151.06⁸⁹ ha of forests were diverted for non-forest purpose against which CA was to be raised in 15,862.48 ha of non-forestland and 8187.21 ha of degraded forestland.

3.2.5.1 Discrepancy in data

Additional Principal Chief Conservator of Forests, Forest Conservation is the Nodal Officer for diversion of forest land under FC Act, 1980 and hence responsible for maintenance of details in a complete and comprehensive manner.

In response to audit requisition, the details regarding diversion of forests and Compensatory Afforestation to be taken up were furnished by the Nodal Officer. However, audit scrutiny showed discrepancy in details furnished to audit *vis-a-vis* details furnished by PCCF to *Ad-hoc* CAMPA, as shown in **Table 3.3:**

Table 3.3: Discrepancy between the details maintained at Forest Conservation Wing and progress reported to *Ad-hoc* CAMPA

Sl No.	Components	Details furnished to Audit by Nodal Officer (March 2017)	Details furnished to <i>Ad-hoc</i> CAMPA by PCCF (March 2017)
1	Total Diversion of forests	29,129.98 ha	29,151.06 ha
2	No. of cases of diversion	695	737
3	Compensatory Afforestation in non-forest land	15,276.09 ha	15,862.48 ha
4	Compensatory Afforestation in degraded forest land	10,608.44 ha	8,146.05 ha

(Source: Details furnished by APCCF, Forest Conservation and as furnished to *Ad-hoc* CAMPA)

As may be seen from Table 3.3, there are various discrepancies in the details available with the two authorities, which requires reconciliation.

⁸⁷ Paragraph 3.2 (i), (iii) of guidelines issued on FC Act.

⁸⁸ Since CA cannot be raised in the year of diversion as operations are to be taken up in monsoon, forests diverted upto March 2017 has been considered.

⁸⁹ As per details furnished to *Ad-hoc* CAMPA.

In reply, PCCF stated (November 2018) that the details were reconciled and furnished to Ad-hoc CAMPA during February 2018. The raising CA is imperative on account of diversion of forestland, the extent of area for CA should be correctly assessed which could not be ascertained in audit due to discrepancy in data.

3.2.5.2 Failure to assess suitability of non-forestland for afforestation

Deputy Conservator of Forests should certify the suitability of an area identified for raising and managing Compensatory Afforestation, where Compensatory Afforestation is to be raised within one year from Stage I approval. Audit observed that it was not raised in 997.28 ha due to reasons brought out in **Table 3.4:**

Table 3.4: Reasons for not raising Compensatory Afforestation

SI No	Reasons for non-raising of CA	Area (ha)
1	Area not available	149.76
2	Alternative lands to be identified	171.59
3	Land yet to be identified	71.26
4	Land not suitable	138.96
5	Identified land is a reserve forest	15.85
6	Land encroached / under dispute	4.78
7	No specific reasons stated	445.08
Total		997.28

(Source: Details furnished by Department)

As the diversion of forestland is approved only after the certification of the suitability of alternative land, it is clear that in all the above cases the certificates of suitability furnished by the DCFs were incorrect. Though the User Agencies paid the CA and other charges at the time of approval, CA could not be taken up due to failure in identifying suitable land. The Department did not initiate any action against the Deputy Conservators of Forests who furnished the certificates without ensuring the suitability of the land.

PCCF replied (November 2018) that alternative land will be identified to take up compensatory afforestation. However, the reply did not indicate the reasons for not seeking alternative non-forest land earlier.

3.2.5.3 Raising of Dwarf/Medicinal Plantations

Raising of medicinal plants/dwarf plantations are to be taken up in the forestland diverted for wind power and transmission line projects and accordingly, afforestation charges are to be collected from User Agencies.



Figure 3.3: Common plantation raised in area for medicinal plants species at Kappathuguda, Gadag

The intention of raising dwarf/medicinal plantations is not only to control soil erosion in these areas but also not to obstruct the overhead power transmission lines.

Audit scrutiny revealed that Gadag Division had planted common species like *Honge, Tapsi, Udevu, Hali, Bamboo* in the 125 ha diverted for wind power projects instead of dwarf/medicinal plants. This was in spite of the fact that Kappathgudda area of Gadag District was an abode of several medicinal plants/species, viz. *Somida, Anjan, Bevu, Bikku, Jeeni, Antawala, Tarre, Karimatti, Neruvate Beru, Khachu, Dhupa Mara, Pachouli, Karidigada, Kawli, Tumri, Ane Balli, Ankala Balli, Trodarsi* and *Amrutha*. This not only defeated the very purpose of the stipulations for the diversion but also was scientifically incorrect.

PCCF replied (November 2018) that local species were planted since medicinal plants had failed. However, as the stipulations were made by MoEF, directions were to be obtained from them for any deviation.

Similar violation was noticed in Belagavi Division wherein species like *Murki, Red Sander, Kadu Geru, Cherry and Sandal* were planted in 15 ha out of 45 ha diverted for wind power projects during 2015-16.

In reply, the PCCF stated (November 2018) that all the species planted had medicinal properties. Reply is not acceptable since dwarf medicinal plantations were to be raised in these areas.

The total expenditure of ₹ 1.28 crore incurred on these plantations was injudicious as non-plantation of dwarf medicinal species were in violation of prescribed norms.

3.2.5.4 Non-implementation of stipulations

The Central Government, while according Stage II approval, stipulates certain conditions⁹⁰ for undertaking afforestation and allied works to address environmental impacts in a planned and systematic manner.

Audit noticed that in seven Divisions, stipulations envisaged were not fully implemented in 14 out of 30 cases of diversion of forests. The details of stipulations which have not been implemented have been tabulated in **Appendix 3.8**.

Since conditions were stipulated for reducing the damage to environment on account of forest diversion, their non-compliance meant that no mitigation measures were implemented and hence environmental damages due to implementation of these projects continued unabated. Though the Department

⁹⁰ Preparation of Wildlife Conservation Plan, Soil Moisture Conservation Plan, Construction of retaining wall and check dam, etc.

was responsible for ensuring compliance of stipulations and non-compliance was observed (January 2016 to February 2017) by MoEF, the follow up action taken by the Department was not on record.

PCCF in reply (November 2018) stated that action is being taken to comply with MoEF stipulations.

3.2.5.5 *Improper implementation of stipulations*

In some cases, it was observed that the stipulated conditions were only partly implemented, resulting in unfruitful expenditure as brought out below:

- ❖ In Kolar Division, the Catchment Area Treatment Plan (CAT Plan) for forest diverted for the Markandeya Project provided for gap planting in 100 ha, vegetative treatment of canal sides and promotion of agro-forestry in agriculture lands, for which ₹ 37.63 lakh was collected (June 2012) from the User Agency. Plantations were raised (2014-15) in 62.07 ha of forestland and up-to-date expenditure incurred was ₹ 54.92 lakh. However, the monitoring report (January 2016) of the MoEF had observed that as per information provided, the implementation of CAT Plan had not yet been started. The CAT Plan intended to minimise soil erosion in the catchment area and prolong the life of the proposed dam. For achieving these in a time-bound manner, components like gap planting, vegetative treatment into canal sides, *etc.* were proposed. Non-implementation of the approved CAT Plan was improper.

PCCF replied (November 2018) that CAT plan was executed effectively by taking up gap plantation in 62.07 ha. However, all the activities provided for in the CAT plan were not completely implemented as stated above.

- ❖ In Madikeri Division, ₹ 6.52 crore was collected (July 2015) from M/sPower Grid Corporation of India towards diversion of 23.16 ha of forestland for erecting a High Power Transmission line. The Committee which was constituted to assess the impact, recommended taking up conflict mitigation measures⁹¹. Initially, the amount which was deposited with the Nagarahole Tiger Foundation was utilised to an extent of ₹ 2.14 crore till 2017-18 towards conflict mitigation measures, compensation towards wildlife attacks, purchase of vehicles, *etc.* The balance amount of ₹ 4.38 crore was transferred to the Kodagu Man-Animal Conflict Mitigation Foundation during January 2018.

⁹¹ Special structures, RCC pillars, de-silting and deepening of existing tanks, purchase of vehicles, *etc.*

Check of expenditure revealed deviations and diversion of funds to the extent of ₹ 66.92 lakh⁹² which was irregular. Thus, the funds collected for a specific purpose were diverted by CCF, Madikeri and DCFs of Madikeri, Virajpet and Hunsur Divisions for meeting expenditure towards forest/wildlife management, besides keeping two-thirds of the fund unutilised.

PCCF in reply stated that (November 2018) expenditure was incurred for man-animal conflict measures. The reply is not acceptable as the expenditure of ₹ 66.92 lakh incurred was not in conformity with the measures approved by the Committee.

The fact, however, remains that the unsuitable lands for raising plantations were accepted and consequently Compensatory Afforestation in 997.28 hectares was not taken up defeating the CAMPA objectives.

3.2.6 Maintenance of afforested lands

3.2.6.1 Failed plantations

Maintenance of afforestation works undertaken in the previous years from CAMPA funds shall form first charge on the funds released, unless such afforestation works, if any, have been declared as failed efforts. Details of failed efforts, if any, shall be shared with *Ad-hoc* CAMPA.

Audit scrutiny revealed that though CAMPA guidelines prescribe maintenance of plantations raised for ten years, the extent of plantations raised were not maintained after the third or fourth year indicating failure of plantations to that extent. Further, these plantations were not declared as failed plantations to take up corrective measures. It was also noticed that the matter was not communicated to *Ad-hoc*CAMPA, as detailed in **Table 3.5** below:

Table 3.5: Shortfall in maintenance of plantations not reported to *Ad-hoc* CAMPA

SI No.	Components	Extent (ha)
1	Plantations raised during 2010-11 – 2017-18 as per CAMPA APOs	5,391.23
2	Plantations raised during 2010-11 – 2017-18 as reported to <i>Ad-hoc</i> CAMPA	4,977.84
3	Plantation maintained as of March 2018 as per Progress reports	4,355.70

(Source: Details furnished by APCCF, CAMPA)

⁹² Purchase of vehicle (₹ 8.40 lakh), payment of compensation for wildlife attacks (₹ 40 lakh), wireless equipment (₹8.48 lakh), re-payment ordered in a court case (₹1.05 lakh), payment of wages/training (₹7.64) and construction of RCC hume pipe culvert (₹ 1.35 lakh).

Considering the details furnished to Ad-hoc CAMPA, the extent of failed plantations worked out to 563.19 ha (4,977.84 minus 4,355.70). However, the plantations actually failed was 1,035.53 (5,391.23 minus 4,355.70) ha with reference to plantations maintained but these details were not shared with *Ad-hoc* CAMPA.

PCCF replied (November 2018) that actual figures of failure would be obtained from concerned Divisions and shared with *Ad-hoc* CAMPA.

Further, Plantation Journals were supposed to be maintained to record the details of works carried out, as well as results of inspection conducted by higher officers, indicating status of plantations and survival percentage. However, review of Plantation Journals by Audit revealed that critical details, *i.e.* status and survival percentage, were not indicated despite inspections being conducted. Consequently, Audit could not verify whether the survival and the failure rate of plantations were within the permissible limits or not.

In addition to the above lapses, it was observed that:

i. During the year 2016-17, Chitradurga Division had not incurred maintenance cost for 333.04 ha of CA raised between 2010-11 and 2012-13 in non-forestland due to low survival rates.



Photograph 3.4: Compensatory Afforestation raised at Survey No. 9, Guttahalli village, Kolar Division

ii. In Kolar Division it was observed that the CA in non-forestland was raised in 65.20 ha (36.87 ha in Sy No. 27, Kambalapalli during 1999-2000 and 28.33 ha in Sy No. 9, Guttahalli village during 2014-15) of rocky area received in lieu of diverted forest.

While accepting the non-forest land for CA, its suitability should be verified by the DCF concerned. If no suitable lands were available, the CA would be raised in degraded forest land in double the extent. Due to acceptance of unsuitable land, the CA raised in these lands at a cost of ₹ 40.83 lakh was wasteful.

iii. In Bidar Division at Survey No 70 of Hasirugundagi, Humnabad Range, 20.15 ha of CA was raised during 2010-11. The APO and progress reports indicated that this was taken up in a non-forestland. This plantation was not maintained beyond 2016-17 due to poor survival rates. Though alternative works were taken up in the APO of 2017-18,



Photograph 3.5: Compensatory Afforestation raised as Non-forestland on forestland at Sy No 70, Hasirugundagi village, Humnabad Range, Bidar

the progress report furnished to *Ad-hoc*CAMPA shows that the plantation raised during 2010-11 had been maintained even in 2017-18, giving an incorrect data on its progress. Further, the plantation was taken up in forestland instead of non-forestland required as per stipulations.

PCCF replied (November 2018) that officers would be directed to give their comments on the overall status of plantations and its survival percentage.

In addition, an instance of advance work taken up for CA turning wasteful is brought out in **Box 3.1**:

Box 3.1

Wasteful expenditure of ₹ 1.75 crore on Compensatory Afforestation works at Antharagange area of Kolar District

During 2014-15, advance pitting works (400.86 ha), raising monsoon plantation (58.82 ha), fire line maintenance and Soil Moisture Conservation works were stated to have been executed at Antharagange area (Block A and B) by DCF, Kolar, in anticipation of approval to additional APO on the non-forestlands received from Revenue Department, at an expenditure of ₹ 1.75crore.

Based on the complaints of misappropriation of funds, the Vigilance Wing of the Department which inspected the matter found various irregularities in the execution of work, *i.e.* size and number of pits actually executed were less than as shown in the records, fire line was not executed, unscientific plantation works were done, SMC works were not executed in stipulated area, *etc.* The Vigilance Wing also observed that inspection by the higher authorities was not done.

Paragraph 117 of the Karnataka Forest Accounts Code stipulates hundred *per cent* check by the ACF and 10 *per cent* check by the DCF of the works executed both in quality and quantity. Records relating to the work like Field Note Book (FNB), to check adherence to this provision, were not produced to Audit for verification. Further, Audit noticed that ₹ 86.43 lakh (49 *per cent* of ₹ 1.75 crore) was paid to the RFO in violation of the Rules as the same should have been paid to the contractor. The laxity in observing codal provisions contributed to suspected misappropriation of funds.

In the Exit Meeting (November 2018), APCCF (CAMPA) stated that this was a clear case of misappropriation and informed that charge sheets have been issued to the DCF, ACF and RFO concerned. Further, PCCF in reply stated (November 2018) that article of charges is being issued to the Range Forest Officer, the Assistant Conservator of Forests and the Deputy Conservator of Forests concerned.

The fact, however, remains that the Department did not assess the survival status of plantations raised through site inspection. Replanting was not taken up in failed plantation areas (1,035.53 ha) and the objective of compensating the forest loss was not fully achieved.

3.2.7 Utilisation of land in excess or deviation of leased forestland

Approval to diversion of forestland for non-forest purposes is accorded under Section 2 of FC Act, 1980 by the MoEF with conditions. Lease agreements are concluded with the User Agencies to utilise the extent and location of forestlands mentioned in the agreement. All the conditions imposed at the time of clearance of the project must be adhered to by the project proponents and monitored by the authorities concerned. Further, MoEF guidelines (January 2018) stipulate levy of penalty of two times the normal NPV, for the extent used in case of violation.

Scrutiny of records revealed that in three Divisions, proponents of seven Wind Power Projects had violated the lease conditions and had either used excess forestland than approved for diversion or had utilised the forestland other than the diverted land as shown below:

- ❖ Seven⁹³ Wind Power Projects –130.22 ha of forestlands used in excess;
- ❖ Five⁹⁴ Wind Power Projects –167.57 ha of forestland used other than the approved forest area.

These violations were noticed by the Divisions concerned but no penal action had been taken so far. The penalty charges as per MoEF guidelines work out to ₹ 26.09 crore⁹⁵ for 297.79 ha of forestland used in violation. However, action had not been taken by the authorities to impose penalty as of June 2018.

PCCF replied (November 2018) that action has been undertaken to process these cases as per the guidelines issued by MoEF and outcome of the action would be intimated.

3.2.8 Concurrent monitoring and evaluation

MoEF guidelines (July 2009) stipulate earmarking of funds of up to 2 per cent of the annual outlay towards an independent system for concurrent monitoring and evaluation of the works implemented, to ensure effective and proper utilisation of funds.

During 2013-14 to 2017-18, total allocation of ₹ 2.60 crore was earmarked in APOs towards monitoring and evaluation and an expenditure of ₹ 62.50 lakh was incurred.

⁹³ M/s KREDL (1. Jogimatti&Marikanve, 2. Jogimatti&Janakal) M/s Wind World (1. Lakhahalli & Marikanve, 2. Hiriyur, 3&4. Kappathgudda) and M/s Enercon (Belagavi).

⁹⁴ M/s KREDL (1. Jogimatti&Marikanve, 2. Jogimatti&Janakal) M/s Wind World (1. Lakhahalli & Marikanve, 2. Hiriyur, 3. Kappathgudda).

⁹⁵ Normal rate of NPV = ₹ 4.38 lakh per ha; double the rate = ₹ 8.76 lakh per ha × 297.79 ha = ₹ 26.09 crore.

As per the guidelines issued by MoEF, the Steering Committee was to lay down/approve rules and procedures for functioning of State CAMPA, while the Executive Committee was to supervise the works implemented in the State out of State CAMPA funds.

However, non-monitoring of survival rates of plantations raised, execution of works in deviation from the approved WPs and APOs, raising of common species instead of dwarf/medicinal plants, raising of plantations in unsuitable and rocky areas, *etc.*, indicate that these Committees had not effectively functioned.

Thus, the independent system of “concurrent monitoring and evaluation”, a control mechanism for scheme evaluation, was necessary for taking corrective action in implementation of Schemes/Projects. Though, the evaluation of works need to be carried out each year as per norms but was not got evaluated since 2013-14 despite availability of funds.

In reply PCCF stated (November 2018) that separate external evaluation of CAMPA scheme for the years 2013-14 to 2015-16 is being taken up.

3.2.9 Uploading data on e-Green Watch portal

The e-Green Watch is the integrated e-Governance portal which facilitates automation of the various processes involved in monitoring and evaluation of the various projects being undertaken by the State CAMPA and enables administrators to monitor the progress of works, which use CAMPA funds.

As per the extant procedure, the State CAMPA/Divisions are to upload the kml⁹⁶ files relating to the assets created by them under CAMPA for monitoring by the Forest Survey of India. The details of the data uploaded in e-Green Watch as furnished by the Department is as shown in **Table 3.6:**

Table 3.6: Details of data uploaded in e-Green Watch

SI No.	Works registered	Polygons uploaded	Correct polygons	Incorrect polygons
1	13,149	10,475	2,557	2,520

(Source: Details furnished by CAMPA)

The polygons⁹⁷ uploaded should be verifiable and non-verifiable polygons are treated as Incorrect Polygons. As may be seen from the Table 3.6, the data on Correct Polygons and Incorrect Polygons furnished by the Department do not tally with the Polygons Uploaded (10,475) and no reasons for discrepancy was furnished. Further, there was not only a shortfall in uploading of polygons but also 25 *per cent* of the polygons uploaded were incorrect. The incorrect

⁹⁶ Keyhole Markup Language; A “kml” file is a file format used to display geographic data in an Earth browser such as Google Earth.

⁹⁷ A data object used to store spatial geographic information that consists of polygons, *i.e.* closed areas including the boundaries making up the areas.

polygons either show wrong locations or discrepancy in area which impacts concurrent monitoring.

3.2.10 Conclusion

‘Compensatory Afforestation’ is a mechanism to compensate for the loss of forests by planting trees elsewhere in lieu of diversion of forest for non-forest purposes approved under the provisions of Forest (Conservation) Act, 1980. The series of directives from the Supreme Court resulted in imposition of levies on the project proponent and culminated in the formation of a separate fund by the Central Government for carrying out Compensatory Afforestation and related activities in a systematic manner.

Our test-check of records showed deficiencies in the areas of approval or renewal of lease for diversion of forestlands (7785.07 ha⁹⁸) in contravention of provisions of the FC Act. Several projects were allowed to be executed by the Department, though prior approval of the Central Government was not taken in spite of that being mandatory. These projects were primarily undertaken by agencies belonging to the Government. Cases of short and non-levy of stipulated charges aggregating to ₹ 34.64 crore were also noticed. Due importance was not accorded for mutation and final notification of non-forestland as Reserved or Protected Forests.

As per MoEF guidelines, only lands suitable for afforestation should be accepted by the Department as compensation for the diverted forestland. But 997.28 ha of unsuitable lands were accepted and consequently Compensatory Afforestation in these lands could not be done. Success indicators of the plantations raised were not recorded in the Plantation Journals despite it being a mandatory stipulation and effectiveness of afforestation measures undertaken was not ensured by the Department. The absence of data made results unverifiable in Audit.

Annual Plan of Operations deduced from the Working Plan should be the basis for carrying out works but these were deviated in 10 cases without prior approval from the Competent Authority. Dwarf/medicinal species were required to be planted in the Windmill Project areas as per the APO but tree species were planted in violation of stipulations.

The Department did not engage any agency for independent concurrent monitoring and evaluation of Compensatory Afforestation works though CAMPA guidelines stipulate for compulsory evaluation study.

Though the Department complied with the rules and regulations, certain deviations/violations were noticed in the test-checked divisions, as shown in this report. The major areas of concern were those related to use of forest land

⁹⁸ 320.88 ha+ 475.77 ha + 45.10 ha + 4,443.32 ha + 2,500 ha (Ref para Nos 3.2.2.2 to 3.2.2.4).

for non-forest purposes without approval, acceptance of non-suitable lands for afforestation, not recording survival results in plantation journals, resorting to ratification of works executed in deviation and ignoring concurrent evaluation by third party consultants. These need closer attention and suitable corrective actions from the Department to ensure that the spirit of the FC Act, as endeavoured to be upheld through CAMPA, is not completely lost.

The overall shortfall in the entire State during 2013-18 was 51 *per cent*, whereas in the test checked 10 divisions, the shortfall was 34 *per cent*. Such a huge shortfall in the State (51 *per cent*) needs to be viewed seriously by the Government and corrective measures need to be initiated at the earliest to ensure compensatory afforestation.

The matter was referred to the Government in August 2018; their reply is awaited (February 2019).

MINOR IRRIGATION AND GROUND WATER DEVELOPMENT DEPARTMENT

3.3 Irregularities in execution of works

Introduction

Water bodies are built to harvest rain water to meet various needs such as drinking water, irrigation, flood control and improving the ground water table. Surface water bodies like tanks which primarily meet irrigation needs with command area up to 2,000 ha, are classified as Minor Irrigation (MI) tanks. As on 31 March 2018, the MI Department had 3,690 minor irrigation tanks with command area between 40 and 2,000 ha. The State Government makes an annual allocation for the maintenance of these tanks. As the allocation is meager, the MI Department takes up improvement or rejuvenation works of these tanks under the capital head of account to strengthen bunds, improve feeder canals and conveyance system, repair of gates, etc.

In the Budget speech of 2015-16, the Chief Minister announced a grant of ₹ 100 crore for repair works of feeder canal/canals (*raja kaluve*) and for removal of lake encroachments through Karnataka Lake Conservation and Development Authority (KLCDA)⁹⁹. In November 2015, the Secretary, MI Department approved (November 2015) an action plan for ₹ 90.95 crore towards repairs of the feeder canals and digging of boundary trenches in respect of 2,259 MI tanks in 28 districts which were to be taken up by KLCDA with a budget allocation of ₹ 30 crore under “Capital Head – 4702” during 2015-16. Out of a provision of ₹ 56.08 crore made in the Action Plan

⁹⁹ KLCDA was constituted in March 2015 with jurisdiction of lakes within the municipal corporations and Bangalore Development Authority, or any other water bodies or lakes notified by Government from time to time.

for two years as aforesaid, in respect of 1,804 tanks in the above test-checked Division offices, ₹ 24.18 crore related to excavation of boundary trenches.

The Audit Objective was to examine usefulness of the measures envisaged in action plan for preventing or clearing encroachments.

Test check of records in the offices of Chief Engineer (CE), MI (North), Vijayapura, Superintending Engineer (SE), MI Circle, Kalaburagi and Executive Engineers (EE) of 11¹⁰⁰ MI Division offices out of 21 Division Offices covering the period from 2015-16 to 2017-18 was conducted between October 2017 and March 2018 to verify the implementation of the Action Plan.

The audit observations are discussed in the succeeding paragraphs.

Audit observations

Sanction from Statutory Authority not obtained

As per the Budget announcement and the Government Order of November 2015, ₹ 100 crore was meant for water bodies falling under the jurisdiction of the KLCDA, *i.e.* tanks/lakes under Municipal Corporations, Bangalore Development Authority and any other lakes and water bodies notified by the Government. The Government while issuing the Order, approved the Action Plan and also stated that works were to be taken up with the approval of KLCDA.

The Government Order was defective as the tanks approved for repairs did not come under the jurisdiction of KLCDA but were MI tanks situated in areas falling under the jurisdiction of another authority, *i.e.* Karnataka Tank Development Authority (KTDA)¹⁰¹. Moreover, recommendations of the statutory authority which were to be obtained before according administrative approval were also not obtained by the Government. Approval of KTDA was also not obtained by MI Department though KTD Act mandates obtaining of prior approval. The statutory authority would have examined the *pros and cons* of digging of boundary trenches before clearing the proposal. Thus, approval to works by the Government by-passing statutory authority was grossly irregular and facilitated execution of works by implementing divisions. The works undertaken by overlooking the probable predicaments, as might have been raised by the authority, are fraught with the risk of physical and financial underachievement.

¹⁰⁰ Belagavi, Bengaluru, Bidar Chikkaballapur, Chitradurga, Dharwad, Kalaburagi, Kolar, Koppal, Mysuru and Vijayapura.

¹⁰¹ Karnataka Tank Development Authority was established (2014) by Government for improvement of all tanks, lakes, ponds including ground water in the rural areas in the Karnataka State.

Absence of guidelines for selection of tanks

MI tanks are scattered all over the State and are situated in remote places. Scrutiny in audit revealed that 2,259 out of 3,690 tanks were included in the Action Plan with the cost being bifurcated towards boundary trenches and feeder canals for each tank. The Government Order neither mentioned how the proposals were originated nor any mechanism of how the project costs for each tank were worked out. The criteria that were adopted for selection of these 2,259 tanks for providing boundary trenches and repairs to feeder canals were not available in the divisional offices. Audit noticed that the estimates were sanctioned by the EEs in such a way that the project costs tally with the cost shown as per the Action Plan.

Deficiencies in sanctioned estimates

The provisions under Paragraph 190 of the KPWD Code, stipulate that the sub-divisional officers should carry out all field investigations before preparing estimates for submission to the Divisional Officer. A certificate to that effect *i.e.* that the site inspection was done, should be enclosed in the estimate. However, no inspection reports were kept on record in any test checked Divisions and only a passing reference to the approval of the Action Plan was made in the report accompanying the estimates. The Divisional officers, who sanctioned the estimates, also failed to check whether the items of work included in the estimate were actually required as per field conditions by undertaking field visits.

Repairs to feeder canals

Obstructions in feeder canals affect free flow of water into tanks which in turn affects the storage of water. The sanctioned estimates should provide justification for the works proposed with all relevant details like designed storage and rainfall, actual storage, actual rainfall, condition of the feeder channel etc. and it should be ensured that deficit rainfall was not the reason for less inflow into tank. The estimate should also include a certificate that site inspection was conducted.

Audit scrutiny revealed that relevant details were absent in the reports accompanying the estimates except a general statement that removal of obstructions in the feeder canal would ensure smooth flow of water into the tank. The sanctioned estimates provided uniform quantity of silt removal¹⁰² which defies logic as the quantity cannot be the same in all the tanks. This indicates that estimates were prepared without inspecting the sites. Also, the estimates were sanctioned without any inspection by the controlling officers, *i.e.* the SE or the CE. Thus, Audit is of the opinion that expenditure of ₹ 25.40 crore spent in 11 test checked Divisions towards repairs to feeder canals lacks justification. Further, the possibility of similar deficiencies cannot

¹⁰² 60 per cent of the capacity in 98 works and 126 works in Kolar and Vijayapura divisions respectively while 50 per cent in 60 works in Chikkaballapur.

be ruled out in other divisions as ₹ 41.86crore was spent on 2,259 MI tanks towards repairs to feeder canals.

Boundary trenches

It is imperative to have title to the assets (MI tanks) in the name of the Department in the revenue records which *interalia* contain extent of land with survey numbers and village details. On the ground, it is necessary to fix boundary stones to each MI tank to guard against encroachment. The Government had not issued any guidance for field officers for undertaking the work of boundary trenches.

The Department undertook digging of boundary trenches around the tank area in respect of 2,259 tanks. Audit observed that the only justification for taking up boundary trench works was the oral instructions of the Minister of Minor Irrigation. No reasons were forthcoming as to how the trenches would help in either preventing further encroachments or removing the encroachments that had already taken place. In two¹⁰³ out of eleven divisions, fixing of boundary stones was also taken up along with boundary trenches.

The non-submission of proposal before the statutory authority deprived the Department of valuable technical advice on the feasibility/utility of the proposed measure.

The boundary trench was not an effective preventive measure as encroachers can use the tank bed by filling back the trenches. Therefore, expenditure towards boundary trenches was not a judicious decision.

Audit conducted Joint Inspection of 21 tanks with Departmental engineers which revealed that the trenches executed were either filled up with excavated earth which had been dumped on the side of the trenches or covered with jungle growth. The encroachment of tank bed for cultivation or other purposes were of intentional nature as evident from the fact that cases of encroachment were noticed despite providing boundary trenches.

Photos showing conditions of the boundary trenches



Photograph 3.6: AmmanaKere in Chikkaballapur

¹⁰³ Ballari and Kalaburagi



Photograph 3.7: MI tank in Bangalore Urban and in Chamarajanagar



Photograph 3.8: MI tank in Chikkaballapur in Chamarajanagar

The action of the Department in undertaking excavation of boundary trenches for 2,259 tanks at an expenditure of ₹ 48.09 crore without clearance from the statutory authority was unfruitful and was avoidable as this was not a sound measure for the aforesaid reasons.

Inflated rates in estimates

Schedule of Rates (SR) contain rates for different items of work which should be utilised for preparation of estimates, and rates for the items in SR are categorised under distinct chapters. The rates for a similar excavation item in different Chapters vary according to the nature of operations. For excavation item of work, the rate of ₹ 41 per cum¹⁰⁴ was available under the Chapter on ‘Canal & allied works’ whereas a rate of ₹ 77 per cum¹⁰⁵ and ₹ 134 per

¹⁰⁴ SI No. 2.02 under “Canal and allied works” of Schedule of Rates 2014-15, MI Circle, Kalaburagi.

¹⁰⁵ SI No. 1.01 under “Dam and allied works” of Schedule of Rates 2014-15 MI Circle, Kalaburagi

cum¹⁰⁶ were available under Chapters on ‘Dam/Barrage and allied works’ and ‘Canal cross drainage works’ respectively. As boundary trench was similar to a canal, the rate of ₹ 41 per cum should have been adopted.

- ❖ Audit scrutiny of estimates revealed that the Departmental officers adopted different rates varying from ₹ 41 per cum to ₹ 134 per cum for excavation for boundary trenches. In seven¹⁰⁷ test-checked divisions, rate of ₹ 41 per cum was adopted while three test-checked divisions¹⁰⁸ adopted the rate of ₹ 77 per cum and Koppal Division adopted¹⁰⁹ the rate of ₹ 134 per cum. The adoption of incorrect rates not only boosted the estimates but also gave undue benefit to the contractors. In 20 packages¹¹⁰, the undue benefit to the contractors works out to ₹ 4.57 crore.

Extra cost due to rejection of tenders

The provisions of the Karnataka Transparency in Public Procurements Act and Rules provide for acceptance of the lowest tender which meets the prescribed qualification criteria including bid capacity and past performance. The contractors who have successfully completed at least one work costing not less than ₹ 5 crore and have turnover of ₹ 15 crore and above in the preceding five years are issued Class-I license by the CE. For tenders of less than ₹ 50 lakh in value, where single cover system is followed, except for verification of the class of the contractor and Earnest Money Deposit (EMD), no pre-qualification procedure is required. However, the Tender Inviting Authority may seek *bonafide* clarification from the tenderers relating to the tender submitted by them during the evaluation of tenders.

The EE of Koppal Division invited (March 2017) short term tenders from Class-I and II contractors for ‘Excavation of boundary trench and Improvement of feeder channel’ under 15 different packages at an estimated cost of ₹ 6.22 crore. As the amount put to tender in each case was below ₹ 50 lakh, ‘Single cover system’ was adopted. Out of the above, 12 packages costing ₹ 5.05 crore were entrusted to Sri Veerayya Hiremath at ₹ 5.15 crore and 3 packages costing ₹ 1.17 crore were entrusted to Sri Narasimha Nayak at ₹ 1.19 crore. The total cost on the 15 packages was ₹ 6.34 crore (₹ 5.15 crore plus ₹ 1.19 crore).

Scrutiny revealed that Class-I contractors had participated in the tender and had quoted minus tender premium between 29.95 *per cent* and 30.93 *per cent*.

¹⁰⁶ SI No. 3.01 under “Canal cross-drainage works” of Schedule of Rates 2014-15 MI Circle, Kalaburagi.

¹⁰⁷ Bengaluru, Chikkaballapur, Chitradurga, Dharwad, Kolar, Mysuru, and Vijayapura.

¹⁰⁸ Belagavi, Bidar and Kalaburagi.

¹⁰⁹ In respect of Package 11 to 15 under MI Sub-division, Raichur.

¹¹⁰ 20 packages comprising 614 works.

The lowest tender for 15 packages amounted ₹ 4.34 crore. However, their tenders were rejected on the grounds that they did not have the required financial turnover and had not furnished copy of IT/Sales Tax returns, *etc.* Since the lowest quoted contractors were registered Class-I contractors and had furnished guarantee towards unbalanced items of work, the rejection of tenders by EE was unjustified. Further, though the tender of Sri Narasimha Nayak for Package 3 was rejected on similar grounds, he was awarded the contracts for three other packages¹¹¹ for ₹ 1.19 crore. Injudicious action of the EE in rejecting the lowest bids offered by Class-I contractors thus resulted in extra burden of ₹ 2 crore (₹ 6.34 crore *minus* ₹ 4.34 crore) to the State Exchequer.

The Government stated (November 2018) that the paragraph relating to boundary trenches and repairs to feeder canal is being reviewed and reply will be furnished in due course.

3.4 Unfruitful expenditure due to incomplete projects

The Executive Engineer, Minor Irrigation Division, Shivamogga was implementing (2016-17) eighteen Lift Irrigation Schemes (LIS) with a tender cost of ₹ 31.48 crore to provide irrigation to 2,445 hectares and these projects were awarded to contractors between 2007 and 2010. Audit test checked (2016-17) records relating to seven LIS and the observations are discussed in Paragraph(s) 3.4.1 and 3.4.2.

3.4.1 Lingering of projects due to design flaws

Defective estimation, slippages in monitoring and unauthorised execution of works lead to inordinate delay in completion of four Lift Irrigation Schemes besides unproductive outlay of ₹ 17 crore.

Proper designing of different components of a project at the estimate stage not only plays a critical role in controlling time and cost overrun but also safeguards against failure. After noticing failures of large numbers of Lift Irrigation Schemes (LIS) – either by becoming sick or under-performing – Government issued detailed guidelines (2003) for construction of LISs. The guidelines emphasised on the need for careful planning as defective design was found to be the primary cause of failure. Use of improper class and size of pipes for rising main, improper selection of pumping machinery, inadequate provision for water controlling arrangements, *etc.* resulting in leakages in joints, bursting of pipes, *etc.* were common. Paragraph 5.12.13 of the Guidelines *ibid* recommended provision of 30 cm of thick layer of

¹¹¹ Packages 2, 6 and 14.

*murrum*¹¹² bedding when rising main pipes were to be laid on expansive¹¹³ soil for firm support.

Executive Engineer, Minor Irrigation Division, Shivamogga (EE) awarded (between January 2007 and March 2010) contracts for construction of four LISs to an agency¹¹⁴ at a tendered amount of ₹ 13.02 crore for completion between January 2008 and September 2011. They were to provide irrigation benefit to 1,266 hectares (ha) of land. The works were not completed within the stipulated period and the contracts were rescinded (October 2016) at the risk and cost of the contractor. The works remained either non-operational or incomplete even though an expenditure of ₹17 crore had already been incurred.

Scrutiny (December 2016/ February 2018) of records of the EE revealed lack of care and design deficiencies while preparing the Detailed Estimates. This resulted in the LISs remaining incomplete, rendering expenditure incurred on them unfruitful, besides causing additional burden to the exchequer towards remedial measures. The lapses in each LIS are discussed in the succeeding paragraphs:

(₹ in crore)

LIS location	Estimated cost	Irrigation potential (ha)	Date of award of tender	Due date for completion	Tendered cost & Expenditure	Status of work
1. G. Thumminakatte	1.71	81	March 2010	September 2011	1.93 1.40	Rising main – 450 m delivery chamber, erection of pumps, etc. were not completed.
<p>Audit observation:</p> <p>a) Length of rising main was increased (May 2011) from 2,100 m to 2,565 m due to change in the alignment by the agency citing objection from farmers. The Department failed to ensure that the work was carried out as per the approved design, nor ensured sufficiency of controlling arrangements consequent to change in alignment.</p> <p>b) Technical Appraisal Committee (TAC) pointed out deficiencies in design/estimate regarding class and size of pipes, inadequate controlling arrangements, lower capacity of transformer, etc. after inspection (May 2015).</p> <p>c) Two estimates, one towards rectification¹¹⁵ for ₹1.32 crore and another for ₹0.99 crore towards express feeder line and 200 KVA transformer were prepared (January 2018, July 2015). The tender for express feeder line has now been invited (January 2018) while the estimate of ₹1.32 crore forwarded (November 2018) was pending with Government.</p>						

¹¹² A form of laterite (clayey material) soil.

¹¹³ Having a capacity or tendency to expand on absorbing moisture.

¹¹⁴ M/s R.N.A. Engineers (P) Limited, Bengaluru.

¹¹⁵ Including removal of pipes and relaying after subjecting to necessary tests, replacement and erection of valves, etc.

LIS location	Estimated cost	Irrigation potential (ha)	Date of award of tender	Due date for completion	Tendered cost & Expenditure	Status of work
2. Holalur	6.25	422	February 2008	March 2010	7.06 8.79	Work was completed but during trial run leakages were noticed.

Audit observation:

- LIS comprised of two stages to irrigate 422 ha of land and Stage I works were completed during December 2014. During the trial run (February 2015), heavy leakages were noticed in the joints of the rising main in the initial reach at seven locations. This was because joints were disturbed due to presence of black cotton (BC) soil as no gravel base was provided, which was necessary but was not provided for in the estimate. Concrete blocks were provided to arrest leakages and the problem recurred at 25 different locations during subsequent trial run also (May 2015).
- Chief Engineer, Minor Irrigation (South), Bengaluru (CE) inspected (13 March 2016) the work following discussion in the Assembly (4 March 2016) on abnormal delay in completion of the project and instructed to conduct longitudinal survey of the rising main of the first stage as leakages occurred.
- The contract was closed (October 2016) at the risk and cost of agency and balance works including rectification of defective works of first stage was awarded (March 2017) to another agency for ₹ 5.44 crore for completion in nine months (December 2017). The agency, after execution of rectification works at a cost of ₹ 3.04 crore (3rd RA Bill/November 2017), backed out (January 2018) citing poor quality of pipes used for rising main and underperformance of pumping machinery as the measures proved futile in the trial runs. However, no action was taken to assess the quality of the laid pipes.
- CE submitted (January 2018) to Government that despite efforts being made to arrest leakages by concreting the joints, the leakages continued to occur. Further, CE reported (January 2018) that the initial 3.80 km length of rising main runs in BC soil area and stretch in 500 m to 1,500 m runs across a road where heavy vehicles were plying, resulting in leakages in pipes. Hence, he recommended for replacement of PSC pipes by MS Pipes in both Stages estimated to cost ₹ 7.50 crore. The recommendation was also concurred (October 2018) by TAC.

LIS location	Estimated cost	Irrigation potential (ha)	Date of award of tender	Due date for completion	Tendered cost & Expenditure	Status of work
3. Kakanahasudi	2.30	339	March 2009	September 2010	2.61 2.16	Portion of Rising main not completed.

Audit observation:

- The agency laid the rising main leaving gaps midway and also changed the alignment in the initial stretch. The Department failed to ensure that the work was carried out as per approved design.
- After termination of the contract, survey was conducted (October 2016) and it was noticed that the required length of rising main was 5,700 m against designed length of 4,000 m. Any change in design parameters of rising main also involves change in sufficiency of controlling arrangements. Allowing execution of work without reviewing design was highly irregular. Test-running of pumps, motors and safety valves already installed was not done to ensure functionality of the same.
- Estimate for the balance work for ₹ 2.58 crore was submitted (September 2017) to Government which was not yet approved (November 2018).

LIS location	Estimated cost	Irrigation potential (ha)	Date of award of tender	Due date for completion	Tendered cost & Expenditure	Status of work
4. Kachinakatte	1.58	424	January 2007	January 2008	1.42 1.61	Work was completed but during trial run leakages were noticed.
Audit observation:						
a) Leakages were noticed in the rising main during trial (October 2013) and the EE attributed the leakages to non-provision of essential items in the estimate, viz. non-providing concrete bed block in joints for rising main pipeline, non-providing of <i>Murram</i> layer in black cotton soil reaches, inadequate controlling arrangements.						
b) Rectification of defective works estimated to cost ₹ 1.18 crore was submitted (June 2017) to the Government which directed the CE to submit revised estimate. The portion of work relating to rectification of defects in the rising main costing ₹ 77.84 lakh was awarded (December 2017) to another agency for ₹ 74.81 lakh for completion by September 2018. However, the work had not been commenced by the agency as of November 2018.						
Total	11.84	1266			13.02	13.96

- ❖ In all above cases, the Government had sought (August 2017/January 2018) from the CE, the details regarding extra cost recoverable from the original agency. The CE reported (January/February 2018) that the same could be worked out only after successful implementation of these Schemes. In case of design fault, the extra cost has to be borne by the Government and the contractor cannot be held responsible. Hence, chances of recovery of extra cost from the agency was remote.
- ❖ Based on the instructions (September 2016) of the Government, the CE submitted (November 2016) copies of the chargesheets issued against the officers/officials responsible for the lapses. However, further developments in the progress made in fixing responsibility were not forthcoming.

Thus, failure to prepare proper design as per guidelines, taking into account the site conditions, led to non-completion of LISs rendering ₹ 17.00¹¹⁶ crore unproductive. Besides, it resulted in additional work towards replacement of pipes, repairs to pumping machinery, providing additional controlling arrangements, etc. the cost of which had not been assessed in all cases. The accountability had not been fixed even after noticing (between February 2015 and March 2016) the lapses two years ago.

¹¹⁶ ₹13.96 crore plus ₹3.04 crore spent on rectification works.

3.4.2 Unfruitful expenditure due to non-completion of works

Failure to obtain Forest Clearance prior to entrustment of works and non-prioritisation of items of work resulted in unfinished projects, rendering an expenditure of ₹5.19 crore unfruitful.

Paragraph 209 of Karnataka Public Works Departmental Code prohibits commencement of work without acquiring the required land. For projects requiring use of forest land, the User Agencies are required to submit proposals to the Nodal Officer of the State/Union Territory and the Deputy Conservator of Forests concerned in the prescribed format as envisaged under Clause 6 of the Forest (Conservation) Amendment Rules, 2004. Forest clearance is given in two stages. In-principle approval is given in Stage I, listing out the conditions for transfer and Stage II or final clearance is given after complying with the stipulated conditions. The Regional Empowered Committee is empowered to grant approval for diversion of forest land up to 40 hectares (ha) (except mining and encroachments).

For projects involving diversion of forest land above one ha, Compensatory Afforestation had to be carried out in non-forest land of area equal to the area diverted or twice the area diverted, if it is a degraded forest. The User Agencies shall also pay the Net Present Value (NPV) and Compensatory Afforestation charges.

Executive Engineer, Minor Irrigation Division, Shivamogga (EE) took up (February 2008, August 2011, November 2011) construction of three Lift Irrigation Schemes (LIS) at an estimated cost of ₹ 6.64 crore to irrigate 693 ha of land. The works were entrusted to contractors at the tender cost of ₹ 7.80 crore for completion within two years of entrustment, including the monsoon period. By the end of February 2018, ₹ 5.19 crore had been paid to the contractors and none of the LIS was made operational though they were planned to be completed within two years of their commencement.

Audit scrutiny of the records at the Office of the EE revealed that the works were taken up even without obtaining Stage I clearance for diversion of forest land. Moreover, there was an incorrect assessment of the extent of forest land required and non-prioritisation of items of works (machineries were procured before completion of civil works), as discussed below:

- ❖ The quantum of forest land required for the works was not assessed correctly by the Minor Irrigation Department. On verification, the Department of Forests, Ecology and Environment found that the extent of forest land required was incorrectly assessed and returned the proposals for necessary correction. Details are as given in the **Table 3.7** below:

Table 3.7: Assessment of forest land

Sl No.	Name of the Lift Irrigation Scheme	Date of entrustment	Forest area required as per original proposal (ha)	Forest area as assessed by Forest Department (ha)	Tender cost	Expenditure incurred
					₹ in crore	
1	LIS at Honnekudige	14.02.2008	2.179	1.9940	4.44	2.21
2	LIS at Kasaravalli	10.06.2014	0.780	1.2900	1.71	1.54
3	LIS at Heggodu	10.06.2014	0.318	0.6975	1.65	1.44

- ❖ In respect of LIS at Honnekudige, the proposal was closed (March 2017) by the MoEF¹¹⁷ as necessary details of the area required along with index map sought for (October 2015) were not furnished. Fresh proposals for diversion of forest land has not been furnished by the EE as of March 2018;
- ❖ In respect of LIS at Kasaravalli, the forest area required was incorrectly assessed as 0.78 ha against the requirement of 1.29 ha after verification. As the requirement of forest land was in excess of one ha, equivalent non-forest land had to be identified by the User Agency for taking up Compensatory Afforestation besides payment of NPV. The contractor had executed work in the forest area without approval and a Forest Offence Case was registered (April 2014) against him. Improper assessment of forest area required for the scheme not only resulted in delays but also underestimated the cost;
- ❖ In respect of LIS at Heggodu, details sought (October 2016) by the MoEF had not been furnished by the EE as of March 2018.
- ❖ As the works were entrusted to contractors in anticipation of obtaining clearance, it was imperative on the part of the EE to take expeditious action to obtain Forest Clearance by submitting all the relevant details. Even after a lapse of a considerable period (ranging between four and seven years) since the commencement of works, requisite details were not furnished to obtain in-principle clearance (Stage I) for any of the projects. Further, timely submission was not monitored by the Superintending Engineer/Chief Engineer which indicates deficient monitoring.
- ❖ The programme of works should prescribe completion of civil works before supply of machineries as they are required only at the end. However, the Department failed to specify such conditions and the contractors supplied (before September 2015) the machineries like motors, pumpsets, transformers, *etc.* for which part payments amounting to ₹ 1.53

¹¹⁷ Ministry of Environment and Forests, Government of India.

crore were made. The machineries so procured were not tested for quality as trial run could not be conducted. As three years had already elapsed, the warranty clauses also would have expired by now and for any wear and tear to the machineries so procured, the suppliers would not be liable for replacement or rectification of defects, if any. Hence, the entire cost thereof would have to be borne by the Department thereby inviting more financial burden.

Failure to comply with statutory provisions resulted in non-completion of projects rendering an expenditure of ₹ 5.19 crore unfruitful besides cost escalation which had not been quantified (February 2018).

The matter was referred to Government in February 2018 and reminded in September and October 2018; their reply is still awaited (February 2019).

PUBLIC WORKS, PORTS AND INLAND WATER TRANSPORT DEPARTMENT

3.5 Payment to Contractors in contravention of agreement

Karnataka State Highways Improvement Project (KSHIP) took up *seven* packages of State Highways improvement works under Engineering, Procurement and Construction model¹¹⁸ (five works) and Hybrid Annuity Model (two packages). One each package from both the contract model were test checked in audit during 2017-18 and the observations are discussed in Paragraph 3.5.1 & 3.5.2.

3.5.1 Excess Payment

The Project Director paid ₹ 13.62 crore in contravention of Concession Agreement while making payment for first annuity instalment in respect of State Highway Improvement Project.

The Chief Project Officer, Project Implementation Unit (PIU), Karnataka State Highways Improvement Project (KSHIP) signed (March 2014) a Concession Agreement (CA) with M/s Mysore Bellary Highway Private Limited, (Concessionaire) for improvement of State Highway 3 and 33 from Malavalli to Pavagada for a total length of 193.34 km including construction of cross-drainage works. The CA was for a period of 10 years comprising 30 months (910 days) for construction and 90 months towards maintenance of road by the Concessionaire at a total project cost of ₹1,306 crore. As per the agreement, the Concessionaire was to be paid ₹ 239.20 crore towards cost of construction, payable in five instalments on achieving specified milestones. Maintenance

¹¹⁸ A form of contract wherein the contractor is responsible for all the activities from the design, procurement, construction, commission and handover the project to the employer.

cost was to be paid in 15 bi-annual instalments on the dates specified in Schedule 'M' and at the rate of ₹ 71.15 crore per instalment, subject to the terms and conditions of the CA. The scheduled date of completion of construction was 9 June 2017, 911 days from 12 December 2014 (Appointed Date, *i.e.* commencement date).

As per Clause 15.1 of the CA, the Commercial Operation Date (COD) would be the date on which the Completion Certificate (CC) or Provisional Certificate of Completion (PCC) was issued by the Independent Engineer¹¹⁹ (IE) for the completed part, subject to any deduction for any negative change in the scope of work. As per Clause 27.2 of the CA, annuity payment would commence from the date six months after the scheduled date of completion (9 June 2017), if COD was achieved on or before that date. If COD was beyond that date, the annuity payment would commence from the date provided in the Schedule 'M' which falls after the COD.

As of May 2018, the Concessionaire had completed the construction work in all respects except for a length of 1.128 km and had received ₹ 221.75 crore towards construction cost and ₹ 71.15 crore as first annuity instalment.

Scrutiny (May 2018) of the records of the Project Director (PD), PIU, KSHIP revealed excess payment while releasing the first instalment of annuity, which is discussed below.

The Concessionaire requested (October 2017) for issue of PCC effective from 9 June 2017 for completion of works in 170 km. The IE conveyed (November 2017) to the PD, KSHIP that the Concessionaire was not entitled for issue of PCC on the ground that safety works costing ₹ 15.05 crore remained unexecuted and hence project completed to the extent could not be declared for commercial operation. However, based on instructions by the PD, the IE issued (December 2017) PCC (*i.e.* commencement of commercial operation) with effect from 9 June 2017 for a length of 170 km.

The IE, taking cognizance of shortfall in completion of work in 23.34 km¹²⁰, recommended (February 2018) to the PD that the Concessionaire was entitled for first annuity payment with proportionate reduction¹²¹ as per Clause 28.4.2 and 28.4.3 of CA. The reduction in annuity instalment for 12.07¹²² *per cent* shortfall works out to ₹ 13.62¹²³ crore. Thus, against the first annuity

¹¹⁹ Appointed by the Employer, *i.e.* PD, KSHIP for monitoring, evaluation of construction, certification of various stages of project construction and certification of payments.

¹²⁰ 193.34 kms (total project length) – 170 kms (completed length) = 23.34 kms.

¹²¹ As per Article 28.4.2 and 28.4.3 of CA, the annuity payment shall be reduced by one *per cent* for every one *per cent* fall in actual lane availability up to five *per cent* compared to assured lane availability. Beyond five *per cent*, the annuity payment should be reduced by two *per cent* for every one *per cent* shortfall.

¹²² $23.34/193.34 = 12.07 \text{ per cent}$.

¹²³ $71.15 \times \{(1/100 \times 5) + (2/100 \times 7.07)\} = 71.15 \times (0.05 + 0.1414) = 71.15 \times 0.1914$.

instalment of ₹ 71.15 crore, the Concessionaire was entitled to receive ₹ 57.53 crore only. However, PD, KSHIP advised (March 2018) the IE to reconsider the recommendation, who in turn recommended (March 2018) for release of the full amount which was paid to the Concessionaire in the same month. The payment of ₹ 13.62 crore was thus in violation of the CA and this action of the PD, KSHIP was highly irregular as it not only resulted in excess payment to the Concessionaire, but also taking over of the road without completion of safety works, potentially compromising the safety of the traffic/users.

The Government in their reply stated (September 2018) that the reduction of annuity would work out to ₹ 2.13 crore, on a proportionate basis, considering that the amount of work completed as on the date of payment of annuity (26th March 2018) was 97 *per cent*. This reduction is much less than the amount of ₹ 13.62 crore objected by Audit.

The reply is not acceptable as Clauses 28.4.2 and 28.4.3 stipulate reduction in annuity payment for fall in actual lane availability as on the scheduled date, i.e. the Commercial Operation Date (COD), which is defined as per Clause 15.1 of the Concession Agreement. As the Contractual Agreement does not mention the date of payment of annuity as the criteria for a *pro rata* reduction of annuity, not enforcing the contractual provisions was irregular which had resulted in an excess payment of ₹ 13.62 crore to the contractor.

3.5.2. Unintended benefit to contractor

Incorrect adoption of the date of completion of work in a road construction contract resulted in short levy of ₹ 4.90 crore towards delay damages.

As per the General conditions of contract (Clause 8.2), the contractor shall complete the whole of the works within the date stipulated for completion, and failure to do so shall attract payment of delay damages as per Clause 8.7. The delay damages shall be the sum stated in the contract which shall be paid for every day of delay between the relevant date for completion and the date stated in the 'Taking Over Certificate'. The total amount payable shall not exceed the maximum amount of 10 *per cent* of the contract amount.

The work of "Upgradation of road from Chowdapura (0+000) to Kalaburagi - (28+630) (SH 22)" was entrusted (March 2011) to a Contractor at a tendered cost of ₹ 61.55 crore with a stipulation to complete the work by January 2013. The completion date was extended primarily due to the inability of the Department to provide encumbrance free land. Based on the recommendation of the Construction Supervision Consultant (CSC)¹²⁴, the Project Director (PD), Karnataka State Highway Improvement Project – II (KSHIP) approved (May 2016) extension of time (up to 18th April 2014) for completion of the

¹²⁴ M/s EGIS International in joint venture with AARVEE Associates.

work, besides levying delay damages for 7 days¹²⁵ at ₹ 3.83 lakh per day amounting to ₹ 0.27 crore. The CSC, after more than two years, issued (June 2016) “Taking Over Certificate” (TOC) certifying that the work was substantially completed on 25th April 2014. As the road was declared (March 2014) as a National Highway (NH – 150E), it was handed over (June 2016) to the National Highway authorities.

Scrutiny of records (June 2017) in the office of the PD, KSHIP, Bengaluru revealed that the work was not completed on the 25th April 2014 as certified in the TOC. The pavement works were under construction at that point in time and were completed only during August 2014 as seen from the progress report. Hence, delay damages should have been levied for 135 days (from 19 April 2014 to 31 August 2014) at ₹ 3.83 lakh *per* day which works out to ₹ 5.17 crore, whereas only ₹ 0.27 crore was proposed (May 2016) to be recovered from the Contractor. The amount was yet to be recovered (September 2018) from the final bill¹²⁶ submitted during November 2016 as it was still not paid. This short levy of delay damages resulted in unintended benefit of ₹ 4.90 crore to the contractor.

On this being pointed out, the PD replied (July 2018) that:

- ❖ Work was substantially completed on 18 April 2014 and the balance works remaining to be completed as on that date were of minor nature, which did not interfere with the smooth plying of vehicles on the already upgraded road; and
- ❖ Notices were issued (March 2015/August 2015/November 2015) to the contractor with a view to speed up the completion of the balance works and there were no patent delays attributable to the contractor.

The reply is not acceptable for the following reasons:

- ❖ The pending works were not minor works as claimed by the PD. Even the bituminous layers¹²⁷ were not completed in full as on 25th April 2014, *i.e.* on the taking over date;
- ❖ As per provisions of the Agreement (Clause 10.1), the “Taking Over Certificate” shall be issued to the Contractor by the CSC within 28 days after receiving the Contractor’s application. The Contractor requested (18 January 2014) for taking over a part of the section completed which was rejected by the CSC (14 February 2014) as the section of the road to be taken over was not specified. However, the CSC issued the “Taking Over Certificate” effective from 25 April 2014 while no further application was received from the Contractor and moreover, this certificate was issued after completion of the Defect Liability Period (25 April 2015). Audit scrutiny also revealed that the Contractor had carried out rectification of defects during June 2016, *i.e.* after the Defect Liability Period;

¹²⁵ From 19 to 25 April 2014.

¹²⁶ ₹ 56.94 crore (excluding ₹ 8.71 crore towards price adjustment).

¹²⁷ Providing Dense Bituminous Macadam layer and Bituminous Concrete layer.

- ❖ Moreover, the payment schedule is linked to completion and not partial completion – howsoever unsubstantial; and
- ❖ The reasons for delay attributable to the Department were duly considered while granting the extension of time from 18 January 2013 to 18 April 2014 and thus, further delay was entirely attributable to the contractor.

In view of the above lapses, the “Taking Over Certificate” issued with retrospective date was irregular and delay damages for 135 days were leviable.

The matter was referred to the Government in February 2018 and reminded in September and October 2018; their reply is awaited (February 2019).

3.6 Undue benefit to contractor

Adoption of uneconomical rates in estimate and improper regulation of rates for excavation items coupled with short levy of liquidated damages had resulted in undue benefit of ₹ 11.14 crore to the contractor in a building construction contract.

The cost of excavation by mechanical means is cheaper when compared to excavation by manual means and Schedule of Rates (SR) of Public Works, Ports and Inland Water Transport Department (PWD) includes distinct rates for both types of excavation for various types of soil strata including soft rock/hard rock.

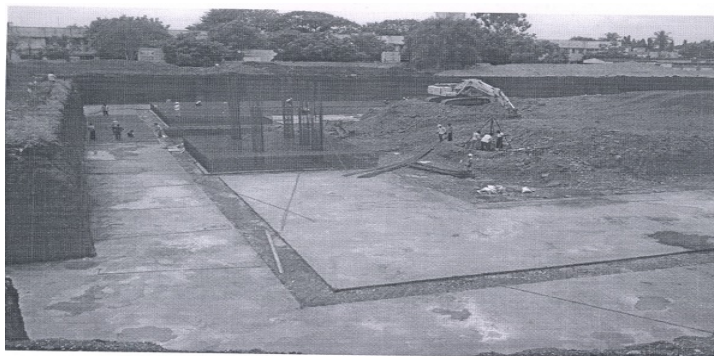
The contract for ‘Upgradation of Teaching Hospital to Institute of Medical Sciences at Bidar’ was awarded (April 2014) to M/s NCC Limited, Bengaluru (contractor) for a negotiated amount of ₹ 95.95 crore (19 *per cent* above the amount put to tender, *i.e.* ₹ 75.97 crore) with stipulation to complete the work by April 2016. The work was completed in March 2017 at a total cost of ₹ 110.09 crore (including variation items¹²⁸) and the contractor was paid ₹ 93.15 crore.

Scrutiny (September 2017) of records at the Office of the Executive Engineer, PWD Division, Bidar revealed undue benefit to the contractor, as detailed below:

- ❖ The Department while preparing the estimate adopted rates for excavation by manual means despite a huge quantum (38,842.58 cum) of excavation. Though photographic evidences revealed that the items were executed by mechanical means, the Department did not regulate the payments by invoking Clause 35.3¹²⁹ of the Conditions of Contract.

¹²⁸ ₹ 14.14 crore towards execution of quantities beyond 125 *per cent* of tendered quantities and extra items.

¹²⁹ Clause 35.3 of the conditions of contract provides for substitution/alteration of any tendered item during execution and payment for the substituted item has to be made at the relevant rate available in SR, plus or minus the tender percentage already accepted.



Photograph 3.9: Excavation by mechanical means

Failure to provide mechanical means of excavation in the estimate *ab initio* and to regulate payment as per the terms of the agreement resulted in over payment of ₹ 1.69 crore to the contractor as detailed in **Table 3.8:**

Table 3.8: Details of overpayment

(Amount in ₹)

SI No.	Excavation	Rate for mechanical means (SR 2013-14)	Rate payable (with 19 % tender percentage)	Rate paid (Tender Rate)	Difference (5 – 4)	Quantity executed (cum)	Over-payment (6 × 7) (₹ in lakh)
-1-	-2-	-3-	-4-	-5-	-6-	-7-	-8-
1	Hard soil	30.23	35.97	260	224.03	6,077.49	13.62
2(a)	Soft rock (without blasting)	40.25	47.90	600	552.10	25,829.08	142.60
2(b)	Exceeding 125% of the tendered quantity	40.25	47.90	772.31	724.41	1,717.04	12.44
Total							168.66

(Source: Details furnished by the Division)

The contractor failed to complete the work within the stipulated period (April 2016) and requested extension of time up to March 2017. Clause 41 of the agreement provides for levy of Liquidated Damages (LD) for delay in completion of work at a minimum rate of 0.1 *per cent* of contract price per day subject to a maximum of 10 *per cent* of the contract price.

- ❖ The Executive Engineer recommended for levying Liquidated Damages (LD) of ₹ 3,000 per day for 217 days of delay attributable to the contractor as against LD of ₹ 9,59,500¹³⁰ per day stipulated in the agreement. However, the Chief Engineer, Communication & Buildings (North East), Kalaburagi enhanced the rate of LD to ₹ 4,000 per day for 366 days and ₹ 13.44 lakh was recovered. The LD recovered was not in conformity with the terms of the contract. For delay of 217 days, the LD works out to ₹ 20.82 crore but limited to ₹ 9.59 crore¹³¹ in view of the conditions of the contract. Thus the short recovery of LD works out to ₹ 9.45 crore.

¹³⁰ 0.1 *per cent* of the contract price (₹95.95 crore) = ₹ 9,59,500.

¹³¹ 10 *per cent* of the contract price.

Thus, improper regulation of rates for excavation items and short levy of LD had resulted in extending undue benefit of ₹ 11.14 crore¹³² to the contractor.

On this being pointed out, the Executive Engineer replied (September 2017) that feasible items for excavation of foundation of the building were adopted, executed and paid as per the estimate sanctioned by the Chief Engineer. Further it was stated that the rate for mechanical excavation provided in the SR was only for a depth of excavation up to 3 metres with shoring and bracing but the actual excavation was for a depth up to 6 metres without shoring and bracing. Regarding short levy of LD, the Executive Engineer replied that LD of ₹ 24 lakh has been deducted from the bills of the contractor. Reply is not acceptable as the rate adopted for manual means in the estimate was for a depth of 1.5 metres only which was paid for excavation up to 6 meters even though contractor had actually executed the excavation by using machineries. Further, the LD levied was not in accordance with the Conditions of the Contract and discretion was not envisaged in the agreement.

The matter was referred to the Government in April 2018 and reminded in September and October 2018; their reply is still awaited (February 2019).

3.7 Excess payments to the contractor

The Government of Karnataka approved (2012-13 to 2014-15) Construction of *seven* buildings in Mysuru district. These works were awarded (2012-13 to 2014-15) to different contractors by the Executive Engineer, Buildings Division, Mysuru and the records relating to *three* works costing more than ₹ *two* crore were test checked (May 2017 and 2018) in audit and observations are discussed in the paragraphs 3.7.1 and 3.7.2.

3.7.1 Overpayment to Contractor

Overpayment of ₹1.29 crore due to treatment of an item of work as variation item contrary to conditions of contract and also for undertaking excavation beyond the required depth.

Executive Engineer (EE), Public Works, Ports and Inland Water Transport Department Division (PWD), Mysuru awarded (March 2015) a contract for construction of Government Maharani's Ladies Hostel building at Paduvarahally in Mysuru district to M/s Ramkrishy Infrastructure Private Limited (Contractor) for ₹ 29.33 crore (4.82 *per cent* above the Schedule of Rates of 2014-15) for completion in 15 months. The Contractor was paid ₹ 27.99 crore (inclusive of additional items) and work was completed in March 2017 and final bill yet to be paid (November 2018).

¹³² Over payment: ₹ 1.69 crore + Short recovery of LD: ₹ 9.45 crore = ₹ 11.14 crore.

Scrutiny (May 2017/May 2018) of records of the EE, PWD (Special) Division, Mysuru¹³³ revealed overpayments to the contractor besides additional cost to the exchequer, as discussed below:

- ❖ The estimate for the work provided for excavation for foundation in ordinary soil/hard soil to an extent of 11,952 cum. As marshy soil was encountered during excavation, an additional quantity of 23,578 cum was excavated and the same was treated as extra item, as this was not there in the agreement. The Department adopted the specification 'Item No. 2.23.4 as per the Schedule of Rates 2014-15 - Excavation in marshy soil by mechanical means with backfilling' and paid an additional ₹ 73.92 lakh for this 23,578 cum at ₹ 313.52 per cum. In addition, the Contractor was also paid ₹ 2.03¹³⁴ crore for disposal of 28,686 cum of excavated earth and for refilling the foundation with 27,035 cum of gravel brought from an outside source on the plea that the excavated soil was not suitable for backfilling. However, the rate of ₹ 313.52 per cum paid for excavation in marshy soil was inclusive of backfilling;
- ❖ As seen from the data rate¹³⁵, 0.5 cum of gravel has to be mixed with one cum of excavated marshy soil to make it reusable. Hence, Contractor had to bring 11,789 cum of gravel for mixing with 23,578 cum of marshy soil so as to improve its characteristics for backfilling as per the item of work. The EE confirmed (May 2018) that mixing of gravel with excavated soil was not done by the Contractor and hence the excavated soil was allowed for disposal. The action of the EE in allowing disposal of excavated soil was not acceptable as the Contractor was paid the full rate which included gravel mixed excavated earth. Further, hard soil (highest grade amongst the three types of general classification of soils) obtained during excavation which was available for backfilling was also allowed to be disposed off, without any justification;
- ❖ Considering that full rate was paid for the excavation in marshy soil item, the possibility of usage of excavated material mixed with gravel for backfilling cannot be ruled out. Thus, the payment of ₹ 2.03 crore made towards disposal of hard/marshy soil and supply of gravel from other sources for backfilling was highly questionable. Since payment for supply of gravel was also made under the composite item, ₹ 1.03 crore paid separately was not admissible and hence recoverable;
- ❖ Chief Engineer, Communication & Buildings, Bengaluru (CE) during inspection (2nd May 2015) instructed to restrict the depth of excavation, which had reached up to RL¹³⁶ 95.50 meters, to RL 95 meters, *i.e.* further

¹³³ Jurisdiction of the work was transferred to this Division formed in July 2015.

¹³⁴ Disposal of earth - 28,686 cum × ₹350= ₹1.00 crore. Supply of gravel - 27,035 cum × ₹382.19= ₹1.03 crore.

¹³⁵ A data rate is prepared for any item not found in the sanctioned Schedule of Rates on the basis of actual cost of materials, labour, lead, lifts and weightage (Paragraph 14.11 of Karnataka Public Works Departmental Code).

¹³⁶ Reduced Level.

by 0.50 meters depth, and provide *murrum* thereafter. However, scrutiny of Measurement Books revealed that the depth of excavation was not restricted as instructed by the CE and the actual depth of excavation varied between RL 93.12 and RL 93.51 meters, involving excavation of an additional 8,330 cum. The contractor was paid ₹ 26.12 lakh towards the same, which was not admissible as it was to be borne by the Contractor.

On this being pointed out, EE stated (June 2018) that disposal of excavated soil was allowed as per the Inspection Notes (March 2015) of CE.

The reply is indicative of the fact that the CE's decision to dispose off the excavated soil was not in conformity with the specification of the item. In addition, the Contractor was paid the full rate for excavation in marshy soil which was inclusive of cost towards supply of gravel and certified as executed as per the specification.

The matter was referred to the Government in May 2018 and reminded in September and October 2018; their reply is still awaited (February 2019).

3.7.2. Inadmissible payment to contractor

Ignoring the provisions of agreement, the Divisional Officer paid ₹ 98.97 lakh towards price adjustment for ineligible period and for items which were already included in the tender.

As per Government Order (November 2008), for works costing more than ₹ 50 lakh and period of completion exceeding 12 months, the Price Adjustment (PA) Clause should be included in the tender documents to adjust for increase or decrease in rates and prices of labour, materials, fuels and lubricants, *etc.* during the period of contract. PA shall not be admissible if the period of contract is extended because of the lapses by the contractor.

Executive Engineer (EE), PWD Special Division, Mysuru entrusted (April 2012) the work of construction of the District Court Complex at Malalavady to a contractor at a tendered cost of ₹ 21.19 crore. The stipulated time for completion of the work was October 2013. The work was completed in July 2015 and an amount of ₹ 20.42 crore was paid (March 2017) to the contractor which included ₹ 1.25 crore towards PA.

Scrutiny of records (May 2017, May 2018) at the Office of the EE revealed that the time for completion of the work was extended (upto November 2014) on the request (September 2014) of the contractor with an undertaking given by him that no compensation will be claimed for the extended period. The Superintending Engineer (SE), PWD Circle, Mysuru approved (December 2014) the time extension with a stipulation that no extra financial implication would be admissible for the extended period. Thus, PA was admissible only for the work executed up to October 2013. Despite specific instruction by SE and ignoring the provisions of the agreement, EE, however, paid PA claimed

by the contractor of ₹ 1.25 crore which included ₹ 80.60 lakh for the work executed during the extended period of contract.

In the above work, the tender item of “earthwork in surface excavation for levelling and lowering the ground” included 20 *per cent* extra rate for excavation under water conditions and/or foul condition and also for bailing/pumping out and removing slush. The tender also provided an item for “filling sides of foundation up to plinth in layers”. Preparation of site and clearing the debris at the site were the responsibility of the contractor for which no additional payments should be made. Audit scrutiny, however, revealed that “removing the silt at the site”, “dewatering” and “filling sides of foundation” were treated as extra items and an amount of ₹ 18.37 lakh¹³⁷ was paid(March 2017).

Thus, ₹ 98.97 lakh was paid to the contractor towards inadmissible PA and for items already included in the tender.

On this being pointed out, the EE replied (May 2018) that this would be recovered from the contractor.


The matter was referred to the Government in May 2018 and reminded in September and October 2018; their reply is still awaited (February 2019).



Bengaluru
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New Delhi
The

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Comptroller and Auditor General of India

¹³⁷ For removal of silt - ₹ 3.94 lakh and for dewatering ₹ 14.43 lakh.