

Chapter III

Compliance Audit

CHAPTER III

COMPLIANCE AUDIT

FISHERIES DEPARTMENT

3.1 Functioning of Agency for Development of Aquaculture Kerala (ADAK)

3.1.1 Introduction

The Agency for Development of Aquaculture, Kerala (the Agency) is an Autonomous Body registered (May 1989) under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. It functions under the Department of Fisheries.

The Agency is mandated to promote aquaculture¹ and its related activities in the State. Towards this, it undertakes implementation of various schemes sanctioned by the Government. The Agency operates six aquaculture farms² which function as model/demonstration farms, a hatchery³, three PCR (Polymerase Chain Reaction) Laboratories⁴ and an Aquarium⁵.

The Agency is headed by an Executive Director, assisted by a Joint Executive Director, and a Deputy Director. Various schemes undertaken by the Agency are implemented through its two Regional Offices at Alappuzha and Ernakulam, headed by respective Regional Executives.

The objective of the Audit was to examine whether the programmes were implemented according to the existing regulations and guidelines.

Audit scrutinised the records relating to the Agency in the Department of Fisheries, Directorate of Fisheries, Agency Headquarters, regional and field offices of the Agency and covered the period from 2013-14 to 2017-18. Audit also conducted joint physical verification (JPV)/beneficiary survey of selected schemes, wherever found necessary.

¹ Aquaculture means growing any aquatic animals or plants by collecting and conserving them naturally or artificially in restricted circumstances in any private or public water body or in any aquatic environment and includes cage culture, pen culture, running water fish culture, ornamental fish farming, fish farming in reservoirs

² At Eranholi, Kadapuram, Poyya, Njarackal, Edakochi and Ayiramthengu

³ At Odayam engaged in the production of post larvae *Penaeus monodon*

⁴ Two independent PCR labs at Thevara and North Paravur and one PCR lab attached to Hatchery at Odayam

⁵ At Neyyar

3.1.2 Audit findings

3.1.2.1 Non-compliance with provisions of Coastal Aquaculture Authority Act, 2005

The Coastal Aquaculture Authority (CAA) was established under the Environment (Protection) Act, 1986 as per the directives of the Hon'ble Supreme Court in order to protect the coastal environment from indiscriminate exploitation. The CAA regulates the coastal aquaculture⁶ activities through the provisions of the Coastal Aquaculture Authority Act, 2005 (the Act). The Act stipulates mandatory registration of farms and adherence to the guidelines/instructions issued by the CAA.

All the six farms and the hatchery operated by the Agency are located in coastal areas and so, come under the purview of the Act. Two of the farms, located at Kadapuram and Edakochi, were directly under the Department of Fisheries prior to the year 2016. Compliance with the provisions of the Act and the Rules made thereunder by the other four farms and one hatchery which were under the Agency from the beginning is given in Table 3.1 below:

Table 3.1: Status of compliance with CAA registration norms

Sl No.	Farm/Hatchery	CAA Registration No.	Activity Registered for	Deviation from Registration conditions noticed
1.	Odayam (Hatchery)	Not obtained	-	-
2.	Ayirem thengu	Not obtained	-	-
3.	Eranholi	KL-II-2013 (668)	Traditional Farm practice ⁷ of fish and shrimp culture	The registration expired on 7 th April 2018 but the farm was yet to apply for renewal. Different species of fish were being cultured following non-traditional farm practices.
4.	Poyya	KL-II-2015 (1068)	Traditional Farm practice of fish and Shrimp culture including 4 hectares for Pacific white shrimp (<i>Litopenaeus vannamei</i>)	Contrary to the activity registered for, major portion of the farm land (24.27 hectares of 39.15 hectares) was used for culturing fish using non-traditional farming practice. During the years 2015-16 and 2016-17 <i>L. Vannamei</i> was cultured.
5.	Njarackal	KL-II-2016 (1271)	Culture of <i>Penaeus monodon</i>	Instead of culturing <i>Penaeus monodon</i> , the farm cultured milk fish (<i>Chanoschanos</i>)

⁶ "Coastal aquaculture" means culturing, under controlled conditions in ponds, pens, enclosures or otherwise, in coastal areas, of shrimp, prawn, fish or any other aquatic life in saline or brackish water; but does not include fresh water aquaculture; (Section 2(1)(c) of The Coastal Aquaculture Authority Act, 2005)

⁷ In traditional farming, seeds of shrimps and fishes are allowed to enter through tidal water and then trapped. After a short duration of growth, they are periodically harvested during full moon and new moon periods

The Agency, mandated to promote development of aquaculture in the State undermined the efforts to promote responsible and sustainable aquaculture through its non-compliance with the regulatory requirements.

Audit also observed that though the farms and the hatchery did not comply with the regulatory requirements, the Government sanctioned projects without insisting on the compliance with CAA norms.

The Government replied (September 2019) that the agency initiated/would initiate actions to comply with the regulatory requirements.

Operational issues

3.1.2.2 Non-adherence to guidelines in culturing of White leg shrimp

White leg shrimp (*Litopenaeus vannamei*) is an exotic species of shrimp. As it is vulnerable to viral infections that afflict native crustaceans⁸, the CAA notified (April 2009) detailed guidelines for the culture of this species with emphasis on adoption of strict bio-security measures. The CAA also issued certain specific “Do’s and Don’ts” for its culture, a copy of which was forwarded to the agency by the CAA.

The guidelines and other instructions *inter alia* prohibited the culture of other crustacean species within the same farm and discouraged the farming of White leg shrimp if the neighbouring farms cultured non-SPF⁹ native species. The depth of water in the farm ponds was to be maintained at 1.5 metres.

The Government accorded (May 2015) administrative sanction to the project ‘Revamping of Poyya farm’ at a cost of ₹1.15 crore. The components of the project included farming of White leg shrimps and fin fishes namely, Pompano, Sea bass, Grey mullet and Pearl spot. The Agency obtained (July 2015) permission from the CAA for culturing White leg shrimps in four hectares of the farm at Poyya in Thrissur district.

The Agency cultured two crops of SPF white leg shrimp. The first crop seeds were stocked (12 January 2016) in two ponds of one hectare each. The culture period of the species was 120 days. But the crop was subjected to distress harvest¹⁰ on the 68th day as shrimp mortality was noticed. The harvest yielded 365 kg against the target of 11,200 kg¹¹. In a report submitted (April 2016) to the Director of Fisheries (DoF), the

⁸ An arthropod of the large, mainly aquatic group Crustacea such as a crab, lobster, shrimp, or barnacle

⁹ SPF - ‘Specific Pathogen Free’ is a term used as a guarantee which denotes free of particular pathogens

¹⁰ As decided by the Technical Committee in March 2016

¹¹ As per Detailed Project Report

Executive Director contended that the shortfall was either due to low productivity of the ponds or infection of EHP¹² for which testing facilities were not available.

The Agency did another crop (May 2016) of the same species which also showed mortality. The harvest made (June 2016) after 53 days yielded 1,400 kilograms of shrimp. The dead shrimps were found positive for White Spot Syndrome Virus (WSSV). The Deputy Director of Fisheries opined (September 2016) that the outbreak of WSSV might have occurred due to the entry of disease carriers in to the culture ponds through clay bunds which were not sufficiently compact, allowing minor seepages. Audit observed the following:

- The Agency maintained the water level in the ponds at one meter instead of 1.5 meter stipulated by CAA.
- In contravention to the guidelines, during the same period the Agency also farmed mud crabs, a crustacean species, which are one of the carriers of viral pathogens. Introduction of the viral pathogens through crabs which move from pond to pond over and through land barriers could not be ruled out.

Non-adherence to the guidelines issued by the MoA/CAA could also have contributed to the failure of both the crops. Further, it was observed that in violation of CAA registration conditions the agency farmed other fin fishes under the project, which also failed to achieve its target.

The farmers of the State were thus deprived of the benefits that would have accrued by successful introduction of the new species through the new technology.

The Government replied (February 2019) that the guidelines were an advice or good management practice which could be altered to suit local conditions. The reply is not acceptable as the registration conditions clearly state that the owner shall comply with all instructions/conditions issued by the CAA.

3.1.2.3 Non-achievement of project objectives

Traditional brackish water paddy-shrimp farming system of Northern Kerala called Kaipad farming is an integrated organic farming system. The rice obtained from the paddy cultivated in these wetlands is included in the Geographical Indication¹³ Registry as '*Kaipad Rice*' due to its unique qualities. In Kannur district, out of the total area of 2,500 hectare of Kaipad land, 1,265 hectare has remained fallow for years. Revival of the Kaipad lands was a must for preventing damages to the saline wetlands, to improve the overall productivity of the wetland ecosystem, to promote

¹² 'Enterocytozoonhepatopenaei' (EHP) is an yeast-like fungus belonging to a group called "microsporidia", which are obligate intracellular parasites. Microsporidia are ubiquitous pathogens and are important components of terrestrial and aquatic ecosystems worldwide

¹³ As per the provisions of the Geographical Indication of Goods (Registration and Protection) Act, 1999

sustainable aquaculture practices through integration of agriculture and pisciculture and to provide social and economic benefits to rural areas.

As part of reviving the fallow Kaipad lands, the Agency implemented the project 'Promotion of Rice cum Shrimp Farming in Kaipad Lands'¹⁴ (project) in Kannur district during the years 2013-14 and 2014-15 with a total outlay of ₹5.12 crore¹⁵. The project was to be implemented in 180 hectare of Kaipad land through 36¹⁶ beneficiary groups to be selected, each possessing a minimum holding of 5 hectare (unit size) of Kaipad land. The Agency was responsible for the selection of beneficiaries, constitution of a monitoring committee and supervision of project activities to ensure successful implementation of the project.

The project, implemented through 32 beneficiary groups against the targeted number of 36 groups with a coverage of 160 hectares was not implemented efficiently. This resulted in discontinuation of the project by 23 beneficiaries, though a part subsidy of ₹1.22 crore¹⁷ was disbursed to them, as shown in the Table 3.2.

Table – 3.2
'Project year' wise number of beneficiaries who discontinued the farming activities, amount of subsidy paid to them and reasons for discontinuation
(₹ in crore)

Project Year	Number of beneficiaries selected	Number of beneficiaries discontinued the farming activity	Amount of subsidy provided to the discontinued beneficiary groups (₹)	Reasons for discontinuation
2013-14	17	13	0.77	Non-availability of workers, boundary disputes, damaged sluice, non-survival of shrimp seeds, destruction of crop, inadequacy of storage and marketing facilities etc.*
2014-15	15	10	0.45	Legal issues developed due to improper scrutiny of documents etc.**
Total	32	23	1.22	

* As conveyed by the beneficiaries in a survey conducted by Audit (**Appendix 3.1**)

** As per official records

A survey of the beneficiary groups of the project year 2013-14 conducted by Audit revealed that 13 beneficiary groups discontinued the farming activity after the 2nd year due to reasons mentioned in the Table above.

¹⁴ Coastal Inter-tidal wetlands of north Kerala where the farming of salt tolerant traditional tall paddy varieties for agriculture and brackish water species of shrimp and fish are practiced

¹⁵ ₹2.56 crore each for 2013-14 and 2014-15

¹⁶ Eighteen in 2013-14 and 18 in 2014-15

¹⁷ ₹0.77 crore in 2013-14 (given to 13 beneficiaries) + ₹0.45 crore in 2014-15 (given to 10 beneficiaries) = ₹1.22 crore

Seven beneficiary groups of the project which commenced in 2014-15 did not even start the farming activity, while three groups discontinued farming after the first year (**Appendix 3.2**). Audit noticed that the Agency did not verify the land lease documents furnished by the seven beneficiary groups against the revenue records. As a result, the Agency could not detect the false land lease certificates issued by the Secretary, Puzhathy Grama Panchayat from where these beneficiary groups leased the required land. Consequent legal disputes resulted in non-commencement of farming activity by these seven groups.

In respect of the three beneficiary groups, who discontinued farming, the Agency did not take any action to assess the reasons for their discontinuance. . Records produced to Audit indicated that the Agency did not set up a monitoring committee during both the project years which adversely affected the projects.

Thus, the above deficiencies in implementing the projects resulted in non-revival of farming in at least 115 hectare of Kaipad land, despite of incurring ₹1.22 crore towards subsidy to the 23 beneficiary groups.

The Government replied (February 2019) that bunds constructed by the beneficiary groups would have long term benefits for both paddy and fish culture. The reply was not tenable as Audit observed that out of the 23 non-functional beneficiary groups, the bunds and sluices of only five groups were intact enabling revival of farming. In the remaining cases, either the bunds did not exist or the sluices were damaged.

The Government also stated that the Agency had no expertise in checking the authenticity of a revenue document. The reply was not tenable. The Agency was to exercise adequate precaution before releasing government money by ascertaining the actual status of the leased land with reference to the revenue records.

The Agency had successfully implemented a similar project commenced during 2012-13, leading to the revival of 90 hectare of Kaipad land in Kannur district. Non-adherence to project guidelines in the succeeding years resulted in under achievement of the project (only 28 *per cent*) besides depriving the beneficiary groups of the social and economic benefits envisaged under the project.

3.1.2.4 Promotion of farming of exotic species without adequate safeguard

The Government accorded administrative sanction (June 2014) for the development of model fish farms for implementing Innovative Aquaculture Practices by the Agency. A component of the scheme was farming of genetically improved fishes like Genetically Improved Farm Tilapia (GIFT)¹⁸.

An expert level meeting (July 2014) of the Kerala State Bio-Diversity Board (KSBB), also attended by an official of the Agency, observed that as per the Government of

¹⁸ Genetically Improved Farm Tilapia (GIFT) is developed from exotic fish species known as Tilapia which are native to Africa and the Middle-east through continuous feeding of hormone 17 α methyl testosterone. GIFT is an aggressive omnivore and voracious feeder

India (GoI) guidelines, farming of GIFT was impossible to practice in the State where monsoon flooding was a common phenomenon. The species was an aggressive omnivore and voracious feeder attaining a weight of 400-600 grams in six months. The escape of GIFT to the natural water bodies of the State could be suicidal for the indigenous fish *Etroplus surantensis*¹⁹ as *Tilapia* shared the same domain and niche. Therefore, KSBB recommended (July 2014) farming of GIFT after strict adherence with certain safeguards which included locating of ponds away from natural water bodies and providing cemented walls for the ponds. The GoI guidelines also required at least one acre of water spread area for GIFT culture. But, the State Government lowered (November 2014) the requirement of water spread area to 50 cents citing constraints in the availability of land. The Agency implemented the project in five selected private farms.

Audit observed that the recommendations of KSBB were not adhered to while selecting the farms. As a result, the project was implemented in farms having pond area of less than 50 cents and in farms located near natural water bodies. The farming of GIFT, a non-native genetically altered species, in violation of the regulations was a potential risk to bio-diversity.

The Government stated (February 2019) that the agency implemented the project in areas having water spread areas of below 50 cents due to its inability to identify water spreads having the required area.

The reply is not acceptable. If the agency was unable to meet the criteria for farming of GIFT, it should have taken up promotion of other species envisaged in the project which had no restrictions.

3.1.2.5 Improper feed management

The Agency predominantly farms various types of fin fishes in its farms to demonstrate their economic viability. Neither the CAA nor the Agency prescribed any guidelines on the farming of fin fishes. Further, the Agency also did not prescribe any procedure for feed stock management.

Audit observed that the Agency did not have a dedicated feed storage facility in three²⁰ of its farms but the feed was stored either in rooms prone to seepage or in semi-open area. The feed, which accounted for around 67 *per cent* of the operational cost (excluding labour) was procured in bulk by the Agency. The manufacturers prescribed 90 days shelf life for feeds from the date of manufacture, when stored under ideal conditions. It was observed that the Agency issued feed for use even after 150 days of its manufacture.

The Government replied (February 2019) that the Agency had many on-going projects aimed at improving the infrastructure facilities of the farms including feed

¹⁹ Pearl spot – given the status of State Fish

²⁰ Poyya, Ayiramthengu and Njarackal

storage and that on completion of the same, a better feed storage management would be possible.

Issues in Financial Management and Accounts

3.1.2.6 Irregular retention of Government grants

As per Government instructions (between July 1999 and May 2016)²¹ balances of all funds released by the Government to autonomous bodies as grants/loans etc., should not be kept in bank accounts but should be remitted back to the Government or kept in Treasury Savings Bank Accounts. The Agency, however, retained substantial amounts received as grant from the Government for implementing various project, as mentioned in the Table 3.3

Table 3.3
Details of irregular retention of money by the Agency

(₹ in crore)

Sl. No	Name of Project	Grant received # (₹)	Expenditure incurred (₹)	Balance retained (₹)	Remarks
1.	Promotion of rice cum shrimp farming in Kaipad lands	3.30	1.86	1.44	Money was retained in the bank account since payment of subsidies were not made by the Agency due to reasons mentioned in para 3.1.2.3
2.	Revamping of Poyya Farm	1.03	0.68	0.35	The project undertaken without feasibility study, failed to achieve the targeted results and was closed after incurring an expenditure of ₹68 lakh. ²² and the balance was retained in bank account
3.	Revival of Productivity of Pearl Spot and Giant Prawn on life cycle approach in Vembanad Ecosystem.	12.70	5.35	7.35 [@]	As per the guidelines, the balance amount of ₹4.26 crore (excluding the committed expenditure) as of 30 September 2016 should have been surrendered to the Government. Instead, the money was retained in the Treasury Savings Bank account of the Agency.

Excluding managerial expenses.

@ Balance as on 30 September 2016 including committed expenditure of ₹3.09 crore.

²¹ Circular Nos. 7/99/Fin. dated 21/01/1999, 75/09/Fin dated 29/08/2009 and Govt. order dated 27/05/2016

²² Expenditure statement of Farm Manager, Poyya Farm

The Government stated (February 2019) that ₹1.44 crore was kept in bank accounts as the Farm Manager did not have a TSB account and that ₹0.35 crore was reallocated to other farming activities in Poyya Farm. The amount of ₹7.35 crore was retained for meeting committed expenditure.

The reply is not acceptable as instructions of the Government should have been followed scrupulously in the above cases. Subsequent allocations should have been obtained from the Government, wherever necessary, for meeting further expenditure.

➤ **Unauthorised retention of project savings of ₹1.42 crore**

Article 176 (a) of the Kerala Financial Code states that sanction to an estimate should always be regarded as being strictly limited to the precise objects for which the estimate was intended. Any anticipated or actual savings in a sanctioned estimate for a specified work should not, without the special sanction of a competent authority, be applied to any additional work which was not originally contemplated, unless it is fairly contingent on the actual execution of the work.

During the period 2013-18, the Agency implemented 20 projects sanctioned by the Government. The administrative sanctions of the projects *inter-alia* included a component for supply of fish/shrimp seeds for the projects. The Agency undertook the supply of fish/seeds for which it was permitted to charge a margin of 10 *per cent* of the cost of seeds procured.

Scrutiny of the seed sales invoices revealed that against ₹3.34 crore chargeable to the projects towards the actual cost of seed (including 10 *per cent* margin), the Agency charged ₹4.76 crore (43 *per cent* above), at the estimated rates sanctioned by the Government. Retention of the resultant savings of ₹1.42 crore by the Agency in excess of the limits permitted by the Government was unauthorised. Obtaining of surplus grants from the Government and retention of savings beyond the permitted limits, affected the financial position of the Government adversely to that extent.

The Government replied (September 2019) that the savings, if any, were mainly utilised for improvement of assets of the Agency.

The reply is not tenable as the administrative sanctions did not envisage the activities for which the savings were utilised.

➤ **Submission of Utilisation Certificate without actual utilization of Government grants**

According to the provisions of the Kerala Financial Code, while furnishing Utilisation Certificates (UC) of grants received from the Government, the Executive Director was required to ensure that the money was actually utilized for the purposes for which it was sanctioned and also mention the details of checks exercised in the UCs. Audit noticed that the UCs submitted by the Executive Director to the Fisheries Department in respect of three projects were factually incorrect as shown in the Table 3.4.

Table 3.4
List of incorrect UCs furnished by Executive Director to the Government
(₹ in crore)

Sl. No.	Name of Project	Grant received from Fisheries Department	Amount spent as of March 2018	Amount for which UC submitted
1.	'Promotion of rice cum shrimp farming in Kaipad lands' commenced in 2013-14	2.00	1.40	2.00
2.	Revival of Productivity of Pearl Spot and Giant Prawn on life cycle approach in Vembanad Ecosystem.	12.69	8.89	10.16
3.	Revamping of Poyya farm	1.15	0.67	1.15

In reply, the Government stated (February 2019) that the UCs were issued treating the funds as utilized since the committed liabilities were to be met from the funds received. The reply was not acceptable as provisions of the Kerala Financial Code were not adhered to in these cases.

Submission of inflated UCs prevented the Fisheries Department from assessing the actual financial position of the Agency judiciously and releasing the subsequent instalments to the Agency accordingly.

3.1.2.7 Status of Accounts

Mention was made in Report No. 3 of the CAG of India for the year ended 1997 regarding delay in preparation of accounts. The Public Accounts Committee (PAC) (2014-16) in its 66th Report (July 2014) expressed displeasure at the slackness of the Agency in preparing the Annual Reports and Accounts and recommended to take disciplinary action against the officials concerned. The Committee also insisted on updating the annual accounts immediately.

Despite this, as of September 2018 the Agency finalised and audited the annual accounts up to the year 2014-15 only. It also did not forward the audited accounts for the year 2013-14 to the Finance Secretary and the Registrar as stipulated in the rules. Further, Audit also noticed that the Agency did not maintain the registers for recording the receipt of grants, their disbursement/utilisation, creditors and debtors relating to the purchases and sales of seeds.

The Government in reply (February 2019) admitted the facts and stated that this would be complied with, in future.

3.1.3 Conclusion

The Agency was mandated to promote aquaculture activities in the State by operating model farms and implementing various projects. The farms operated by the agency did not function as model farms as they lacked mandatory registration/violated the conditions of registration. The Agency failed to demonstrate the economic viability of

aquaculture farming. The beneficiary group-oriented projects implemented by the agency did not achieve the targets due to non-compliance with the guidelines and deficiency in monitoring. The Agency also failed to abide by the financial regulations resulting in retention of Government funds outside the Government account and retention of the savings from the projects as its income. It failed to maintain the accounts up to date, despite instructions from Public Accounts Committee. Thus, the Agency was unable to discharge its mandated activities properly.

3.2 Irregular payment of compensation to fishermen

The Department paid an amount of ₹88.80 lakh to a select group of 74 owners of illicit china nets disregarding the fact that they were already paid compensation of ₹92.5 lakh and were not eligible for the second payment.

The Department of Fisheries established on 1 November 1956 is considered to be one of the most important, productive and developmental sectors of the State. It implements the policy of the Government of Kerala for the socio-economic development of fishermen and schemes for increasing infrastructure in the coastal area.

According to Section 4(3) of the Travancore Cochin Fisheries Act 1950 and Rule 8(1) of the Kerala Inland Fisheries and Aquaculture Rules 2013, only licensed individuals have the right to engage in fishing.

The Inland Waterways Authority of India declared (February 1993) the waterway between Kollam and Kottapuram as National Waterway-3. In order to make the waterway navigable, it was necessary to remove/shift the fishing nets and stakes installed in the channel. The Government sanctioned a compensation of ₹2.5 lakh²³ (June 2013) per net to the fishermen holding valid licenses for china/stake nets installed in the navigation channel, for their removal. The owners of unlicensed china/stake nets were also made eligible for the compensation, but at half the rates applicable to the licensed owners. This was commented in Chapter II of the Audit Report of the Comptroller and Auditor General of India on the Economic Sector, Government of Kerala, for the year ended March 2015.

The Department paid compensation amounting to ₹13.33 crore to the owners of licensed and unlicensed china/stake nets during the period 2013-14 to 2017-18.

Audit noticed that, in addition to the above payment the Department also paid compensation amounting to ₹88.80 lakh to a select group of 74 owners of illicit china nets belonging to Kayamkulam area alone, under a special package, based on a decision taken in a meeting convened (November 2014) by the Home Minister. The meeting took the following decisions:

- (i) Owners of the 74 unlicensed china nets who wished to avail the compensation of ₹1.25 lakh per net declared by the Government were free to avail it.

²³ G.O.(Rt) No.38/13/F&PD dated 17/06/2013

- (ii) For those who did not opt for the compensation, a special employment package would be provided to sustain their livelihood.

The package envisaged purchase of a traditional fishing boat, a net and a 9.9 Yamaha engine by each beneficiary unit²⁴ utilising an assistance of ₹1.20 lakh²⁵ to be paid by the Department, along with a contribution of ₹30,000 by each beneficiary unit.

Contrary to the decisions taken in the meeting, the Government sanctioned both the compensation of ₹1.25 lakh and the special employment package of ₹1.20 lakh to each of the 74 beneficiaries. Director of Fisheries disbursed²⁶ ₹88.80 lakh to the 74 beneficiaries under the special package.

Audit noticed the following:

- The decision of the meeting was to extend special employment package to those who did not opt for the compensation. Contrary to this the 74 beneficiaries were paid both the compensation and the special employment package.
- This double benefit was not extended either to the owners of unlicensed china nets of other areas or to the owners of licensed china nets. So, the action of the Department was discriminatory.
- The Department did not ensure compliance with the conditions of the special employment package by the beneficiaries which resulted in its largescale mis-utilisation.
- A joint survey conducted by Audit along with the departmental officials among 28 beneficiaries revealed that none of them utilised the assistance as envisaged; instead, most of them used it to clear personal debts.

Thus, the payment of additional benefit of ₹88.80 lakh to a select group of 74 owners of illicit china/stake nets was not in order and discriminatory. Besides, the Department also failed to ensure proper utilisation of assistance by the beneficiaries under the special package.

The matter was referred (February 2019) to the Government. In reply, (March 2019) the Government accepted that the special employment package was to be implemented for those net owners alone (including two workers) who were not willing to accept the compensation of ₹1.25 lakh declared by the Government.

²⁴ A unit consisted of the owner and two labourers working the net

²⁵ Each member of the unit was to be paid ₹40,000

²⁶ GO(Rt) No. 413/15/F&PD dated 04/06/2015

CO-OPERATION DEPARTMENT

3.3 Short collection of Audit Fee from Co-operative Societies

Departmental lapse in enforcing the provisions of the Kerala Co-operative Societies Act, 1969 regarding audit fees resulted in non-collection/short collection of ₹16.69 crore.

The Co-operation Department is responsible for the disbursement of assistance and loans sanctioned by the Government/National Co-operative Development Corporation to Co-operative institutions for implementing various schemes, monitoring the utilization of funds, recovery of principal/interest on loans etc. In addition to this, it also discharges important statutory functions like audit of co-operatives.

Section 63 of the Kerala Co-operative Societies Act, 1969 (the Act) stipulates that the Director of Co-operative Audit (DCA) has to audit the accounts of all Co-operative Societies (Societies) registered with the Registrar of Co-operative Societies (RCS) in the State at least once in a year. Sub Section 6 below Section 64 of the Act stipulates that the amount of fee for auditing the accounts of Society each year shall be such as may be fixed²⁷ by the DCA in accordance with rules made in this behalf. Rule 65 of the Kerala State Co-operative Societies Rules states that every Co-operative Society shall pay audit fee to the Government within one month of the receipt of the annual audit certificate.

The responsibility for collecting the dues is vested with the RCS who has delegated it to the Assistant Registrars of Co-operative Societies (General) at Taluk level. Sub Sections (1) and (2) of Section 79 of the Act stipulate that in the case of non-payment of audit fees within the specified period of 30 days, it shall be recoverable in the same manner as arrears of public revenue due on land, that is to say, first from the property of the Society and later from the members, past members or estates of deceased members subject to the limit of their liability. If the defaulted Societies fail to remit the audit fees, Revenue Recovery (RR) actions are initiated against them.

As per the records maintained by the RCS (General), there were 15,624 Societies in Kerala²⁸ as of 31 March 2018, of which 11,892 were functioning and 3,732 non-functioning.

Audit noticed that as on 31 August 2018 an amount of ₹16.69 crore was pending collection towards audit fee since the year 1972-73 from 5,396 Societies functioning

²⁷ The audit fee is calculated at the rate of 50 paise for every ₹100 or part thereof on the working capital, the value of sales or the gross income as the case may be, provided that the maximum audit fees payable by the Society shall not exceed rupees one lakh, subject to other lower limits in specified cases

²⁸ As furnished by the office of the Registrar of Co-operative Societies, Kerala

under seven²⁹ departments in the State. This included ₹1.76 crore due from 640 profit making Societies. Major portion (83.52 per cent) of the pending audit fee related to societies functioning under two departments, viz., the Co-operation Department (₹9.67 crore from 3,882 Societies) and the Handlooms and Textiles Department (₹4.09 crore from 270 Societies). RCS initiated revenue recovery action against 384 Societies involving ₹1.25 crore, but no amount was recovered from any of them.

Audit test checked the records maintained by eight³⁰ offices of Assistant Registrars of Co-operative Societies (ARCS) (General) from five³¹ districts and found the following:

- Audit Fee Register was not being maintained up to date by seven of the eight taluk level offices.
- ARCS (General), Thrissur stated that the data on pending audit fee was compiled by collecting the information from the Societies over phone as the register was not updated properly.
- This points at the inadequacy of the internal control mechanism of the Department.

The matter was reported (December 2018) to the Government. In reply, (March 2019), the Government stated that a collection drive was on and that an amount of ₹6.68 crore was collected during the period from 17 December 2018 to 31 December 2018.

Audit verified the figures furnished by the Joint Registrars of Co-operative Societies, Thrissur (₹1.47 crore) and Thiruvananthapuram (₹59.74 lakh) and found that the collection from these districts was overstated by ₹1.02 crore and ₹8.09 lakh respectively. This again highlights the inadequacy of internal control.

3.4 Non-remittance of dividend due to the Government by Co-operative Societies

Ineffective internal control system of the Co-operation Department led to non-remittance/short remittance of dividend amounting to ₹95.44 lakh by Co-operative Societies to the Government.

The Kerala Co-operative Societies Act, 1969 provides³² for payment of dividend to members on their paid-up share capital at such rates as may be prescribed³³. The dividend becomes due after the date on which the general body meeting passes the

²⁹ The Departments of Co-operation, Khadi & Village Industries, Fisheries, Industries, Handlooms, Dairy Development and Coir

³⁰ Offices of the Assistant Registrars at Kasargod, Hosdurg, Tirur, Perinthalmanna, Thrissur, Cherthala, Ambalapuzha and Kollam

³¹ Kasargod, Malappuram, Thrissur, Alappuzha and Kollam

³² Sub section 2(a) of Section 56

³³ Not exceeding 25 per cent (as amended in 2010)

dividend. The Registrar of Co-operative Societies (RCS) issued (July 2010) instructions to all the District/Taluk level offices of the Department to ensure that dividend declared by the Co-operative Societies (Societies) on the Government share capital contributions were remitted.

(a) As of 31 March 2017 the Government of Kerala (GoK) made share capital contribution in 3,755 Societies. According to the Demand Collection and Balance (DCB) Statement prepared by RCS as on 31 December 2018, a total of ₹1.18 crore was pending collection from 77 Societies towards dividend on Government shares for the period up to 2016-17.

As reported by the RCS (July 2019) and the Joint Registrar of Co-operative Societies (General), Thiruvananthapuram (May 2019), an amount of ₹76.67 lakh for the said period was collected from 16 Societies since 31 December 2018, leaving a balance of ₹41.61 lakh.

A test check of the records maintained in the offices of the Assistant Registrars of Co-operative Societies revealed that entries made in the 'Register of Share capital contribution to Co-operative Societies' containing the details of dividend payable by the Societies on Government shares were incomplete and not up to date. As a result, the exact amount of dividend due to the Government was not ascertainable from the records.

Audit also noticed that the Department lacked an effective internal audit system. The GoK, Finance (IAC A) Department issued (June 2005) instructions³⁴ to all departments to strengthen their internal audit system. The Co-operation Department, however, formed³⁵ an internal audit wing only in December 2017. As intimated³⁶ (September 2019) by the RCS no internal audit was conducted in the Department before 14 May 2019.

The Government in its reply (April 2019) accepted that the Register of Share Capital Contribution to Co-operative Societies was not being maintained by the field offices up-to-date. It was stated that instructions were issued for collecting institution-wise details of outstanding amounts of dividend and to maintain the register up-to-date. The Government also clarified that the dividends declared by Societies were not taken as demand in the DCB Statements furnished by the Joint Registrars of Co-operative Societies. Instead, the amount of dividend remitted by the Societies was shown as both demand and collection in the DCB statements. This led to the variation between the Departmental figures and the Audit figure.

(b) Scrutiny of the details of outstanding dividend furnished by the Joint Registrars of Co-operative Societies (district level offices) revealed that 23 Societies from three³⁷ districts did not pay dividend to the Government at the same rates at

³⁴ Circular No.32/2005/Fin dated 10/06/2005

³⁵ No. Fin.A(1)37247/2017 dated 19/12/2017

³⁶ No. Fin(1)4961/19 dated 05/09/2019 of Registrar of Co-operative Societies

³⁷ Pathanamthitta, Ernakulam and Thrissur

which they paid it to other members. This deprived the Government of dividend amounting to ₹53.83 lakh (**Appendix 3.3**).

The absence of an effective internal control mechanism in the Department, thus resulted in non-remittance/short-remittance of dividend amounting to ₹95.44³⁸ lakh to the Government by Co-operative Societies.

3.5 Infertuous expenditure on Floating Triveni Supermarket Project

Lack of prudence and total disregard of rules on Survey and Registration of boats made ₹1.82 crore spent on the purchase of nine ferro-cement hulled boats by the Kerala State Co-operative Consumers' Federation Ltd. infertuous.

The Kerala Sate Co-operatives Consumers' Federation Ltd. (CONSUMERFED) registered under the Travancore-Cochin Co-operative Societies Act 1951 is an apex body of the consumer Co-operatives in the State of Kerala. CONSUMERFED started functioning on 07October 1965 and its functions involve bulk procurement of consumer goods and their supply to affiliated and/or other Co-operative Societies.

During the period from June 2009 to September 2012, CONSUMERFED purchased seven³⁹ Mobile floating Triveni⁴⁰ supermarkets (floating Triveni) with ferro-cement hull at a cost of ₹181.77 lakh and paid an advance of ₹20 lakh for two more. Seven of the Trivenis ceased⁴¹ their operation between April 2014 and September 2016. CONSUMERFED, therefore, decided (March 2017) to dispose them of in auction. Two attempts (April 2018 and May 2018) to auction them did not evoke any response from the public. Finally, four of the seven floating Trivenis were auctioned off (March 2019) for a sum of ₹91,658. There was no demand for the balance three.

Audit scrutiny revealed the following:

- The first floating Triveni was purchased by CONSUMERFED in June 2009 from M/s Floatels Hospitalities Private Limited, (Floatels) Thiruvananthapuram at a cost of ₹21.50 lakh to make essential commodities available to the people who lived in isolated and inaccessible areas surrounded by water in Kuttanad, Alappuzha.
- CONSUMERFED placed further orders with Floatels for three more floating Trivenis in September 2010 for a total cost of ₹76.5 lakh and another three floating Trivenis in October 2011 for a total cost of ₹83.77 lakh. It placed orders for another batch of three in September 2012 by paying an advance of ₹20 lakh.

³⁸ ₹41.61 lakh + ₹53.83 lakh = ₹95.44 lakh

³⁹ Three Trivenis at Alappuzha, two at Kollam, one at Kottayam and one at Ernakulam

⁴⁰ Triveni is a brand division of CONSUMERFED under which food & grocery, cosmetics, household items, electrical, textiles etc. are sold through super markets; super store, mega marts etc.

⁴¹ With effect from 08/04/2014, 31/03/2016, 22/06/2016, 07/07/2016 (three boats) and 30/09/2016

- Subsequently, CONSUMERFED cancelled (8 January 2014) the order for one of the Trivenis included in the last batch, and did not take delivery of the remaining two, though they were constructed (September 2018), as the operation of Trivenis was found uneconomical.
- Audit observed that CONSUMERFED introduced the project in Kuttanad without even assessing its feasibility based on an announcement made by the Minister of Co-operation in the Legislative Assembly (July 2008) that CONSUMERFED would start a Floating Triveni in Kuttanad. As a result, most of the seven units commissioned ran on loss from the very beginning for want of adequate patronage.
- All these vessels were made of ferro-cement hull. The Chief Inspector of Boats, Irrigation Department refused (November 2009) to issue Inspection Certificate to these vessels as under the Travancore Public Canals and Public Ferries Act and Rules, Inspection Certificate could not be issued for vessels with ferro-cement hull.
- In spite of the rejection of inspection certificate for the vessels, CONSUMERFED continued to purchase six more ferro-cement hulled vessels and paid advance for three more.
- All the seven floating Trivenis ceased activity after being in service for four to six years and the vessels which were left unattended thereafter, sank in water or were in bad condition as mentioned in **Appendix 3.4**. It was further noticed that an amount of ₹6.47 lakh was spent towards maintenance, lifting of capsized vessels and valuation fees.

Thus, decision of the CONSUMERFED to proceed with procurement of vessels for floating supermarkets without feasibility study and Inspection Certificate led to unfruitful expenditure of ₹1.88 crore⁴².

The Government, in its reply (April 2019) stated that the reason for failure of the floating Triveni supermarkets was not inadequate patronage or lack of feasibility study but due to fast development of basic infrastructure facilities. It was also stated that at the time of purchase of boats and placing of orders for subsequent purchases there was no restriction on the registering of boats manufactured using ferro-cement. Further, four of the seven floating Trivenis were auctioned off (February 2019) for a total amount of ₹0.92 lakh.

The Government reply is not acceptable. The fact that three of the seven Trivenis were making loss from the very beginning and that two went in to loss after the first year of their commissioning supports the audit observation that there was inadequate planning and patronage for the project. Further, the Government stand that there was no restriction on registering of ferro-cement boats at the time of placing of orders for subsequent purchases is not tenable, as CONSUMERFED invited (August 2010)

⁴² ₹181.77 lakh + ₹6.47 lakh

quotations for further supply of such boats after the Chief Inspector of Boats rejected (November 2009) the application for registration of the first boat.

PUBLIC WORKS DEPARTMENT

3.6 Excess payment of ₹99.72 lakh to a contractor due to under-recovery of the cost of bitumen used in a work

Failure to recover the cost of bitumen from the work bills at the rates included in the revised estimate resulted in excess payment of ₹99.72 lakh to the contractor.

The Kerala Public Works Department (PWD) is responsible for the design, construction and maintenance of all roads and bridges coming under its jurisdiction in the State, irrespective of the source of fund.

The PWD, Government of Kerala ordered (September 2003) that contractors would be required to purchase bitumen and complete the works except in the case of works costing up to rupees six lakh (enhanced to ₹15 lakh in February 2004) subject to the condition that no tender excess would be allowed and only the actual cost of bitumen would be reimbursed.

Audit test checked (August 2018) 373 work files from the six Roads Divisions⁴³ under the administrative control of the Superintending Engineer (Roads & Bridges), North Circle, Kozhikode (SE). It was found that the final bill of one⁴⁴ work arranged under the PWD Roads Division, Kasaragod completed on 30 March 2013 was not settled. The work was awarded (February 2011) by SE to a contractor⁴⁵ at 35 *per cent* above the estimated cost of ₹4.45 crore based on the Schedule of Rates (SoR) of 2009. Subsequently, items such as Bituminous Macadam (BM) and Bituminous concrete (BC) were incorporated as extra items, revising (December 2011) the estimate cost to ₹11.50 crore. Later, at the contractor's request the Government approved (March 2012) the rates for the extra items related to BM and BC works as per the SoR 2010 and a supplementary agreement was executed for the extra items along with 35 *per cent* tender premium.

The rate of bituminous items⁴⁶ in the original agreement was arrived at by reckoning the cost of bitumen as ₹26,260/Metric Tonne (MT) based on SoR 2009. The rates of BM and BC and other connected items in the revised estimate were, however, approved reckoning the cost of bitumen as ₹33,189/MT⁴⁷, ₹28,951/MT⁴⁸ and

⁴³ Six Divisions North Circle are at Palakkad, Manjeri, Kozhikode, Kannur, Wayanad & Kasaragod

⁴⁴ NABARD-RIDF XV-Improvements to Parappa-Malome Road from km 0/000 to 14/500

⁴⁵ Shri.T.A.Abdul Rahiman

⁴⁶ Providing bitumen premixed leveling course, Providing 20 mm thick premixed chipping carpet over WBM surface and providing 20mm premixed chipping carpet over existing BT surface

⁴⁷ Providing, laying and rolling of built up spray grout layer over prepared base & Providing and laying Bituminous macadam

⁴⁸ Providing and applying tack coat with bitumen emulsion

₹34,749/MT⁴⁹ based on SoR 2010. Audit noticed that the Department reimbursed the actual purchase cost of bitumen to the contractor. But while making payments to the contractor on the work bills, instead of recovering the cost of bitumen as per SoR 2010, the Department recovered it at the rate of ₹26,260/MT as per SoR 2009. It was also seen that the Department treated the final bill submitted by the contractor for ₹3.40 crore as part bill thereby trying to create the impression that recoveries, if any, required would be made against subsequent claims.

Thus, failure of the Department to recover the cost of bitumen at the rates included in the revised estimate, resulted in excess payment of ₹99.72 lakh to the contractor, as given in the table 4.1.

Table 4.1

Calculation of short recovery of cost of bitumen on extra items

Name of the bituminous item	Quantity of bitumen used in each item (in MT)	Rate of bitumen as per SoR 2010 included in the revised estimate (₹ per MT)	Rate at which cost of bitumen was recovered from work bill (as per SoR 2009) (₹ per MT)	Cost of bitumen required to be recovered from work bill as per SoR 2010 (₹)	Cost of bitumen actually recovered from work bill (as per SoR 2009) (₹)	Short recovery (₹)
(1)	(2)	(3)	(4)	(5) = (2)x(3)	(6) = (2)x(4)	(7) = (5)-(6)
Built up spray Grout	278.562	33,189	26,260	92,45,194	73,15,038	19,30,156
Bituminous Macadam	399.168	33,189	26,260	1,32,47,987	1,04,82,152	27,65,835
Bituminous Concrete	306.229	34,749	26,260	1,06,41,152	80,41,574	25,99,578
Tack coat	33.724	28,951	26,260	9,76,344	8,85,592	90,752
Total				3,41,10,677	2,67,24,356	73,86,321
Inadmissible amount of tender premium allowed to contractor due to short deduction of cost of bitumen = (₹73,86,321 x 35 per cent)						25,85,212
Grand Total						99,71,533

The matter was referred (December 2018) to the Government. The Government in reply (May 2019) stated that the excess payment was worked out to ₹95.52 lakh and that directions were given to Chief Engineer to take urgent steps to recover the excess payment from the contractor.

⁴⁹ Providing and laying Bituminous concrete

3.7 Overpayment on account of fictitious level measurements and incorrect calculations

Incorrect calculation of volume of work by the Department based on fictitious level measurements resulted in inadmissible payment of ₹1.54 crore to the contractor.

According to Clause 113.3 of the MoRTH Specifications⁵⁰ for Road and Bridge works, the finished thickness of sub-bases, base, bituminous layers and concrete courses to be paid on volume basis shall be computed based on level measurements. This involves two sets of surface data, namely original ground level (initial level) which is taken before starting the work and formation level (final level) which is taken after execution of the work. The volume of the filling or cutting work done is determined by reckoning the difference between the initial and the final levels. The initial levels and final levels are recorded in the Level Field Book (LF Book) and the volume of work is calculated in separate calculation sheets. Finally, the abstract of the details are taken to Measurement Book, on the basis of which the final bill of the work is prepared for payment to the contractor.

The Superintending Engineer of NH South Circle, Thiruvananthapuram awarded (March 2017) a work⁵¹ to a contractor⁵² at a contract amount of ₹31.11 crore, to be executed through NH Division, Alappuzha. The work was commenced on 13 March 2017 and completed on 10 January 2018 at a cost of ₹32.61 crore. The work also involved the following bituminous items:

- (i) Recycling of existing bituminous pavement with cold in place recycling method, including rolling and finishing with appropriate roller.
- (ii) Tack coat⁵³ for laying Bituminous Concrete (BC) layer.
- (iii) Laying of 50 mm BC layer as wearing course⁵⁴ over the tack coat surface.

Audit noticed that the Department measured and recorded (on 18 May 2017 and 19 May 2017) the initial levels of the work done in a portion of the road between chainage 15/410 km to 22/030 km in the LF Book after measuring and recording (from 05 May 2017 to 15 May 2017) the final levels, which was practically impossible.

A Joint Physical Verification (JPV) conducted by Audit along with departmental officials at nine randomly selected points⁵⁵ of the reach (chainage 00/00 km to 22/030

⁵⁰ Clause 113.3 of Ministry of Road Transport & Highways Specifications for Road and Bridge works (Fifth Revision)

⁵¹ 'Periodical renewal from km 406/00 to 428/00 of NH 66 (old NH 47) in the State of Kerala' (involving a length of 22/030 km)

⁵² Contractor, M/s EKK Infrastructure Ltd. vide Agreement. No. 6/SENH/SC/16-17 dated 08/03/2017

⁵³ A thin adhesive layer of bitumen applied between two existing bituminous layers for bonding

⁵⁴ Wearing course is the top layer of the road surface

km excluding the rail over bridge portion) revealed varying thickness of BC between 30 mm and 61 mm; the average being 44 mm. But, the Department paid the contractor reckoning a uniform thickness of 50 mm. This resulted in excess payment of ₹1.29 crore (**Appendix 3.5**) to the contractor due to incorrect calculation of volume.

Even taking a uniform thickness of 50 mm, the total volume of BC executed as per LF Books was only 10,433.227 cum. However, audit noticed that the volume of BC executed, as worked out by the Department in the calculation sheets, was 10,673.560 cum⁵⁶. Reckoning of measurements in excess of those recorded in the LF Books resulted in an inadmissible payment of ₹24.75 lakh to the contractor (**Appendix 3.5**).

On this being pointed out, the Executive Engineer (EE), NH Division, Alappuzha replied (October 2018) that in the recycling process⁵⁷ there was no provision for using a Paver⁵⁸ to make the surface perfectly level and that for correcting the camber⁵⁹ of the road, the thickness at the centre portion was made thicker than the edges. The reply corroborated the findings of the JPV that the thickness of BC was not uniform. However, the levels recorded in the LF Book showed a uniform thickness of 50mm on the entire stretch of work executed.

Thus, adoption of incorrect level measurements and subsequent incorrect calculation of the volume of work by the Department resulted in inadmissible payment of ₹1.54 crore to the contractor (₹24.75 lakh + ₹1.29 crore).

The matter was referred (December 2018) to the Government. The Government in its reply (January 2019) claimed that the thickness of the BC layer executed by the Department over the cold milled and recycled layer was exactly 50 mm on the entire stretch as recorded in the LF book, as it was done with adequate precision of thickness using sensor paver. In the same reply, the Government also admitted that the top surface of the cold milled and recycled layer below the BC was not of uniform finish as no paver was used.

The Government reply that the Department had executed BC over the cold milled and recycled layer at a uniform thickness of 50 mm is not acceptable as when a new BC layer is laid using a paver over an undulated surface, it is impossible to ensure uniform thickness of the new layer at all locations due to the undulations below it.

⁵⁵ Chainage 409/100 km (two points), 407/800 km (two points), 416/100 km, 417/200 km (two points), 422/000 km, 426/000 km

⁵⁶ The total quantity of BC as per level calculation sheet was 10,946.399 cum (from chainage 0/000 km to 22/030 km); after excluding the rail over bridge portion the balance quantity was 10,673.560 cum

⁵⁷ It is the method of Reclaimed Asphalt Pavement (RAP) construction where the existing BT surface is investigated for the bitumen content, water content and other properties and then required additional raw materials for the designed quantities such as fresh aggregates, cement, foamed bitumen, water etc. are added and recycled to build the new RAP

⁵⁸ A paver is a construction equipment used to lay asphalt on roads flat

⁵⁹ Camber indicates slightly convex or arched shape of a road. It is a gradual downward slope from the centre to each side to enable water to flow off the road

During the exit meeting (07 June 2019), CE (Roads) stated that the thickness of BC over the cold milled and recycled layer would vary. CE (Roads) also accepted that the volume of BC could be calculated by adopting the method of multiplying the tack coat area with the thickness of BC, if the thickness of BC was the same throughout the length of the road.

3.8 Departmental lapse in the management of securities from contractors

Failure of the Department in the management of securities from contractors resulted in extension of undue favour amounting to ₹15.73 crore to contractors, besides placing of avoidable financial burden of ₹1.34 crore⁶⁰ on the Government.

According to KPWD Manual/Selection Notice of works, the contractors are to furnish securities covering the period of completion of work/Defect Liability Period (DLP). The securities can be furnished in the form of bank guarantees, pledging of treasury saving accounts and pending bills of other completed works of the contractor.

A Bank guarantee (BG) is a promise from a bank that the liabilities of a debtor⁶¹ will be met in the event of the debtor (contractor) failing to fulfil his/her contractual obligations. The liability of the bank under the BG stands completely discharged or extinguished if no claim or demand is made within the agreed date.

There are 16 Roads Divisions and eight NH Divisions under the PW Department. Audit scrutinised 282 works costing ₹790.77 crore, executed under six divisions (four Roads Divisions and two NH Divisions out of the 24 Divisions) and noticed irregularities in 52 works.

Out of the 52 works, in 49 works costing ₹172.93 crore Audit observed the following irregularities which resulted in extending of undue benefit to the contractors:

- Five works showed inadequacy of securities submitted by the contractors amounting to ₹24.38 lakh (**Appendix 3.6**).
- Securities of 13 works amounting to ₹5.18 crore ordered to be adjusted from pending bills of other works by the agreement executing authorities were not adjusted by the respective divisional officers (**Appendix 3.7**).
- Securities collected in 14 works amounting to ₹3.46 crore were released prematurely by the divisional officers (**Appendix 3.8**).
- Bank Guarantees worth ₹6.85 crore kept as security in 24 works were not renewed by the divisional officers concerned before expiry (**Appendix 3.9 and 3.10**).

⁶⁰ ₹10.77 lakh + ₹31.28 lakh + ₹32.72 lakh + ₹59.22 lakh = ₹133.99 lakh rounded to ₹1.34 crore

⁶¹ In the case of a work undertaken through contracts, the debtor means the contractor for the work

In the remaining three works costing ₹19.74 crore, Audit observed the following irregularities which brought additional financial burden of ₹1.34 crore on the Government (**Appendix 3.11**):

- The Department arranged⁶² repair works costing ₹10.77 lakh to rectify the defects developed during the DLP of a work⁶³ as the contractor concerned did not carry out the same. The Department, however, could not realise the cost from the contractor as the validity of the bank guarantee⁶⁴ for the work furnished by the contractor was not extended to cover the DLP.

On this being pointed out, the SE replied (October 2018) that necessary direction was given to the Executive Engineer to recover the cost from the bills pending payment to the contractor.

- In another instance, the contractor did not complete the work⁶⁵ awarded to him even after allowing several extensions of time. The Department, therefore, terminated⁶⁶ (August 2018) the contract at the risk and cost⁶⁷ of the contractor. However, as the validity of the BG⁶⁸ worth ₹64 lakh furnished by the contractor was not renewed before its expiry in August 2013, the Department lost the opportunity to recover the expenditure on the balance work to be executed, to the extent of the BG.

- In the third case⁶⁹ involving a BG of ₹59.22 lakh⁷⁰, the contractor completed (May, 2013) the work but did not rectify the defects noticed during the DLP (up to 30 May 2016) despite repeated requests/reminders⁷¹ from departmental officials. So, after the DLP the Department arranged necessary rectification works at a cost of ₹106.27 lakh (**Appendix 3.12**). It was noticed that in spite of the inaction by the contractor, the Department did not invoke the BG, instead released

⁶² Agreement No.EE/PL/117/2017-18 dated 27/11/2017- Contractor- G. Janardhanan, Palakkad- Contract amount ₹10.77 lakh (First and final bill under preparation)

⁶³ Work- 'Improvement by providing BM (50 mm) and BC (25mm) to Vazhakode – Alathur Road from 22/648 km to 29/648 km'- Contractors- M/s Kudroli Builders - Contract amount ₹2.89 crore

⁶⁴ BG No. 126/2013-14 dated 12/08/2013, of South Indian Bank, Panaji, Goa for ₹28.95 lakh- Valid till 11/11/2015

⁶⁵ Budget Work 2009-10-, Improvements to Upputhara – Kottamala - Wagamon Road, -Agreement No. 10/SECCA/2010-11 dated 25/04/2010- Contractor Sri K.C. Antony. Contract amount ₹3.13 crore

⁶⁶ Order No. DIP-2897/09 dated 11/08/2018

⁶⁷ In such cases, cost of the balance work is recoverable from the original contractor.

⁶⁸ BG 1/2010 dated 19/04/2010 (₹31,27,905) and BG 3/2010 dated 25/04/2010 (₹32,72,260) of South Indian Bank, Bharananganam

⁶⁹ IRQP from chainage 444/000 to 462/000km on NH 47 (now NH 66) in the State of Kerala- Agreement No. 3/SENH/SC/2012-13 dated 16/07/2012, Contractor - M/s Concord Construction, Kasaragod - Contract amount ₹13.72 crore

⁷⁰ Bank Guarantee No. IBG 45896 dated 20/09/2013, ₹42,61,000 and No. IBG 45179 dated 30/08/2013, ₹16,60,985 of Federal Bank Ltd. Kanhangad

⁷¹ On May 2015, June 2015, July 2015, September 2015, October 2015, November 2015, February 2016 and last in May 2016

it to the contractor. Consequently, the Government had to bear the cost of the rectification works to the extent of the BG.

Departmental failure in the management of securities from contractors, thus resulted in undue favours worth ₹15.73 crore to the contractors, besides placing avoidable financial burden of ₹1.34 crore⁷² on the Government. This also points at the inadequacy of the internal controls of the Department. It was observed that the responsibility for the lapses was not fixed on the officials concerned.

The matter was reported to the Government (December 2018). During the exit meeting (May 2019), the Department accepted the lapses in internal control and stated that such lapses would be eliminated on the introduction of an e-module in the second phase of PRICE software.

3.9 Avoidable expenditure due to delay in finalisation of tenders

Non-finalisation of tender by the Department within the prescribed firm period resulted in avoidable expenditure of ₹3.17 crore.

According to Section 2009.5 of the PWD Manual (Revised Edition) 2012 (the Manual), consideration of tenders and decision thereon shall be completed well before the date of expiry of the firm period⁷³ noted in the tender, so that the letter of acceptance is issued in writing to the selected bidder before the expiry of the firm period which shall not exceed two months in the normal course. If delay in finalization of the tender is anticipated, the officer who invited the tender shall get the consent of the lowest two bidders for extending the firm period by one month, or more as required. All officers concerned with the consideration of tenders shall deal with them expeditiously to settle the contract before the expiry of the firm period.

The Superintending Engineer, PWD (Roads and Bridges), North Circle, Kozhikode (SE) executed agreements for 289 works under Roads Division, Manjeri during the period 2015-16 to 2017-18. Audit scrutinised the files of 75 works and found the following irregularity in one work.

The work⁷⁴ was initially tendered by the SE at an estimated cost of ₹9.16 crore. Only two contractors submitted (23 April 2014) bids and the Government approved⁷⁵ (16 October 2014) the lower bid quoted by M/s PMR Construction Company for ₹8.73 crore, which was 5.92 *per cent* below the estimate.

The firm period of the tender expired (22 June 2014) long before the Government approved the tender. The contractor who had already extended the firm period up to

⁷² ₹10.77 lakh + ₹31.28 lakh + ₹32.72 lakh + ₹59.22 lakh = ₹133.99 lakh rounded to ₹1.34 crore

⁷³ The firm period of a tender is the period from the date of opening of the tender to the date up to which the offer given in the tender is binding on the bidder. (Sec. 2009.5 of PWD Manual Revised 2012)

⁷⁴ 'Improvements and providing BM&BC to Trikkulam - Theyyala road between 0/000 km to 7/800 km in Malappuram District'

⁷⁵ GO(Rt)No.1439/2014/PWD dated 16/10/2014

31 August 2014 refused to extend it any further. So, the SE re-tendered (October 2014) the work. The only bid received was from M/s PMR Construction Company who quoted their rates at 49.30 *per cent* above the estimate. The Government accepted⁷⁶ (September 2015) the offer at a reduced rate of 37.68 *per cent* above the estimate. Accordingly, the SE executed (November 2015) the agreement⁷⁷ with the Contractor who completed the work (27 October 2016) at a total cost of ₹11.90 crore (October 2017).

A scrutiny of the finalisation process of the initial tender by Audit revealed that against an admissible period of sixty days, the Department took 175⁷⁸ days to get the lowest bid approved by the Government Tender Committee (GTC). SE forwarded the tender proposal to the Chief Engineer (CE) on 24 April 2014 and the CE forwarded the same to the GTC on 20 June 2014, just three days before the expiry of firm period.

According to the Government of Kerala notification (January 2010), Local Market Rate (LMR) justification is not required for bids which are below the estimate rate. In spite of that the Government returned (2 July 2014) the tender recommendation to the CE with the direction to re-submit the same along with LMR justification. This further delayed the approval of the tender proposal leading to retender of the work and its award at higher rate.

Thus, failure on the part of the departmental officials to adhere to their own norms regarding finalisation of tender within the firm period led to the re-tendering of the work, eventually causing an additional expenditure of ₹3.17 crore to the State exchequer.

The matter was referred (December 2018) to the Government. The Government in its reply (July 2019) stated that delay had occurred in the submission of the tender proposal due to the then prevailing model code of conduct declared by the Election Commission in view of Parliament Election of 2014.

The reply, attributing the delay on the election is not acceptable as the Department caused further delay of nearly three and a half months after the election, which cannot be justified.

3.10 Idling of bridges for want of approach roads

Construction of three bridges without approach/access roads resulted in their idling, making ₹20.38 crore spent on their construction unfruitful.

Section 15.2.2(d) of the PWD Manual (Pre-revised) stipulates that the land for carrying out works should either have already been acquired or otherwise available or steps should have been taken for such acquisition and the proceedings should have

⁷⁶ GO(Rt)No.1457/2015/PWD dated 30/09/2015

⁷⁷ SE(K)234/2015-16 dated 21/11/2015

⁷⁸ 23/04/2014 to 16/10/2014

reached a stage where there is reasonable prospect of land becoming available before the contractor starts the work. In no case should tenders be invited before making sure that the land required would be ready for being handed over to the contractor to start the work in time.

The Superintending Engineers (Roads & Bridges) of North Circle, Kozhikode and Central Circle, Aluva arranged 133 bridge works during the period from 01 April 2013 to 31 March 2018. Audit scrutinised 29 of these works having a contract value of ₹202.27 crore and observed the following irregularities in three works⁷⁹:

- Two⁸⁰ of these bridge works consisted of the construction of both bridge and approach roads while the third work⁸¹ was confined to the construction of bridge alone, as land acquisition for the approach roads was not made.
- Construction of the bridges was completed on 31 December 2013, 25 March 2017 and 14 July 2017 respectively, at a total cost of ₹20.38⁸² crore but they have not been opened to the public for want of approach/access roads.
- Approach roads were not constructed for Kovilakam Thazham and Thazhepalam bridges, while Murikkallu bridge which was constructed along with approach roads could not be accessed due to non-completion of the bypass road on which the bridge was constructed.
- Defect Liability Period (DLP) of bridge works is 36 months. All the defects that arise during the DLP of a bridge are to be rectified by the contractor at his own cost. After the DLP, it becomes the liability of the Department. Audit noticed that the DLP of the Thazhepalam bridge expired on 30 December 2016 and that of the other two bridges would expire on 24 March 2020 and 13 July 2020.
- An amount of ₹20.38 crore spent on the construction of the three bridges, thus, remains unfruitful for the past several years without achieving their envisaged benefit.

The matter was referred to the Government (January 2019) and the reply is awaited (July 2019). During the exit meeting held on 07 June 2019 the Department concurred with the audit observations and stated that land acquisition process for the approach roads was under way.

⁷⁹KovilakamThazham bridge across Ramanpuzha river, Thazhepalam bridge across Tirurpuzhaand Murikkallu bridge across Muvattupuzhariver

⁸⁰ KovilakamThazhambridge and Murikkallu bridge

⁸¹ Thazhepalam bridge

⁸² ₹20.38crore = ₹2.21 crore + ₹14.68 crore + ₹3.49 crore

3.11 Violation of agreement conditions and provisions of the revised PWD Manual

Reimbursement of the cost of bitumen at market rates violating the provisions of the PWD Manual and agreement conditions resulted in inadmissible payment of ₹12.89 crore to the contractors on account of 65 road works.

The Superintending Engineer (SE), Roads & Bridges, North Circle, Kozhikode, tendered (from April 2012 to March 2014) 484 works for which Technical Sanction (TS) was given by the Chief Engineer (Roads & Bridges). The Notice Inviting Tenders (NIT) of these works included the condition that bitumen required for the work should be purchased by the bidder. As per the tender schedules of the works the cost of departmental materials was 'Nil'. Therefore, the contractors were to quote the tender percentages after reckoning the cost of bitumen also.

In August 2014, the All Kerala Government Contractor's Association represented to the Government that they incurred huge losses due to the increase in the cost of bitumen and that the cost difference of bitumen be reimbursed to them. The Secretary to the Government, Public Works Department (PWD) permitted⁸³ (October 2014) reimbursement of the cost difference of bitumen for the above works tendered by SE, R&B North Circle, subject to the condition that the total expenditure of such works would be limited to the TS amount.

Audit scrutiny (during May-July 2018) of 137 works out of the 484 works tendered, revealed the following:

- The Department paid ₹12.89 crore as cost difference of bitumen to the contractors in 65 works (**Appendix 3.13**).
- According to clause 2104 of the Revised PWD Manual, only those works costing up to the TS powers (₹100 lakh) of the SE were eligible for departmental supply of bitumen. The Department violated this provision, as all the 65 works for which cost difference of bitumen was paid exceeded this limit.
- The Notice Inviting Tenders (NIT) which forms part of the agreement executed by the contractors included the condition that bitumen required for the work should be purchased by the bidder. The contractors were aware of this condition while quoting their rates and so had no right to claim cost difference.
- The Finance Department opined (April 2016) that the order permitting reimbursement of the cost difference of bitumen was an extension of undue benefit to some contractors since the contractors had already agreed to execute the works at an agreed amount.

⁸³ G.O.(RT) No.1014/2014/PWD dated 30/10/2014

Thus, violation of the provisions of the PWD Manual and the contract conditions by the Department itself resulted in inadmissible payment of ₹12.89 crore to the contractors.

The matter was referred to the Government (January 2019) and the reply is awaited (July 2019). During the exit meeting (07 June 2019) also, the Department declined to comment on the matter.

TOURISM DEPARTMENT

3.12 Implementation of projects in Coastal Regulatory Zone (CRZ) areas

Due to the non-adherence to the CRZ notification in implementation of projects by the Department of Tourism, the project proponent, there was loss of Government of India assistance to the tune of ₹9.55 crore in respect of two projects and irregular expenditure of ₹8.97 crore in respect of three projects out of six projects examined.

According to the Coastal Regulation Zone (CRZ) Notification issued (January 2011) by the Ministry of Environment and Forests (MoEF), Government of India (GoI), construction works in the designated areas of CRZ can be undertaken only with the prior approval of the MoEF. For obtaining prior approval under CRZ Notification, the project proponent shall apply to the State Coastal Zone Management Authority with the project layout superimposed on the CRZ map indicating High Tidal Lines and Low Tidal Lines demarcated by an authorised agency.

During the period 2011 to 2018, Department of Tourism, Government of Kerala (DoT) implemented 28 projects for ₹82.52 crore in areas falling under CRZ. In order to assess the compliance of the DoT with the requirements of CRZ Notifications, Audit examined six projects out of the 28 projects. Audit observations are discussed below:

- Although the project proponent was to obtain prior clearance from Kerala Coastal Zone Management Authority (KCZMA) as per the CRZ notification, DoT, the project proponent, entrusted the implementation of all the six projects examined by Audit to various agencies⁸⁴ without obtaining prior CRZ clearance from KCZMA. The agencies, in turn, awarded the work to contractors without any CRZ clearance.

⁸⁴ Kerala Irrigation Infrastructure Development Corporation; District Tourism Promotion Council, Malappuram; Inland Navigation Directorate, KITCO Ltd. and Harbour Engineering Department.

- In respect of the projects for development of Kottapuram House Boat Terminal and development of Ottumburam beach, DoT did not apply for CRZ clearance so far (July 2019). The reasons for non-submission of application in respect of these two projects were not recorded.

Out of the above two projects, construction works of the project for development of Ottumburam beach was completed incurring an expenditure of ₹1.29 crore. Work was yet to start in respect of the other project. As the construction work in respect of one project was executed without CRZ clearance, the amount of ₹1.29 crore incurred became irregular.

GoK replied (September 2019) that though the executing agency submitted a final bill for ₹1.29 crore in respect of the Development of Ottumburam Beach project, only ₹1.12 crore was released. The District Tourism Promotion Council has taken steps to obtain CRZ clearance for completing the project. In respect of 'Development of Kottappuram House Boat Terminal', the Inland Navigation Department, GoK was directed to take steps for obtaining CRZ clearance.

The reply was not acceptable as the CRZ clearance for the projects were to be obtained beforehand. In respect of the above projects, the same not obtained as of September 2019, even after incurring expenditure of ₹1.29 crore.

- Out of the four projects⁸⁵ for which CRZ clearance was applied, KCZMA accorded approval only for two⁸⁶ projects. In respect of one project⁸⁷, KCZMA denied (July 2018) clearance on the ground that the plot area was insufficient while in respect of the other project⁸⁸, KCZMA issued (July 2015) show-cause notice for violation of CRZ notification. The DoT incurred an expenditure of ₹7.68 crore as on March 2019 in respect of these two projects. As the KCZMA did not issue CRZ clearance for these two projects, the amount of ₹7.68 crore incurred was irregular.

GoK replied (September 2019) that the Tourism Department filed an appeal before the KCZMA for obtaining CRZ clearance for the project at Thalassery while in respect of the project at Kayamkulam, GoK replied that the project was exempted from CRZ regulations and that the documents in support of the above were submitted to KCZMA.

⁸⁵Construction of new building for KITTS training centre at Thalassery, Development of Kappil Beach and Boat Club, Development of Payyambalam Beach walkway, Kannur and House boat terminal at Kayamkulam.

⁸⁶Development of Kappil Beach and Boat Club and Development of Payyambalam Beach walkway, Kannur.

⁸⁷Construction of new building for KITTS training centre at Thalassery.

⁸⁸House boat terminal at Kayamkulam.

The reply was not acceptable as the failure of the DoT to obtain prior CRZ clearance necessitated the need for appeal before the KCZMA. These appeals were not allowed by the KCZMA as of September 2019.

In respect of 'Development of Kappil Beach and Boat Club' and 'House boat terminal at Kayamkulam' projects, the implementing agency⁸⁹ proceeded with the work on the assumption that the local body would obtain CRZ clearance. But the local bodies did not obtain CRZ clearance. GoI assistance of ₹3.23 crore and ₹7.83 crore respectively was sanctioned for their implementation. As per the conditions for sanction of GoI assistance, the projects were to be completed within 24 and 36 months respectively.

GoI released (March 2013) first instalment amounting to ₹1.51 crore in respect of these two projects. Release of subsequent instalments was dependent on submission of utilisation certificate.

Due to non-obtaining prior CRZ clearance, the KCZMA stopped the work in respect of these two projects. Consequently, there was delay in submission of utilisation certificate for the amount released and completion of the projects. Hence, the subsequent instalments of GoI assistance amounting to ₹9.55 crore was not released and the DoT met the expenditure using GoK funds.

In respect of the project for 'Development of Kappil Beach and Boat Club', GoK replied (September 2019) that the delay in completion was due to non-availability of land and the long span of time required to obtain clearance from KCZMA.

The reply was not acceptable as the availability of land did not hamper the implementation of the project. The stoppage of work by the KCZMA was due to non-obtaining prior CRZ clearance. The DoT submitted application for CRZ clearance only after stoppage of work by the KCZMA. The CRZ clearance is still awaited.

⁸⁹ Kerala Irrigation Infrastructure Development Corporation.

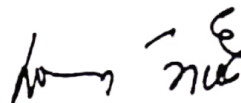
Thus, due to non-adherence to the CRZ notification in implementation of projects, there was loss of GoI assistance to the tune of ₹9.55 crore in respect of two projects and irregular expenditure of ₹8.97 crore in respect of three projects out of the six projects examined.



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