CHAPTER – III

COMPLIANCE AUDIT PARAGRAPHS

Chapter-III

Compliance Audit

Department of Labour

3.1 Functioning of Karnataka Building and Other Construction Workers' Welfare Board

3.1.1 Introduction

The Government of India (GoI) enacted (August 1996) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (the Act, 1996) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (the Cess Act, 1996) with a view to regulate wages, working conditions, safety and health, welfare measures, *etc.*, of the construction workers The State Government framed (November 2006) the Karnataka Building and Other Construction Workers' (Regulation of employment and conditions of service) Rules, 2006 (the Rules, 2006) for implementation of these Acts. Further, the State Government constituted (January 2007) the Karnataka Building and Other Construction Workers' Welfare Board (henceforth referred to as the Board) to carry out welfare schemes for construction workers. The major source of fund to the Board was collection of cess at the rate of one *per cent* of the cost of construction incurred by the employers.

The Board consisted of the Labour Minister as the *ex-officio* Chairman; Principal Secretaries of Labour Department, Urban Development Department, Rural Development and Panchayat Raj and Housing Department, representatives of workers and employers (four each) as members of the Board. The day-to-day administration of the Board was supervised by the Secretary who was assisted by the Joint Labour Commissioner (JLC), Deputy Labour Commissioners (DLCs) and Assistant Labour Commissioners (ALCs). The Board extended the welfare measures and carried out the registration/renewal of subscription through ALCs, Labour Officers (LOs) and Senior Labour Inspectors/Labour Inspectors (SLIs/LIs).

3.1.1.1 Schemes implemented by the Board

The Board was implementing 15 welfare schemes of which three schemes[32] were introduced in November 2017 and one scheme (Assistance for pre-school education and nutritional support of the child of the registered woman construction worker/*Thayi Magu Sahaya Hastha* under Rule 43-A) was introduced in April 2018. There was no assistance available to unregistered workers[33] and hence, registration was mandatory to avail any benefit. Eligibility conditions, nature and extent of benefits were scheme-specific as detailed in **Appendix 3.1**. The State Government had *vide* eight amendments, revised monetary limits under these schemes which are detailed in **Appendix 3.2**.

[32] Assistance of LPG connection to registered construction workers/*Karmika Anila Bhagya* (Rule 49-D), Assistance of concessional bus pass to registered construction workers in BMTC buses (Rule 49-E) and Assistance of student bus pass to children of registered construction workers travelling in KSRTC buses (Rule 49-F).

[33] Assistance to the dependents of the unregistered building worker (Rule 47-A) was introduced in September 2010 and was withdrawn in November 2017.

Eligible beneficiaries could avail benefits for 13[34] of the 15 schemes immediately after registration. In respect of the remaining two, minimum five (revised to three in November 2017) years' registration was required to avail the pension benefit and one-year registration period was mandatory for availing marriage assistance.

3.1.1.2 Financial position of the Board

The Board's fund was constituted from the contributions made by the beneficiaries, amount of cess received by the Board and accumulated interest on funds in bank accounts. The fund so constituted was to be utilised for meeting expenses of the Board in discharge of its functions. Further, Section 24(3) of the Act, 1996, mandated that administrative expenses should not exceed five *per cent* of the total expenses in a year. The Act further stipulates that at least 95 *per cent* of the funds should be utilised for the benefit of construction workers. **Table 3.1** shows the source-wise details of receipts and expenditure of the Board during the period from 2014-15 to 2018-19.

Table 3.1: Statement showing the receipts and expenditure of the Board

(₹ in crore)

Year	Registra-tion fee	Cess receipts	Interest receipts	Total receipts	Expenditure				Closing balance
					Scheme *	Administrative#	Capital	Total	
Up to 2013-14	-	-	-	-	-	-	-	-	2,560.67
2014-15	5.69	656.06	310.78	972.53	16.80 (**2**)	8.75 (**32**)	1.51	27.06	3,506.14
2015-16	5.13	679.05	336.22	1,020.40	55.43 (**5**)	8.00 (**12**)	2.63	66.06	4,460.48
2016-17	4.70	752.10	320.47	1,077.27	91.31 (**8**)	9.37 (**9**)	1.32	102.00	5,435.75
2017-18	5.12	824.30	294.05	1,123.47	116.57 (**10**)	10.90 (**9**)	0.46	127.93	6,431.29
2018-19	3.04	885.31	370.58	1,258.93	151.25 (**12**)	386.54 (**72**)	1.17	538.96	7,151.26
Total	**23.68**	**3,796.82**	**1,632.10**	**5,452.60**	**431.36 (8)**	**423.56 (49)**	**7.09**	**862.01**	

* Percentage of scheme expenditure to total receipts is given in parentheses.

Percentage of administrative expenditure to total expenditure is given in parentheses.

Source: Audited Annual Accounts for 2014-15 to 2015-16 and unaudited Annual Accounts for 2016-17 to 2018-19.

From the table above, it is distinctly evident that the Board did not comply with the provisions of the Act as the administrative expenses ranged between 9 and 72 *per cent* of the total expenses during the period 2014-15 to 2018-19. During 2018-19, as against the admissible expenditure of ₹26.95 crore (5 *per cent* of the total expenditure during the year), the total administrative expense was ₹386.54 crore. The excess expenditure was largely attributable to income tax expense of ₹351.12 crore during 2018-19. Similarly, as against the admissible expense of ₹16.15 crore during the period 2014-15 to 2017-18, the total administrative expense was ₹37.02 crore. The excess expenditure was again attributable to income tax expense of ₹20.87 crore. The additional liability of income tax had led to poor utilization of funds on welfare schemes (detailed in Paragraph 3.1.5.6).

[34] Clauses requiring one-year registration period for maternity and education assistance were deleted in November 2016. Scheme for providing assistance for purchase of (tools) instrument was revised as *Shrama Samarthya* in November 2017, for which there was no minimum registration period. Mandatory five-year registration period for housing scheme was removed in November 2017.

3.1.2 Audit framework

Audit test-checked (February to August 2019) the records at the Board, four[35] (33 *per cent*) out of 11 ALCs and six[36] (33 *per cent*) out of 16 LOs coming under the jurisdiction of these four ALCs to assess the adequacy and effectiveness of the Board in utilising the building and other construction workers' welfare cess for the welfare of the beneficiaries during the period 2014-19. Further, in order to assess the extent of registration of establishments and remittance of cess, Audit sought information from six[37] urban local bodies (ULBs) in the selected districts. Audit also conducted a beneficiary survey at 30 construction sites (five each in six selected districts) with the help of a questionnaire designed to assess the extent of registration and awareness among construction workers. Apart from the Act, 1996; the Cess Act, 1996 and the Rules, 2006, the instructions issued by the Central/State Government and judgements issued by the Hon'ble Supreme Court formed the criteria for the audit. The relevant statutory provisions applicable to the audit findings are indicated in **Appendix 3.3**.

3.1.3 Previous audit findings

A compliance audit on the Functioning of the Board for the period from 2008-09 to 2012-13 was conducted between January and May 2013. The findings were included in Paragraph 3.3 of the Report of the Comptroller and Auditor General of India (C&AG) on General and Social Sector for the year ended March 2013 (Report No.3 of the year 2014). The discussion of this paragraph by the Public Accounts Committee is under progress (June 2020).

Appendix 3.4 contains a gist of observations pointed out earlier and requiring certain action/corrective measures along with the compliance submitted by the Board and audit remarks thereon.

Acknowledgement

Audit acknowledges the cooperation and assistance extended by the officers and staff of the State Government and the Board in conducting the audit.

Audit findings

As of March 2019, the Board had registered 15.69 lakh workers and had a closing balance of ₹7,151.26 crore. The implementation of welfare schemes was governed by the Acts and Rules in place. The Board had utilised a mere five *per cent* of the funds available at its disposal on welfare schemes during the period 2014-15 to 2018-19.

[35] ALC, Belagavi; ALC-4, Bengaluru; Chikkamagaluru and Kalaburagi.

[36] LO, Bagalkote; LO-1, Belagavi; LO-4, Bengaluru; Bidar, LO-2, Chikkamagaluru and Kalaburagi.

[37] Bruhat Bengaluru Mahanagara Palike (27 wards coming under the jurisdiction of LO-4); City Corporations (CCs), Belagavi and Kalaburagi; City Municipal Councils (CMCs), Bagalkote, Bidar and Chikkamagaluru.

The poor utilisation was attributable to shortfall in registration of beneficiaries, absence of database of registered workers, rigidity and inconsistencies in Rules, inordinate time taken to process claims, insufficient publicity *etc*. Despite being pointed out in previous audit, we noticed laxity and absence of adequate checks and balances at the Board. The issues such as non-realisation of cess, non-remittance of cess by collecting authorities, discrepancies in sanction of benefits *etc*., were observed during current audit also. Further, the Board had incurred inadmissible expenditure and failed to avoid tax liability. The important findings are detailed below:

3.1.4 Factors affecting utilisation of funds for welfare schemes

3.1.4.1 Absence of database of eligible beneficiaries

Every building worker aged between 18 and 60 years and engaged in construction work for not less than 90 days during the preceding 12 months should apply to the respective SLI/LI for registration[38] as a beneficiary and be entitled to benefits provided by the Board.

Audit observed that neither the State Government nor the Board had conducted any survey or devised any system to estimate the number of eligible beneficiaries in the State so as to build a database and aid in decision making. In the absence of this, Audit attempted to estimate the number of construction workers in Karnataka using data on main workers from the Census of India 2011 and proportion of construction workers in total workers from Periodic Labour Force Survey 2017-18 (PLFS). Against the estimated 28.05 lakh[39] construction workers in Karnataka, the Board registered 15.69 lakh (56 *per cent*) workers (excluding 5.05 lakh MGNREGA workers registered through special drive in 2018-19) as of March 2019.

Further, the Board did not have any details of the number of registered workers, renewal of registration, number of applications received, benefits disbursed under each scheme and hence failed to have a database of number of eligible beneficiaries *vis-à-vis* amount disbursed which would have been useful for policy-making and performance analysis. Database would have also permitted Board to analyse whether the same beneficiaries were obtaining benefits across different schemes. Audit, therefore, compared the number of claims sanctioned with the number of registered workers and observed that only 3 to 8 *per cent* of the total registered workers availed assistance during the period from 2014-15 to 2018-19. Scheme-wise details of claims sanctioned and assistance disbursed are given in **Appendix 3.5(a)** and **(b)**. It could be seen from the Appendix that education and marriage assistance

[38] The registration fee was ₹25 and every registered beneficiary was also liable to contribute subscription of ₹150 (valid for a period of three years) or ₹25 (valid for a period of one year) to renew his registration (Rules 20 and 21-A).

[39] As per PLFS, total number of workers at all India level in construction industry worked out to 434.85 lakh (11.67 *per cent* of total estimated 3,726.19 lakh workers). Applying Karnataka's share (6.45 *per cent*) in nation's total main workers in Census of India 2011, total number of construction workers in Karnataka was estimated at 28.05 lakh. This calculation needs to be qualified as the eligibility conditions prescribed under Section 12 of the Act, 1996, differs with the definition of construction worker in Census of India and PLFS.

accounted for the major share of claims sanctioned and disbursed. Analysis revealed that:

- The Board had fixed a target of six lakh workers under the *Mukhya Mantri Anila Bhagya Yojane*[40] (MMABY), for which there was no justification on record. The Board released (February 2018) ₹66 crore (25 *per cent* of its total share of ₹264 crore) to Department of Food and Civil Supplies, GoK (DF&CS), but it did not have any details of the utilisation of funds and number of construction workers benefitted under MMABY. Information obtained (July 2019) from DF&CS showed that it disbursed benefits to 4,055 construction workers and incurred an expenditure of ₹1.72 crore. As the Board did not conduct any need analysis or feasibility study before releasing the amount to DF&CS, the coverage of workers under MMABY was only 0.68 *per cent* (4,055 out of targeted 6,00,000) and welfare funds to the extent of ₹64.28 crore (₹66 crore – ₹1.72 crore) remained locked up.

  The Government stated (November 2019) that Commissioner, DF&CS, had been requested (July 2019) to return the unspent amount as MMABY had not been successful owing to implementation of *Ujjwala* Scheme of GoI.

- The Board released (February 2018) ₹5.25 crore out of the estimated ₹63 crore[41] to BMTC in advance for providing free BMTC bus passes (Rule 49-E) to 50,000 construction workers. As of March 2019, BMTC issued 1,602 bus passes for an amount of ₹1.83 crore. The Board did not have any data to substantiate the target and release of funds to BMTC in advance, thus resulting in locking up of funds to the extent of ₹3.42 crore.

The Government stated (November 2019) that action would be taken to maintain the database of registered workers and other details.

It is recommended that a special drive be made to register the unregistered workers by way of initiating certain innovative approaches such as linking with Ration Cards, Jan Dhan Yojana, State RERA data and also by involving the local body staff to fetch data on the construction workers who are not registered under the Act. The IEC plans should be formulated and awareness campaigns be conducted to cover the 91 per cent workers across the State who were not registered and were unaware of the schemes offered for their welfare.

3.1.4.2 Registration of ineligible workers as construction workers

GoI directed (July 2013) all State Governments to carry out a special drive for inclusion of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) workers and later withdrew (February 2017) the earlier directions consequent on re-examination of MGNREGA workers as construction workers.

Audit observed that the Board took up (July 2017) the work of registration of MGNREGA workers through KEONICS, after the GoI withdrew (February

[40] The Scheme intended to provide free LPG connection, double burner gas stove and two refills at a cost of ₹4,040 to eligible beneficiaries (Rule 49D).

[41] ₹1,050 per month X 50,000 workers X 12 months.

2017) its directions. The Board had registered 5.05 lakh workers out of 12 lakh targeted by it. There was no justification on record for the target set as Audit observed that there were 67.54 lakh workers (as per database accessed on 14.09.2019) registered with MGNREGA, of which 32.58 lakh were having active job cards (2018-19). Further, as of August 2019, the Board had incurred an expenditure of ₹6.42 crore (44 *per cent*) against the total cost of ₹14.45 crore. It submitted (August 2019) a proposal to the Government to rescind this work citing poor quality of work carried out by KEONICS. Consequently, the expenditure of ₹6.42 crore incurred out of cess funds on registering ineligible workers was rendered unfruitful.

The Government stated (November 2019) that the Board had complied with the provisions of law and registered the workers in accordance with Section 12 of the Act, 1996. The reply was not acceptable as the MGNREGA works did not come under construction works and cess was also not collected from such works. During the exit conference, the Secretary to Government, Department of Labour, assured (January 2020) that matter would be taken up with RDPR Department for realisation of one *per cent* cess in respect of MGNREGA works. The recovery of one *per cent* cess is not feasible as payments under MGNREGA are for either wages or material component.

3.1.4.3 Rigidities and inconsistencies in Rules

The State Government constituted an Expert Committee in June 2012 (reconstituted in March 2014) comprising Principal Secretary to the Government, Labour Department, as Chairperson, Secretary of the Board, as Member Secretary and members from other departments/Institutions – Finance, Public Works, Revenue, National Law School of India University, *etc*. Audit observed that in spite of the Expert Committee, which convened three meetings during the period from 2014-15 to 2018-19, the Rules were either rigid or were inconsistent with the other statutory provisions. The impact thereon on the implementation of the schemes is detailed below:

a) Assistance for purchase or construction of a house (*Karmika Gruha Bhagya*) - As per Rule 42(1), a registered worker of at least 45 years of age and having 15 years of service for superannuation was eligible for *Karmika Gruha Bhagya*. Thus, an eligible beneficiary could avail this benefit at the age of 45 years only. Also, the terms such as 'service' and 'superannuation', generally used in context of organised sector, were not defined in the Rules. In terms of Rule 42(3), the Board would recover the advance in equal instalments in a period of 20 years. This meant that recovery for the last five years would be made from pension (₹1,000 p.m.) since a worker could apply for assistance at the age of 45 years only.

   The Board stated (August 2019) that the scheme would undergo a major revamp by enforcing a change in the law.

b) Education assistance - The Board amended (November 2017) Rule 45 to restrict the educational assistance to the students enrolled in regular courses in recognised institutions located physically in Karnataka. Students enrolled in distance education courses, home study courses, online courses, *etc*., were not eligible to avail this benefit. The justification cited was enhancement and widening of the educational

assistance, which was devoid of merit as insistence on location of institution in Karnataka restricted the scope of assistance and was detrimental to the interest of registered workers especially migratory population.

Further, the Board introduced (November 2017) the scheme of merit assistance wherein beneficiaries were eligible for assistance ranging from ₹5,000 to ₹15,000. However, it had not prescribed the modalities for preferring a claim. Consequently, merit assistance was not provided in any of the six eligible test-checked cases in LO-1, Belagavi and LO-4, Bengaluru.

c) Assistance for the 1st marriage of the registered building or construction worker or his/her dependent children – The Board provided the assistance of ₹50,000 to meet the marriage expenses of the worker or his dependent children (Rule 49). The term 'dependent' was not defined in the Rules till November 2017 creating an ambiguity. It inserted (November 2017) Clause 2 (p-1) to define 'dependents' as the spouse, minor son and minor daughter including step children and parents residing with and wholly dependent on construction worker. This was inconsistent with sub-clause 2(d) of Rule 49 as it mandated that children, for whom assistance was sought, should have attained the age prescribed by law for marriage. Also, the assistance was available only if the marriage happened in Karnataka (Sl. No. 5 of the prescribed Form XXIII). This restriction rendered the Rule rigid and was unfavourable especially to migrant workers.

d) Assistance for delivery of a child by registered woman construction worker - The Board amended (November 2017) Rule 43 to give the assistance in form of a bond (*Thayi Lakshmi* Bond) in the name of the mother for a period of at least three years. It was justified that this would empower women, create an entitlement which would not be spent in a wasteful manner and benefit would reach the female beneficiary. The justifications did not hold good as prior to this amendment, the amount was being transferred to the female beneficiary's bank account. Moreover, the amendment defeated the intent to provide assistance for meeting expenses towards the delivery of child as the assistance in form of bond would be locked up for a minimum period of three years.

e) Assistance to beneficiary in case of accident resulting in death or partial disablement - The Board amended (November 2017) Rule 47(2) and stipulated that a beneficiary who met with an accident during the course of employment would not get any assistance through the Board. The reason cited was that such beneficiary would be compensated by the employer under the provisions of the Employees Compensation Act, 1923.

This justification was inconsistent with Rule 40 as the Board provided assistance in the form of disability pension (₹1,000 p.m.) and ex gratia (up to ₹2,00,000) if a beneficiary was disabled due to any disease or accident at the worksite. Further, the amendment undermined the spirit of the Act, 1996, by absolving the Board of its responsibility of providing immediate assistance to the eligible beneficiary in such cases (Section 22) and jeopardised the assistance available to the nominee in the event of death of the construction worker due to an accident at the site.

The Board accepted the audit observation and stated (August 2019) that amendment to Rule 47 had been proposed and it was pending with the Department of Law and Parliamentary Affairs.

The Government stated (November 2019) that action would be taken to issue necessary amendments and remove all the restrictive clauses to enable eligible beneficiaries avail the benefits.

3.1.4.4 Poor publicity leading to lack of awareness of schemes

Awareness among potential beneficiaries was key to ensuring that they are able to articulate their demand and claim their entitlements. Scrutiny showed that the Board had not drawn up any IEC plan so far. Though Karnataka State Legal Services Authority (KSLSA) had been conducting various awareness programmes for construction workers, the Board did not have any information about these programmes. Analysis of the information received (September 2019) from KSLSA showed that only 1.43 lakh participants (nine *per cent* of the total 15.69 lakh construction workers registered in the State) attended 865 awareness programmes during the period from 2014-15 to 2018-19. Further, in respect of the four newly introduced schemes, the Board had not specified the sanctioning authorities and also did not undertake specific awareness campaigns to publicise these schemes. Evidently, the publicity of the various schemes available for the beneficiaries was poor. The impact thereof is illustrated below.

(i) The assistance for nutritional support of the child of registered woman construction worker (Rule 43-A - *Thayi Magu Sahaya Hastha*) was available for a period of three years from the date of delivery. Hence, 1,562 registered woman workers who had availed maternity assistance (under Rule 43) during the period from 2016-17 to 2018-19 were eligible to avail the benefit under Rule 43-A also for the year 2018-19. However, they were deprived of the assistance of ₹93.72 lakh (@ ₹6,000) as they had not claimed the same in the absence of awareness of this assistance.

(ii) The nominee was eligible for assistance of ₹5,00,000 in case of death of beneficiary due to accident (Rule 47). Such nominees were also entitled for an amount of ₹54,000[42] under Rule 44 on the basis of same set of documents (death certificate, nomination form, *etc.*). While, the Board disbursed assistance for accidental death in 218 cases during the period from 2014-15 to 2018-19, the admissible assistance under Rule 44 in these cases remained unclaimed. As a result, the Board failed to utilise cess funds to the extent of ₹1.18 crore in respect of these 218 cases (@₹54,000).

The State Government agreed to examine lacunae, if any, and take necessary action in this regard and stated (November 2019) that ALCs/LOs would be instructed to enlighten the eligible beneficiaries to extend henceforth the assistance under Rule 44 also.

[42] ₹4,000 to meet the funeral expenses and *ex gratia* of ₹50,000 to mitigate the financial hardship caused by sudden demise of the construction worker.

The Government stated (November 2019) that the Board was planning to initiate effective action to create awareness through a comprehensive IEC plan.

3.1.4.5 Inordinate delay in processing claims

In order to ensure effective implementation of the provisions of the Act, 1996, the Hon'ble Supreme Court directed (January 2010) that benefits under the Act should be extended to the registered workers within a stipulated time frame, preferably within six months.

Audit observed that the Board did not prescribe any time limit for ensuring timely extension of assistance and there were delays up to 33 months in six test-checked districts in processing the claims. In respect of pension scheme for which the Secretary, Board was the sanctioning authority, the time taken for sanctioning benefits ranged up to 78 months in 52 out of 81 test-checked cases.

The Government stated (November 2019) that seven schemes had been brought under SAKALA[43] scheme from June 2019 onwards. The details of such schemes and status of bringing the remaining schemes under SAKALA were, however, not furnished. In the exit conference (January 2020), the Labour Secretary cited shortage of staff as a major hindrance and assured that action would be taken to avoid inordinate delays.

It is recommended that a time period for processing claims be specified and steps taken to ensure that such claims are processed within the prescribed time.

3.1.4.6 Disparity between Act and Government notification

The Cess Act, 1996, stipulated that proceeds of the cess collected should be paid to the Board by the local authority or the State Government collecting the cess after deducting the cost of collection of such cess not exceeding one *per cent* of the amount collected. This included the cess collected in respect of a Government work as well as private works where cess was collected as advance by plan approving authorities.

However, the notification issued (January 2007) by the State Government did not include any clause for collection charges in respect of Government works. Also, Clause (c) of the notification stipulated that the Board should give back one *per cent* of the cess collection to the plan approving authority (local body) for the services rendered. Thus, there was a disparity between the provisions of the Cess Act and the Government notification. Consequently, there was no uniformity with regard to refund of collection charges at the Board.

[43] An Act (Karnataka Sakala Services Act or Karnataka Guarantee of Services to Citizens Act) passed by the State Government in 2011 to provide for guarantee of services to citizens within the stipulated time limit.

3.1.5 Deficiencies in collection and utilisation of cess

3.1.5.1 Cess lying in Public Account

The cess levied by State departments was accounted for under the Head of Account (HoA) '8449-00-120-0-18-660' in *Khajane-2* from November 2017. In order to receive payment from *Khajane-2* system, it was necessary for the Board to furnish its bank details and be registered as a recipient.

Scrutiny showed that receipts amounting to ₹37.94 crore and ₹187.43 crore were credited to this HoA during 2017-18 and 2018-19 respectively, but no expenditure had been booked (August 2019) as the Board was not registered as a recipient. This resulted in loss of revenue to the Board aggregating ₹225.37 crore and the amount continued to remain as undischarged liability in the Public Account.

The Government stated (November 2019) that action had been initiated to ensure transfer of ₹225.37 crore to the Board's account. Regarding registration of the Board as a recipient in *Khajane-2* system, the Secretary to Government, Department of Labour, assured (January 2020) that suitable action would be taken.

3.1.5.2 Non-realisation of cess

Non-realisation of cess due to non-receipt of fresh cheques was pointed in *Paragraph 3.3.5.4 of Report No.3 of the year 2014*. Scrutiny showed that as of March 2019, the Board returned 8,510 defective cheques/demand drafts for ₹17.08 crore (tappal returns[44] - 6,171 instruments valuing ₹9.75 crore and bank returns[45] - 2,339 instruments worth ₹7.33 crore). No reminders were issued till October 2018 and reminders issued in October-November 2018 and January-March 2019 accounted for only six *per cent* cases (₹1.10 crore out of ₹17.08 crore). As a result, the Board was yet to receive fresh cheques/drafts in respect of all these cases, resulting in non-realisation of cess to the extent of ₹17.08 crore (August 2019).

Illustration

Bengaluru Development Authority (BDA) had issued two cheques amounting to ₹2,08,70,536 (₹1,25,66,766 and ₹83,03,770 vide cheque numbers 695480 and 695481 dated 27.02.2018) towards cess payable to the Board. These cheques were received by the Board on 26.05.2018 with a time validity of only one day. As the cheques could not be presented to the banks within the permissible time, they became time barred. The cheques were returned (May 2018) to BDA for issue of fresh cheques. No fresh cheques for the above mentioned amounts have been received till date (September 2019). The Board did not reflect this amount as receivable resulting in understatement of receivables.

[44] Where the Board identified the defects and returned the cheques/drafts to drawers.

[45] Where the bank identified the defects and returned the cheques/drafts to the Board for onward transmission to the drawers.

3.1.5.3 Non-remittance of construction workers' welfare cess

Section 3 of the Cess Act, 1996, stipulated that the cess collecting authorities should transfer to the Board the proceeds of cess collected within 30 days of its collection.

There continued to be no mechanism at the Board to ensure that the cess collected by the government departments, public sector undertakings, *etc.*, was promptly remitted to the Board's account despite being pointed out during previous audit (*Paragraph 3.3.5.3*). Information obtained from three ULBs (CC, Kalaburagi, CMC, Bidar and CMC, Chikkamagaluru) showed that cess proceeds aggregating ₹10.01 crore was not remitted to the Board (March 2019). Out of this, ₹54.42 lakh pertaining to building plans sanctioned by CMC, Bidar was outstanding since the year 2015-16. In the absence of a proper mechanism, the possibility of loss of revenue to Board and diversion of welfare funds by cess collecting authorities could not be ruled out.

Illustration

CMC, Chikkamagaluru, was responsible to collect one *per cent* of the estimated cost while according plan approvals and transfer the cess proceeds to the Board. Till November 2016, the CMC collected the cess amount from the applicants in the form of demand drafts (DDs) and forwarded the DDs to the Board. During December 2016, the CMC opened a bank account in IDBI Bank, Chikkamagaluru, and it instructed the applicants to remit the cess amount in this bank account instead of submitting the DDs. The CMC then transferred the collected cess amount to the Board by drawing DDs on this account.

On 31.03.2018, the Municipal Commissioner, CMC, Chikkamagaluru, accorded approval for remitting ₹19,03,096 to the Board for which a cheque (No. 146585) dated 31.03.2018, IDBI Bank, was drawn in favour of 'Yourself DD' to remit the amount through DD. Entries were passed in the Cash Book and a covering letter (dated 17.05.2018) addressed to the Secretary, Board, was also kept on record to suggest that the DD had been forwarded to the Board.

Verification of the Board's bank pass sheets showed that this amount was not credited. Subsequent information obtained (20.06.2019) from IDBI Bank showed that instead of drawing the DD in favour of Board, the DD for ₹19,03,096 was drawn in favour of M/s Ken Engineering Works on 16.05.2018 and it was encashed on 18.05.2018. This resulted in diversion of welfare funds. The possibility of misappropriation of funds could not be ruled out.

The Government stated (November 2019) that the matter would be pursued to ensure remittance of unremitted cess amount.

Audit also observed that though there was a provision for levy of penalty for non-payment of cess by the employer, there was no penalty for those cess collecting authorities which did not deposit the cess proceeds within 30 days.

During the exit conference, the Secretary to Government, Department of Labour, stated (January 2020) that action would be initiated to amend the rules

by incorporating penalty clause for non-remittance of cess within the prescribed time limit.

3.1.5.4 Discrepancies in sanction of benefits

Scrutiny of records in 10 test-checked field offices showed that the sanctioning authorities disbursed inadmissible assistance of ₹20.24 lakh in 29 out of 390 test-checked cases. The reasons attributable were disbursement of assistance for 3rd child, disbursement without ensuring renewal of registration, assistance disbursed to ineligible beneficiaries, *etc*. In 4 out of 72 test-checked cases, the sanctioning authorities paid ₹2.18 lakh in excess of the eligibility. In another 9 out of 63 test-checked cases, assistance less than the admissible amount was disbursed, resulting in short payment of ₹7.94 lakh. The details are given in **Appendix 3.6**. Improper sanction of benefits was pointed out *vide Paragraph 3.3.6.3* of the previous report.

The Government stated (November 2019) that discrepancies in sanction of benefits would be verified and necessary action would be taken.

3.1.5.5 Tampering of records

The registering authorities for beneficiaries *viz.*, SLIs/LIs were to maintain Form IX register containing the details of eligible beneficiaries, amount paid, date/challan number, *etc*. Form IX register was the basic record available to verify the details of registration/renewals. Since eligibility for availing the welfare schemes implemented by the Board was verified with the date of registration/renewals, proper maintenance of these records was essential.

Test-check of records showed that there were instances of tampering/manipulation of records as explained below:

- In the office of LI, Hosakote (coming under the jurisdiction of LO-4, Bengaluru), against the challan number 256 (dated 23.03.2015), an amount of ₹4,025 was received as registration fee and three years' subscription of 23 members (₹175 each). However, as per Form IX register, another 21 beneficiaries (Registration numbers 6819, 6820, 6821, 6928 to 6945) were also registered against the same challan number.

  Similarly, against the amount of ₹8,750 received *vide* challan number 224 dated 14.01.2015 towards registration fee and three years' subscription for 50 beneficiaries (₹175 each), the LI, Hosakote, had registered 53 beneficiaries (registration number 6693 to 6743B). This included registration numbers with suffix 'A' and 'B' *e.g.* 6743A and 6743B.

- LI, Hosakote, assigned same registration number to two beneficiaries in 800 cases (986 to 1,683 and 6,903 to 7,004). Further, in majority of the cases, the entries in Form-IX Registers were not attested by the LI and space for signature of Board Official was left blank.

- In offices of LOs, Bidar and Kalaburagi, names in challan registers were either kept blank or altered.

- In offices of LO, Bidar and SLI, 38th Circle, Bengaluru, pages in Form IX registers were kept blank, leaving the opportunity to enter the details of beneficiaries at a later date. In SLI, 38th Circle, Bengaluru, pages were

also added fraudulently afterwards (serial numbers from 306096 to 306099 in Form IX Register containing serial numbers from 499201 to 499300) which contained the details of registration.

The Government stated (November 2019) that matter would be investigated.

3.1.5.6 Avoidable liability towards income tax

Mention was made in *Paragraph 4.9* of the Report of the C&AG on General and Social Sector for the year ended March 2015 (Report No.1 of the year 2016) regarding avoidable payment of ₹42.83 crore towards income tax (TDS) as the Board had not made use of the enabling provisions available in the IT Act, 1961, for availing tax exemption. The Government replied (October 2015) that action had been initiated to obtain tax exemption certificates from the authorities of Income Tax Department (ITD).

Scrutiny showed that the Board had applied to the Commissioner of Income Tax for grant of exemption under Section 10 (46) of the IT Act, 1961, in August 2018 *i.e.,* after a gap of three years from being pointed out by Audit and the application was yet to be approved (November 2019). Further, the Income Tax Returns (ITRs) of the Board for the Financial Years (FYs) 2014-15 to 2016-17 were selected (September 2017 and August 2018) for scrutiny assessment by ITD. As the Board had no exemption, the Assessing Officer concluded (December 2017 and December 2018) the assessments for FYs 2014-15 and 2015-16 by treating cess receipts and interest on FDs and savings bank account as income of the Board and levied tax of ₹413.09 crore for FY 2014-15 and ₹402.93 crore for FY 2015-16. The ITD also issued (March 2019) notices under Section 148 (income escaping assessment) of IT Act, 1961, for FYs 2011-12, 2012-13 and 2013-14 as the Board had filed these ITRs exhibiting income as Nil. The assessments for other FYs were due for completion by 31.12.2019.

Audit also observed that there were delays ranging from 3 to 18 months in filing ITRs for FYs 2011-12 to 2016-17 and Form 10[46] were either not filed or filed belatedly. These omissions along with failure of the Board in obtaining exemption under IT Act, 1961, resulted in avoidable tax liability aggregating ₹2,358.94 crore including penal interest of ₹755.07 crore (detailed in **Appendix 3.7**). Out of this, the ITD had already collected (February 2018) ₹413.09 crore by attaching the Board's bank account.

During the exit conference (January 2020), the Secretary to Government, Department of Labour, accepted that the Board had failed to present its case professionally and clarified that all possible action had now been taken to get the exemption and the final order was awaited. The Secretary, however, expressed concerns about obtaining the exemption with retrospective effect.

The fact remains that at the end of March 2019, the Board had to bear an additional liability of ₹2,358.94 crore including penal interest of ₹755.07 crore towards income tax, which could have been averted had the Board followed the provisions available in the IT Act, 1961, for availing tax exemption. The

[46] Calculations in Appendix 3.7 showed that the benefit of accumulation *i.e.,* timely submission of Form 10 would have reduced the total tax liability by ₹1,787.48 crore (₹2,358.94 crore – ₹571.46 crore).

much bigger area of concern is that if the Board has to pay the entire liability amount (without getting any exemption) towards income tax, it has to be borne from the receipts of the Board, which are meant for implementation of the welfare schemes of the construction workers. This would entail an expenditure of 43 *per cent* of the Welfare fund including penalty and only 57 *per cent* of the Fund would be available for the benefit of the beneficiaries.

3.1.5.7 Inadmissible expenditure

Sections 22 and 24 of the Act, 1996, mandated that at least 95 *per cent* of the funds should be utilised for the benefit of construction workers. Pursuant to directions of the Hon'ble Supreme Court of India (August 2015), the GoI reiterated (June 2016) that welfare funds should not be used for any purpose other than for welfare of construction workers and their family exclusively. In case of any violation, immediate corrective steps were to be taken and the funds so spent were to be recouped in welfare funds with immediate effect. The GoI further clarified (July 2017) that states could take proactive steps to facilitate transit accommodation, labour shed-cum-night shelter, mobile toilets and mobile crèches to construction workers in the areas of their concentration prior to their finding work.

Audit observed that in contravention to the provisions cited, the Board incurred an expenditure of ₹67.98 crore on inadmissible items which was yet to be recouped to welfare funds (November 2019). The details are as follows:

- Expenditure on acquiring land – The Board acquired 128.64 acre of land at a cost of ₹65.80 crore (including incidental expenses *viz.*, registration fee and stamp duty) from different government organisations such as KIADB and eight others on lease/sale basis during the period 2013-16 to establish National Construction Academy, transit accommodation, residential schools, skill centres and *Karmika Kalyana Bhavanas*. This expenditure was met out of the welfare fund in 2013.

  Scrutiny showed that after the receipt of GoI's directives (July 2017), the Board resolved (March and May 2018) to utilise 33 acre (worth ₹14.76 crore) out of 128.64 acre of land for admissible purposes[47] and sought reimbursement of amount from KIADB/other agencies on return of the remaining acquired land (95.64 acre of land costing ₹51.04 crore). There was no further progress and amount of ₹51.04 crore was yet to be recouped (November 2019).
- Advertisement and publicity expenses – The Hon'ble Supreme Court highlighted (August 2015) that expenditure incurred on advertisements with the cess amount collected was inappropriate and directed that the amount spent be returned to the accounts of construction workers. The Board incurred an expenditure of ₹3.93 crore towards advertisement and publicity during the period from 2013-14 to 2015-16 which was not admissible and needed to be recouped.
- Construction of *Kalyana Suraksha Bhavan* – Consequent to State Government's in-principle approval (December 2009) to construct

[47] Establishment of transit accommodation/labour shed-cum-night shelter, mobile toilet and mobile crèche facilities for the construction workers.

Kalyana Suraksha Bhavan at ITI Compound, Bannerghatta Road, Bengaluru, the Board passed (January 2010) a resolution to meet the cost of this building jointly with the Department of Factories and Boilers, Labour Department. The Board met the total cost of construction of ₹14.76 crore out of welfare funds and received (March 2014) only ₹3 crore from the Department of Factories and Boilers against its share of ₹7.38 crore. The Board further released (August 2018) ₹1.25 crore (estimated cost was ₹1.79 crore) to Karnataka Rural Infrastructure Development Limited (KRIDL) for interior work of fourth floor. The interior work was yet to be completed. As the construction of such building was not allowed out of welfare funds, expenditure of ₹13.01 crore[48] incurred by the Board was inadmissible.

The Government stated (November 2019) that it would review the matter.

3.1.5.8 Unfruitful expenditure on development of software

The Board had incurred an expenditure of ₹1.21 crore on developing a software (*Karmika-I*), which was rolled out in February 2016. The software provided for online registration, online data retrieval, elimination of data duplication, cess module for tracking cess collection, *etc*. However, it was not fully functional[49] as the SLIs/LIs had not been provided with computers. Subsequently, the Board invited (July 2017) tenders for developing a comprehensive software (*Karmika-II*) with an estimated cost of ₹54.36 lakh and awarded (January 2018) the work to M/s Vansh Infotech and paid ₹44.72 lakh for the period from February 2018 to January 2019. The scope of the work included providing only the manpower and carrying out the work as per requirement of the Board but the Board did not have any IT staff/expert to finalise requirements and validate specifications. The Board did not fix any timeline/milestones though it entrusted several functional requirements to the agency. The work also included, among other things, monitoring and programming of renewals, processing claims, *etc*., which necessitated that the old manual data of registration (prior to February 2016) should be digitised. The Board had entrusted the work of digitising the manual data to KEONICS in November 2017. However, there was no progress. Hence, awarding the work of developing new software to M/s Vansh Infotech without digitisation of old manual data was not justifiable.

As a result, the software launched in February 2019 was not fully operational. The Board terminated (April 2019) the contract as the agency failed to attend to the bugs/issues and started (June 2019) using *Seva Sindhu* (e-governance portal of GoK) for registering eligible beneficiaries. Thus, the Board failed to achieve its intended objective of having a comprehensive software for providing better services to construction workers and monitor cess collection despite incurring an expenditure of ₹1.66 crore.

The Government stated (November 2019) that the agency was unable to handle and complete the task within the stipulated time. It further stated that the Board claimed back (September 2019) the amount of ₹44.72 lakh along

[48] ₹14.76 crore + ₹1.25 crore – ₹3 crore.

[49] Only the cess module was partially used and online registration of beneficiaries commenced in February 2016.

with penalty (as per Clause 5 of the agreement) from the agency as the new software was not working properly and its optimal use was not possible. The reply was not fully acceptable as the Clause 5 of the agreement contained penalty clause only for delay in deployment of manpower and hence recovery of ₹44.72 lakh was not assured.

3.1.5.9 Absence of monitoring on investments

The Board had been investing surplus amounts in fixed deposits (FDs) after calling for the quotations from the banks. The Investment Register/FD Register was maintained in softcopy (excel) without any mechanism for verification by the officers of the Board. The balances reflected in the Investment Registers were not verified/reconciled with the physical Fixed Deposit Receipts and bank confirmation statements to ensure its correctness. Out of total fixed deposits amounting to ₹4,803.63 crore as at the end of March 2017, bank confirmations were available for only ₹1,810.46 crore. Audit, therefore, could not ascertain the correctness of the balance fixed deposits amounting to ₹2,993.17 crore in the absence of the confirmation of balances from the relevant banks. The investment as at the end of March 2019 was ₹6,337.28 crore (as per unaudited accounts). Scrutiny of investments in FDs valuing more than ₹10 crore showed that:

- Details of pre-closure, maturity, reinvestment were not being updated in the register.
- There were five cases where the bank without prior permission of the Board divided the amount to be deposited into smaller denomination for investing in FDs (**Appendix 3.8 (a)**) and there were also 13 cases where credit details on maturity were not traceable from the records (**Appendix 3.8 (b)**).
- Board had invested ₹100 crore for the period from 22.03.2017 to 22.02.2018 for a duration of 11 months. The said FD attracted rate of interest of 5.1 *per cent* per annum. However, the bank documents showed that no interest was credited on closure of the FD. In addition, an amount of ₹1,27,500 was deducted from the principal amount towards TDS, which was incorrect as no interest was paid.
- In 12 test-checked cases involving ₹625 crore (43 FDs), the Board invested ₹430 crore (32 FDs) at rates lower than the available rates which resulted in loss of interest of ₹2.46 crore (**Appendix 3.9**). As these are only illustrative cases, the Board should look into this aspect in all other cases also to preclude any further likelihood of loss of revenue.

During the exit conference (January 2020), the Secretary to Government, Department of Labour, agreed to the possibility of fund mismanagement and assured to get it enquired.

The observations discussed in paragraphs 3.1.4 and 3.1.5 indicate lack of commitment on the part of the Government/Board to take forward the issue of workers' welfare besides reflecting on the absence of strong and effective institutional mechanism.

It is recommended that a robust internal control mechanism within the Board should be put in place to ensure that cess is realised effectively from all sources, the cess is used for the purpose for which it is meant, there is no inadmissible expenditure and avoidable expenditure towards income tax liability is addressed.

3.1.6 Institutional mechanism

3.1.6.1 Ineffective institutional mechanism

The institutional mechanism was either absent or not effective as below:

- The Secretary of the Board had submitted (August 2011, February 2012, December 2013, December 2015, February 2016, May 2018) proposals to the Government for constituting a State Advisory Committee but the State Government constituted the Committee in November 2019 i.e. after a delay of more than 12 years from establishing the Board. This inordinate delay deprived the Board of suitable guidance on such matters arising out of the administration of the Act, 1996.
- The Board had not constituted the Internal Audit Wing and no Internal Audit was carried out in spite of being pointed out in previous financial audits.
- The State Government had not conducted the social audit on the implementation of the Act, 1996 despite the directions of Hon'ble Supreme Court of India.

The Government stated (November 2019) that corrective measures were being undertaken in this regard.

3.1.6.2 Inadequate human resources

Audit observed that though the Board was constituted in January 2007, it was not provided with necessary staff as detailed below:

- There was inordinate delay in framing C&R Rules as the State Government was yet to finalise/notify the Rules (November 2019). This was also pointed out in the earlier report of the C&AG (*Paragraph 3.3.3*). Further, there was no consistency and objective criteria for having assessed the overall need of staff strength as the requirement of personnel for Head office/Field offices varied from 1,668 (December 2016) to 262 (June 2017) to 623 (May 2019).
- Though the State Government sanctioned (December 2017) 35 posts to be filled up on deputation, 23 of these remained vacant (March 2019). Majority of the work at Board was being managed with contractual staff who even handled cheques/demand drafts and accountability could not be fixed on them.
- During the period from 2014-15 to 2018-19, the post of Secretary as regular charge was held for 10 months. For the remaining 50 months, seven incumbents held this post as additional charge.
- In accordance with the Government's instructions, the officers/officials of Labour Department were entrusted duties of registering

establishments and cess assessment (LOs), registering beneficiaries and cess collection (SLIs/LIs) and sanctioning social security benefits (except pension and disability pension) to ALCs and LOs. These officers/officials of the Labour Department were to perform duties for the Board in addition to their regular charge of administering and enforcing provisions of other 23 central/state acts. Audit noticed that against the sanctioned 324 posts in these three cadres (ALC, LO and SLI/LI), 116 posts (36 *per cent*) were vacant as of May 2019.

Shortage of staff and vacancies in the posts of ALC, LO and SLI/LI hampered the registration of establishments and workers and also led to delays in sanctioning the claims.

The Government stated (November 2019) that approval to C&R Rules was under consideration and the Board would take action to recruit officers/employees once the C&R Rules were approved.

It is recommended that the State Government finalise the C&R Rules of the Board immediately so that appropriate/qualified persons are appointed to ensure accountability and prevent handling of finances by the outsourced employees.

3.1.6.3 Shortfall in registration of establishments

The Board had registered 6,227 establishments in the State as of December 2018. Audit observed that the Board neither devised any mechanism to identify the prospective employers nor complied with the GoI's directives (May 2018) such as, forwarding copies of work orders to relevant authorities, developing a mechanism for regular monitoring of construction activities and use of GIS technology/mapping, *etc.*, for ensuring registration of establishments (detailed in **Appendix 3.10**). Though the Board received cess proceeds in form of cheques/DDs or through RTGS/NEFT from employers/cess collecting authorities, it did not co-relate this data with that available with the respective LOs to ensure registration of these establishments and workers employed therein and failed to maintain a comprehensive database of construction works undertaken in the State. As a result, there was a shortfall in registration of establishments to the extent of 99 *per cent* in the test-checked districts as detailed in **Appendix 3.11**.

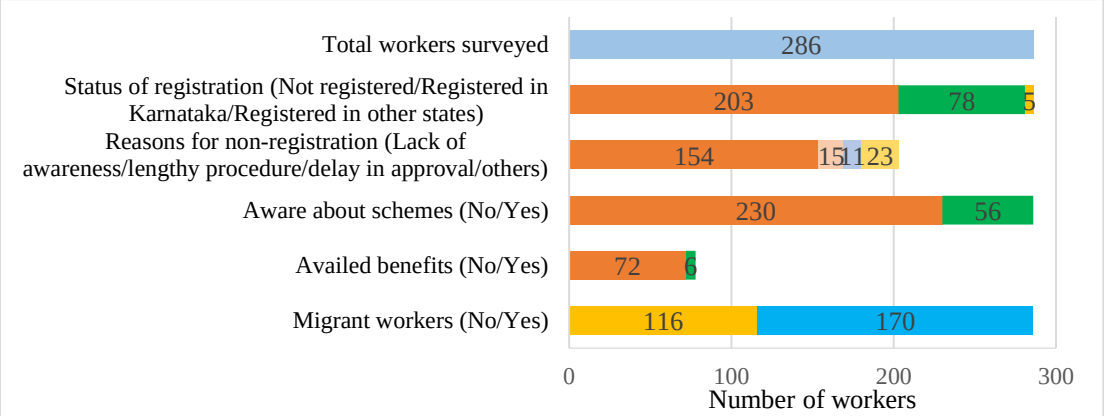
Further, LOs though empowered, had not conducted inspection of premises of the establishment in any of the six test-checked districts during the period from 2014-15 to 2018-19 and hence failed to identify unregistered employers.

During the exit conference (January 2020), the Secretary to Government, Department of Labour, attributed shortage of staff as a major constraint and stated that all possible action would be taken to increase the registration of establishments.

3.1.7 Findings of beneficiary survey

Audit conducted a beneficiary survey of 286 (25 *per cent*) out of 1,136 workers at 30 construction sites in six test-checked districts to assess the extent of registration and awareness among construction workers. **Chart 3.1** depicts the findings of the beneficiary survey.

Chart 3.1: Findings of beneficiary survey



The survey showed that a total of 170 (60 *per cent*) of 286 workers were migrant workers. Only 78 workers (27 *per cent*) were registered under the Act, 1996, in Karnataka and five (2 *per cent*) were registered in other states. Remaining 203 workers (71 *per cent*) were not registered and attributed lack of awareness (154 cases), lengthy procedure (15 cases), delays in approval, *etc*., as reasons for non-registration. Only 56 (20 *per cent*) of 286 workers were aware about welfare schemes and only 6 (8 *per cent*) out of 78 registered workers reported to have availed benefits under the Act. These are only illustrative cases and possibility of more similar cases could not be ruled out. The Board should, therefore, initiate suitable action to ensure registration of all the eligible beneficiaries and create awareness among them for availing the entitled benefits.

The Government stated (November 2019) that action would be taken to register all the eligible workers by simplifying the procedures and awareness would also be created for registration and benefits available

3.1.8 Conclusion

The compliance audit showed that the Board was not able to achieve its objectives as the number of employers and construction workers registered with the Board remained low. There was laxity in taking corrective action on the findings of the previous audit. Absence of adequate checks and balances at the Board continued to exist and the Board suffered from systemic deficiencies relating to shortage of staff, poor publicity of schemes, lack of database, inordinate delays in processing claims, *etc*.

In spite of having the Expert Committee for advising the Government in drafting the rules, there were inconsistencies and unrealistic clauses which led to denial of assistance to construction workers and the Board could utilise only five *per cent* of the available funds on welfare schemes during the period from

2014-15 to 2018-19. The absence of internal control mechanism within the Board resulted in non/short realisation of cess (₹27.09 crore), inadmissible expenditure (₹67.98 crore), avoidable liability towards income tax (₹2,358.94 crore including penal interest) and non-monitoring of investments, *etc*.

Majority of the work at the Board was being managed with contractual staff who even handled cheques/demand drafts and accountability could not be fixed on them.

Rural Development and Panchayat Raj Department

3.2 Effectiveness of Social Audit

3.2.1 Introduction

Social Audit is a process in which, details of resource, both financial and non-financial, used by public agencies for development initiatives are shared with the people, often through a public platform. Social Audits allow people to enforce accountability and transparency, providing the ultimate users an opportunity to scrutinize development initiatives.

Government of India provided for conduct of Social Audit in many of its critical flagship programmes such as Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), National Rural Drinking Water Programme (NRDWP), Swachh Bharat Mission (SBM) *etc*., through the Acts, manuals and guidelines governing the implementation of respective programmes. Accordingly, each department implementing the programmes / schemes was to arrange for conduct of Social Audit, as prescribed.

Though the State Government had not put in place an exclusive authority for conducting Social Audit of the various schemes implemented in the State, the Directorate of Social Audit [hereafter referred to as Social Audit Unit (SAU)], as mandated under the MGNREG Act, was registered (May 2012) under the Karnataka Societies Registration Act, 1960 for conduct of Social Audit of MGNREGS in the State. The SAU, headed by the Director, was undertaking Social Audit of other programmes, as and when specifically entrusted.

The details of programmes/schemes where Social Audit was necessary and the status of implementation in the State during the period 2016-17 to 2018-19 is given in **Appendix 3.12**.

3.2.2 Social Audit of schemes/programmes other than MGNREGS

Social Audit was conducted regularly only for MGNREGS and it was not a continuous process for other schemes. Further, the Director of Social Audit had not submitted any formal report to the departments concerned except for Mid-day Meal (MDM) Scheme (covering only 20 schools each in two districts). However, the SAU had furnished the status of implementation of the works under NRDWP that indicated serious irregularities *viz.*, full payments made for incomplete works, execution of works at non-approved places *etc*. No action was taken by any department on the findings of the

Social Audit, particularly in the implementation of NRDWP. This indicated that Social Audit was got conducted only to comply with the statutory provisions. Thus, the Social Audit process was rendered futile for all the other schemes.

State Government replied (November 2019) that SAU is created under MGNREG Act to conduct Social Audit exclusively for MGNREGS and other programmes are audited based on request of departments concerned. It further stated that taking action on Social Audit report of other programmes is the responsibility of departments concerned.

3.2.3 Social Audit of MGNREGS

For analysing the effectiveness of Social Audit of MGNREGS, Audit selected 80 Gram Panchayats (GPs) under eight districts where Social Audit was stated to have been conducted during 2016-17 to 2017-18 in respect of MGNREGS using simple random sampling without replacement method besides examining the records of the Directorate of Social Audit. List of selected units is furnished in **Appendix 3.13**. The process/conduct of Social Audit was governed by Mahatma Gandhi National Rural Employment Guarantee Audit of Scheme Rules, 2011 (Rules-2011), the Operational Guidelines (Guidelines) issued by the Ministry of Rural Development (MoRD) during 2013, Auditing Standards for Social Audit (Standards) and annual Master Circular of MoRD.

The effectiveness of Social Audit for MGNREGS is discussed in detail in the succeeding paragraphs.

3.2.3.1 Non-compliance to stipulations prescribed for conduct of Social Audit

Section 6 of the Rules and paragraph 13.3 of the Guidelines stipulate the process for conducting Social Audit by Gram Sabha (SAGS). In accordance with the Section 6(4) of the Rules and paragraph 13.3.5 of Guidelines, to conduct the Social Audit process, a Gram Sabha shall be convened to discuss the findings of the verification exercise and also to review the compliance on transparency and accountability, fulfilment of the rights and entitlements of labourers and proper utilisation of funds. Audit observed non-compliance to the stipulations as detailed in **Appendix 3.14**.

The omissions like non-prioritising the local villagers to preside over the SAGS, absence of nominated officials and elected representatives, non-submission of action taken reports, absence of verification of action taken reports by social audit teams, failure to video graph the proceedings, *etc*., failed to involve targeted population in the process and thus, rendered the social audit a routine exercise, without bringing in the desired outcome. Audit noticed that SAGS meetings were attended by less than two *per cent* of the population in more than 99 *per cent* of meetings conducted during 2016-17 to 2018-19. Non-compliance to the prescribed stipulations vitiated the process of Social Audit.

State Government while accepting the lacunae in conduct of Social Audit stated (November 2019) that instructions would be issued to officers

responsible/ involved to comply with all the norms prescribed for Social Audit. It further stated that SAU could not make any provision of funds towards expenditure on video recording of SAGS due to shortage of funds.

It is recommended that adequate efforts be taken through due compliance to the prescribed stipulations to ensure higher and meaningful participation of targeted population in the SAGS meetings.

3.2.3.2 Weak follow-up action on findings of Social Audit Reports

Social Audit would not be complete unless there is a time bound follow-up action on the findings. Review of the Social Audit Reports (SAR) revealed that the findings were broadly categorised into 13 categories such as payments made for works not executed; excess payments; payments made in the names of dead persons, school children, Government officials *etc*.; payments made for ineligible works *etc*., which were of very serious in nature and required effective follow-up. The list of categorisation of findings is given in **Appendix 3.15**.

Further, the Auditing Standards, Section 7 of the Rules and Paragraph 13.4 of the Guidelines highlight the need for establishing a follow-up mechanism and lists the roles and responsibilities of various authorities at different levels. However, the follow-up action on Social Audit findings was weak as detailed below.

- ***State level***

Sections 7(4) and 7(5) of the Rules provided for the State Government to take follow up action on the findings of the Social Audit and the State Employment Guarantee Council (SEGC) to monitor the action taken by the State Government and incorporate the Action Taken Report (ATR) in the Annual Report to be laid before the State Legislature by the State Government. The Master circulars stipulated the Additional Chief Secretary/ Principal Secretary/ Secretary, Rural Development and Panchayat Raj to conduct a monthly review of the irregularities identified in the SARs and status of progress on action taken by the implementing agencies on redressing the same.

Audit observed lack of monitoring by the State Government as below:

- Monthly reviews were not conducted.
- The Governing Body did not meet periodically. It held only two meetings during the period 2016-17 to 2018-19 and the last meeting was held during May 2017 and thereafter no meetings were held for more than two years. Failure to conduct meetings resulted in non-approval of budget proposals for the activities of Social Audit during 2018-19.
- The SEGC at the State level too had not monitored the action taken by the State Government on SARs and ATR was not incorporated in the Annual Report to be laid before the State Legislature. In fact, the SEGC had met only once on 23 July 2016 during the audit period.

Thus, absence of monitoring at State level led to laxity in recoveries and not initiating action on the defaulting officials *etc.*, as discussed below. This also rendered Social Audit process a routine compliance exercise.

Though State Government stated (November 2019) that social audit was reviewed quarterly by Principal Secretary, documentary evidence in support of the reply was not furnished. It further stated that action would be taken to incorporate ATRs in the annual report.

- ***Recovery based on Social Audit Reports***

The status of recovery recommended in the SARs and actually effected during the period 2016-17 to 2018-19 is indicated in **Table 3.2**.

Table 3.2: Status of recovery recommended and effected

(₹ in crore)

Year	Opening Balance	Recovery suggested by Social Audits	Total amount to be recovered	Amount Recovered	Closing Balance
2016-17	19.26	45.21	64.47	0.49 (0.76)	63.98
2017-18	63.98	75.51	139.49	0.84 (0.60)	138.65
2018-19*	138.65	37.47	176.12	0.63 (0.36)	175.49

* Provisional figure for 2018-19. Figures in parentheses indicate percentage.
Source: Information furnished by Social Audit Directorate and RDPR

It could be seen that the recovery effected was less than one *per cent* indicating lack of efforts of the authorities concerned and absence of monitoring by the Governing Body and the State Government. The inaction to effect recoveries and initiate action on defaulting officials, not only rendered the Social Audit ineffective but also facilitated unabated continuance of such omissions.

State Government stated (November 2019) that separate operational guidelines would be issued regarding recovery recommended by Social Audit.

- ***Follow up at District and Block level***

Though public hearing was required to be held at the taluk headquarters to discuss the Social Audit findings and thereafter, district level consultations were to be organized for reviewing the follow up on grievances raised as required under Paragraph 25(c)(vii) under Schedule I of the Act read with Section 4(3) and Paragraph 13.3.15 of Guidelines, no such hearings/consultations were arranged. This defeated the objective of transparency and accountability of the Social Audit process and resulted in Social Audit findings remaining unaddressed.

State Government stated (November 2019) that instructions would be issued to hold public hearings.

3.2.3.3 Concurrent Social Audit

Paragraph 13.6.4 of the Guidelines and Master circulars provide for Concurrent Social Audit by Village Monitoring Committees (VMC). Every

Gram Sabha will select a VMC consisting of five MGNREGA workers. The VMC shall consist of women workers under MGNREGA, workers from SC/ST households, *etc*. The VMC shall visit each active worksite once a month and interact with the workers. It shall conduct a concurrent Social Audit of all active works of the GP and monitor whether due norms are being complied with at the worksite in terms of processes, records to be maintained and whether worker entitlements were being provided as per the Act.

However, no such VMC was constituted in any of the test-checked GPs. Consequently, no concurrent Social Audit was conducted indicating absence of monitoring at the village level also.

State Government stated (November 2019) that concurrent Social Audit was not arranged due to dearth of funds.

It is recommended that follow up action on the findings of the Social Audit Reports be strengthened at all levels to make the social audit exercise an effective one.

3.2.4 Conclusion

Though provisions of various schemes mandated conduct of Social Audit, there was no exclusive social authority to oversee the conduct of Social Audit of schemes implemented in the State. The Social Audit Unit in the State established exclusively for MGNREGS was entrusted with Social Audit of other schemes such as NRDWP, SBM, MDM and PDS. However, the Social Audit of these schemes was not a continuous process as in the case of MGNREGS. The inaction of the departments concerned on the findings of Social Audit rendered audit exercise becoming futile.

The Governing body of the SAU had not met regularly which led to absence of monitoring at the top level. This was coupled with the absence of monthly reviews by the State Government. Consequently, the follow up on the Social Audit Reports was weak and less than one *per cent* of the recoveries pointed out in Social Audit Reports was recovered. Concurrent Social Audit was also not conducted as stipulated for want of funds.

Department of Revenue

3.3 Suspected fraudulent/excess payment towards purchase of fodder

Doubtful supply of fodder and adoption of incorrect rate for purchase of fodder by Tahsildar, Kollegal resulted in suspected fraudulent payment of ₹9.38 lakh and excess payment of ₹77.51 lakh respectively to the suppliers.

Based on the report of Karnataka State Natural Disaster Monitoring Centre and the National Disaster Management Guidelines for management of drought, the Government of Karnataka declared (October 2016) 68 taluks of 22 districts[50] (excluding irrigated area) as drought affected area. The order also envisaged relief measures such as providing employment to small farmers, drinking water, supply of fodder, livestock conservation *etc*.

We conducted a Compliance Audit of Revenue Department between July 2018 and December 2018 for the year 2017-18 and test-checked records of 12[51] out of 30 Deputy Commissioner's Offices and three Tahsildar's offices in each district. This included Chamarajanagar district where all the four taluks were declared as drought affected. Audit was conducted in three[52] taluks. We noticed from the records relating to purchase of fodder for the year 2017-18 by the Tahsildar, Kollegal of Chamarajanagar district, that ₹1.37 crore was paid (July 2017) to 33 suppliers towards supply of fodder to the nine Goshalas/two fodder banks in the taluk. The rate for purchase of fodder is regulated as per Government's circular issued during September 2015[53] wherein rates for purchase of different kinds of fodder are fixed for management during drought.

Detailed verification of individual bills and connected records revealed the following:

(i) Nineteen vehicles stated to have been used for supplying the fodder to the Goshalas were not found in the National Register e-services (vahan.nic.in) of the Ministry of Road Transport and Highways, Government of India and five vehicles were identified as non-transport vehicles such as moped, scooter, car *etc.* The detailed list of such vehicles is listed in **Appendix 3.16**. The supply of fodder in all these cases was doubtful resulting in suspected fraudulent expenditure of ₹9.38 lakh towards purchase of fodder and transportation cost.

[50] There are 30 districts consisting of 176 taluks in the State.

[51] Bagalkote, Ballari, Bengaluru Rural, Chamarajanagar, Chitradurga, Dharwad, Gadag, Kolar, Koppal, Mandya, Shivamogga and Tumakuru.

[52] Chamarajanagar, Kollegal and Yelandur.

[53] Dry jowar stem, dry maize fodder, dry paddy grass, dry ragi grass- ₹6,000/- per ton; Wilted sugarcane- ₹2,000/- per ton; and Green fodder- ₹1,500/- per ton.

(ii) The Tahsildar, Kollegal had purchased green sugarcane stem from the suppliers as was evident from the bills. The rate for purchase of green sugarcane stem was ₹1,500 per ton. However, the Tahsildar incorrectly adopted ₹6,000 per ton while making payments. This resulted in excess payment of ₹77.51 lakh to the suppliers as detailed in **Appendix 3.17**.

Further verification of the stock registers maintained by Village Accountant at the Goshalas, showed the following deficiencies:

a) Though details of stock received *i.e.,* nature of fodder, quantity supplied *etc.,* was recorded in the Stock Register, classification of fodder *i.e.,* dry or otherwise was not indicated.

b) The nature of the fodder was recorded as maize stem which contradicts with that indicated in the bills (as per the bills, green sugarcane stems were purchased). This incorrect categorisation of the nature of the fodder had led to an excess payment of ₹4500 per ton (₹6000 per ton - ₹1500 per ton) to the suppliers.

c) The Village Accountant, Veterinary Doctor and Revenue Inspector certified the Stock Registers without ascertaining the classification of fodder.

d) The Tahsildar had not attested the Stock Registers in any of the nine goshalas.

The inconsistencies between the stock register and bills and the audit observation on payments indicates the possibility of fraud which needs to be investigated by the State Government.

The State Government replied (February 2020) that it had purchased and supplied dry fodder to the Goshalas and fodder banks but the heading in the statement of bill was incorrectly recorded as 'Wet sugarcane stem – ₹1,500 per ton' instead of 'Dry fodder – ₹6,000 per ton'. Hence there was no excess payment. It also enclosed colour copies of photographs of the Goshalas and fodder banks signed by the Tahsildar and a few copies of weigh bridge bills that indicated the type of fodder carried by the vehicles and that contained the certificate of the Tahsildar indicating the nature and type of fodder purchased, in support of its reply. The State Government further stated that the Tahsildar could not attest the stock registers due to work pressure.

The reply of the State Government is not acceptable for the following reasons:

- The photographs enclosed did not contain the date stamp and hence their authenticity with reference to the purchase under objection, cannot be ensured.

- The examination of the weigh bridge bills showed that weighing was done at only one weigh bridge[54], irrespective of the fact that fodder

[54] Siddapaji Electronic Bridge, Kollegal Road, R.S.Doddi, Hanur-571439.

was purchased from different taluks of neighbouring districts and supplied to various Goshalas located at different places within Kollegal taluk.

- Few of the bills did not pertain to the purchase under objection and five vehicle numbers indicated in these bills could not be found in the National Register e-services (vahan.nic.in).

In view of the above, it is reiterated that the State Government investigate all the fodder purchases in all the taluks where such procurements were made and take appropriate action on the basis of such investigation. The State Government should ensure that the stock registers are maintained as mandated and reconciled before making payments, physical verification of stock is done at regular intervals and periodic inspections carried out by competent authorities.

It is recommended that the matter be investigated thoroughly and appropriate action taken based on such investigation.

Department of Medical Education

3.4 Fictitious purchase of implants/equipment

The Director of the Koppal Institute of Medical Sciences had issued cheques worth ₹64 lakh out of SCP/TSP funds for purchase of implants/equipment which were never indented or supplied.

The State Government had allocated ₹11.15 crore and ₹5.33 crore under Scheduled Caste sub-plan (SCP) and Tribal sub-plan (TSP) respectively during the period 2017-18 to 2018-19 for the six new medical colleges established under the Department of Medical Education. These colleges were to utilise the funds for procurement and supply of stethoscope, aprons, BP apparatus, books *etc.*, to Scheduled Caste (SC)/Scheduled Tribe (ST) students and for extending free treatment to SC/ST patients.

We conducted a Compliance Audit of the Department for the period 2017-18 to 2018-19 covering 15 medical colleges. This included Koppal Institute of Medical Sciences (Institute). Scrutiny of records showed that the Institute had incurred an expenditure of ₹80 lakh against release of ₹4.21[55] crore under SCP/TSP which included ₹64 lakh incurred towards purchase of surgical implants/equipment to SC/ST patients of District Hospital, Koppal attached to the Institute. The balance amount was incurred towards supply of books to SC/ST students (₹10 lakh) and towards purchase of medicines/blood *etc.*, to SC/ST patients (₹6 lakh). On verifying the connected records made available to audit, we observed the following:

(i) Section 4(e)(ii) of the Karnataka Transparency in Public Procurements Act, 1999, stipulates purchase of goods and services above ₹one lakh

[55] 2017-18: SCP- ₹160 lakh: TSP- ₹75 lakh
2018-19: SCP- ₹116 lakh; TSP- ₹70 lakh

through tender. Contrary to this, the Institute purchased surgical implants / equipment worth ₹60.47 lakh directly from two[56] firms (for the balance amount of ₹3.56 lakh, tendering was also not done). Bills were only produced to audit in support of these purchases.

(ii) The records furnished showed that the Institute incurred the balance amount of ₹3.56 lakh (₹94,524 on 2.3.2018 *vide* cheque number 230914 and ₹2,61,468 on 14.3.2018 *vide* cheque number 230940) for which the details such as name of the item, name of the firm *etc.*, was not recorded. The bank statement, however, showed that both the cheques were encashed.

(iii) Prudence requires a Government servant in-charge of procurement to obtain indents in order to estimate the requirement. However, the records produced did not indicate any procedure being followed to obtain indents from the district hospital. The district hospital confirmed (August 2019) that no indents were sent to the Institute for supply of implants and medicines.

(iv) Rule 164(a) of the Karnataka Financial Code states that stock registers are to be maintained in which each item of receipt and issue of stores are recorded. However, no such registers were maintained by the Institute. The records of the district hospital also indicated that during 2017-18 and 2018-19, it had not received any supplies from the Institute.

(v) The district hospital had not reimbursed any treatment costs to the SC/ST patients out of the SCP/TSP funds as it had not maintained information on SC/ST patients.

(vi) Though paid vouchers for purchase of implants/equipment were placed on record, the Institute did not have stock certificate for having received the consignment from the suppliers.

Audit conducted a joint inspection with the Director of the Institute and District Surgeon of the district hospital during August 2019. The joint inspection while confirming the above findings highlighted the existing system deficiencies such as lack of co-ordination between the Institute and hospital, absence of indents and stock registers, non-maintenance of issue register *etc*.

In addition, audit verified the payments made to the supplier through the Goods and Services Tax portal and found that the said payment details were not uploaded in the portal. Hence the authenticity of the bills could not be vouchsafed by audit.

Audit also noticed that the then Director, before his transfer on 22 September 2018, had signed (20 September 2018) 22 cheques worth ₹64.29 lakh in

[56] Neel Pharma, Koppal (₹50.18 lakh) and Sri Manjunatha Swamy Medical House, Gangavathi (₹10.29 lakh).

favour of Sri. Manjunatha Swamy Medical House, Gangavathi and 20 cheques valuing ₹38.24 lakh in favour of M/s Neel Pharma, Koppal. These cheques were not supported with any vouchers and were in the custody of an outsourced employee.

Though provision 32 of the Medical Institute's byelaw stipulates that the cheques are to be issued under joint signatures of the Dean and the Chief Accounts Officer, all the payments to the suppliers were made through cheques signed by the Dean cum Director of the Institute. This was possible because the post of Chief Accounts Officer/Finance Director was vacant during the above period and the Department of Medical Education failed to fill up the post.

Thus, all the issues flagged above, indicate that the Director of the Institute had taken advantage of the vacancy of the post of Chief Accounts Officer/Finance Director and issued cheques worth ₹64 lakh out of SCP/TSP funds for purchase of implants / equipment which were never indented or supplied. Besides, the SC/ST patients were deprived of the benefits. Misuse of SCP/TSP funds was in violation of the Karnataka Scheduled Castes Sub-plan and Tribal Sub-plan (Planning, Allocation and Utilisation of Financial Resources) Act, 2013, and as per Section 24 of the Act negligence in the duties was punishable with imprisonment.

The State Government endorsed and forwarded (April 2020) both the replies of the present Director to Audit, who stated that the Ex-Director of the Institute had not furnished the replies despite having issued four letters and also the reply of the Ex-Director, who had submitted para-wise replies as below:

- Purchases of less than one lakh was made by quotation and nothing was purchased more than a lakh at a time. Purchases have been done as per the individual requirement.

  The reply clearly highlights the fact that the stated purchases were split to less than one lakh to avoid tenders and the reply was also incorrect as there were 10 instances of bills valuing more than one lakh.

- It was found from the bank records that Cheque no. 230914 was issued to Sri. Srinivasa Agency for purchase of X-ray films, which were supplied to District Hospital and Cheque no. 230940 was issued to VIMS, Ballari to clear due pension contribution of a faculty. This was not paid from SCP/TSP fund.

  The reply cannot be accepted as the district hospital had stated that no supplies were received from the Institute and records furnished to audit indicated that both the cheques were accounted under SCP/TSP funds.

- Requisition for supply were made by treating faculty and were supplied. The concerned store faculty had maintained the register of stock. Further, the Head of Department had given statement that material have been used to the needy patients. However, the stock was

not maintained either at the hospital or ward stock book for want of faculty.

The reply was contradictory in itself and was not tenable.

- No Chief Accounts Officer/Finance Director was deputed in 2016-19. The assistant administrative officer of district hospital had verified and approved the files.

  The reply cannot be accepted as no such files were produced to audit.

Hence, the State Government should conduct a detailed investigation into the utilisation of the SCP/TSP funds by the Institute and take appropriate action on the basis of such investigation. The State Government should also initiate immediate action either to fill up the post of Chief Accounts Officer/Finance Director or put in place necessary in-charge arrangements to ensure compliance to fiscal regulations and transparency in procurement procedures, maintenance of records *etc*.

It is recommended that a detailed investigation be conducted, responsibility fixed and action taken for ensuring future compliance of regulations and procedures.

Department of Medical Education

3.5 Procurement of disposables at higher cost

Failure of the Karnataka Institute of Medical Sciences, Hubballi to finalise its tender for procurement of disposables within the scheduled time resulted in re-tendering and additional expenditure of ₹1.18 crore.

In accordance with Rule 22(1) of the Karnataka Transparency in Public Procurements Rules 2000, the evaluation of tenders and award of contract shall be completed, as far as possible, within the period for which the tenders are held valid. Rule 22(2) states that the Tender Accepting Authority shall seek extension of the validity of tenders for completion of evaluation, if it is not completed within the validity period of the tender and Rule 22(3) states that in case the evaluation of tenders and award of contract is not completed within the extended period, the tenders shall be deemed to have become invalid and fresh tenders may be called for.

Further, the Government of Karnataka in its guidelines (June 2003) on safeguards to be adopted during two cover tender system instructed that technical evaluation of the tenders in the first cover should be completed within a reasonable period, and the time gap between the opening of the first and second covers should not be more than 45 days. In exceptional cases, approval of the Secretary to the Government of the concerned Department was to be obtained where the period is more than 45 days but less than 60 days. If the period exceeds 60 days, the tenders were to be re-invited.

The Department of Medical Education (Department) aims to provide holistic medical education with emphasis on medical research through its Government

/ Autonomous Medical Colleges. We conducted a Compliance Audit of the Department for the year 2017-18 to 2018-19 covering 15 medical colleges. This included Karnataka Institute of Medical Sciences, Hubballi (Institute).

The Institute had invited (August 2016) tender for purchase of disposables (448 items) valued at ₹4.50 crore. The last date for submission of bids was 22 October 2016. The validity of the tender was 180 days (24 April 2017). Review of records relating to procurements revealed the following:

(i) Technical bids were opened on 30 October 2016. The technical evaluation required verification of original documents and examination of samples by the Institute. As per the tender notification all the bidders had to submit samples of their products for testing during 24-26 October 2016. We observed that though all the samples were submitted in time, the test reports of those samples were submitted by the departments concerned during the last week of January and first week of February 2017. The reasons for the delay for about three months in testing were not forthcoming from the records.

(ii) Document verification which was initially scheduled on 7 December 2016 was rescheduled to 9 January 2017. The reasons for rescheduling were not on record.

(iii) In accordance with the Government guidelines, the tender should have been cancelled on 27 December 2016 *i.e.,* after completion of 60 days from the date of opening of the technical bids.

(iv) However, the Tender Scrutiny Committee continued with the evaluation of the bids and recommended (28 January 2017) opening of financial bids[57] of 20 of the 23 firms.

(v) The financial bids were opened and comparative statement was prepared on 16 February 2017. We noticed that the draft letters of acceptance to the successful bidders were put to the Director for approval during March 2017.

(vi) Supply orders were not issued and the tender was cancelled during May 2017 *i.e.,* after three months of opening of financial bids. The Institute cited non-opening of financial bids due to unavoidable reasons as the reason for cancellation of tender. This was factually incorrect. The unavoidable reasons were also not recorded.

(vii) The Institute citing the above reasons sought (31 May 2017) permission from the Government (Medical Education) for inviting short term tenders for procurement of disposables. The Government permitted (1 June 2017) the Institute to invite short term tenders. Thereafter, the Institute re-tendered (June 2017) the procurement of disposables (450 items). The technical bids were opened on 17 July

[57] Three firms were technically disqualified.

2017 and financial bids on 8 August 2017. The letters of acceptance were issued during September 2017.

(viii) Since the financial bids were opened and comparative statement was drawn in the earlier instance, we compared the cost of procurement and noticed that cost of the disposables in respect of all the items was higher than the initial offer received.

Further analysis of both the tenders revealed the following interesting facts as detailed in **Table 3.3**.

Table 3.3: Statement showing the details of both the tenders

Sl. No.	Issue	1st tender	2nd tender	Remarks
1	Number of firms which participated in the tender	23	23	10 firms which had participated in the first tender did not participate subsequently.
2	Number of firms technically qualified	20	23	
3	Number of items for which single bids were received	59	179	M/s Deepa Jyothi Enterprises, Mangaluru was the single bidder for 28 items and 156 items in respect of cancelled tender and re-tender respectively.
4	Number of items for which a single firm was the lowest	28	162	M/s Deepa Jyothi Enterprises. The firm was the lowest only for the items for which it was the sole bidder on the first occasion. In the re-tender, the firm was lowest for 160 items. In two cases, it was considered as lowest though it was not the lowest.

Source: Information furnished by the Institute

It could be seen from the table that M/s Deepa Jyothi Enterprises, Mangaluru benefitted the maximum from the re-tendering process. Rate analysis showed that the rates quoted by the above firm for various items on the first occasion was exorbitant in comparison with the rates quoted by other firms for the same items and ranged between 102 and 5,698 *per cent* of the lowest quoted rates. The lowest quoted firms had cleared the technical evaluation which included testing their samples. In the re-tender, the rates quoted by M/s Deepa Jyothi Enterprises was higher than its earlier quoted rates. The Institute, thus, failed to ensure that the rates quoted were reasonable. Thus, cancellation of the first tender without any valid reason and finalising the supplier in the re-tender

within a span of four months had resulted in the Institute procuring the items at exorbitant rates (26 *per cent* higher than the first tender).

Further, the possible intention of the Institute to benefit a particular firm and the collusion thereof cannot also be ruled out. This not only resulted in non-availing the competitive offers received initially but also led to procurement of items at exorbitant rates and incurring additional expenditure of ₹1.18 crore, which was clearly avoidable.

The State Government endorsed (April 2020) the reply of the Director. The Director of the Institute stated that though technical bids were opened in time, the technical scrutiny committee submitted its report on 31 January 2017 and this caused the delay in opening the financial bids. He further stated that these facts were brought to the notice of the Finance Committee headed by the Principal Secretary, Medical Education. The Finance Committee considering the delay ordered for inviting fresh short term tenders. He also stated that the quality of the products was appreciated by the competent technical authorities.

The reply of the Director is not tenable for the following reasons:

- The Director without citing any valid reason informed (May 2017) the Additional Chief Secretary, Medical Education that financial bids could not be opened on the first occasion due to unavoidable reasons despite having opened the financial bids on 16 February 2017.

- The subject of inviting short term tenders was placed before the Finance Committee in its meeting held on 28 July 2017 seeking *post facto* approval. Evidently, the other members of the Finance Committee such as Principal Secretary, Finance Department, Secretary, Planning Department *etc.*, were not aware of the short term tenders earlier.

- The Director along with the reply had attached a few sample testing reports. These reports pertain to the samples submitted during the first occasion. This indicates that samples were not tested on the second occasion and the firms were technically qualified based on the previous reports, which was highly irregular. This was also substantiated by the fact that the time lag between opening of technical bids and financial bids on the second occasion was only 23 days.

In view of the above, the matter calls for detailed investigation by the Government. Stringent action needs to be taken on the concerned for misinformation and non-compliance to the statutory provisions besides placing sufficient checks and balances in the functioning of such institutions.

It is recommended that the matter be investigated and suitable action taken on the basis of such investigation to prevent recurrence of such omissions.

Department of Health and Family Welfare Services

3.6 Procurement and utilisation of equipment in district/taluk hospitals

Equipment to all the hospitals, as assessed, was not supplied resulting in non-achievement of the objective of the Government to establish ICUs in all district and taluk hospitals. ICUs established at a cost of ₹98.71 lakh in five test checked taluk hospitals and one district hospital were not functional. Besides, the non-utilisation of various equipment resulted in non-availability of clinical/diagnostic services to the patients.

The components of a strong health system include health services, human resources, health financing, medicines and technologies, health information and governance. A good health service is that which delivers effective, safe, quality, individual and population based health interventions to those who need them, as and when required, with optimal use of resources, at a cost that the individual and community can afford.

In order to provide healthcare services to patients with serious health complications, the Hon'ble Chief Minister in his Budget speech of 2015-16 announced establishment of Intensive Care Units[58] (ICUs) with ventilator in all district hospitals and few taluk hospitals. Subsequently, Government of Karnataka decided to establish ICUs in all districts as well as taluk hospitals.

A Performance audit on 'Health care facilities in State Sector Hospitals including Autonomous and Teaching Hospitals' conducted during January to July 2015 covering the period 2010-15 was included in the Report of the Comptroller and Auditor General of India on General and Social Sector for the year ended March 2015 (Report No.1 of the year 2016). The report highlighted non-availability of equipment as well as non-utilisation of equipment due to shortage of staff in clinical services which included ICU also. In response to the observation, the Government had stated that due to shortage of staff, some of the equipment were not utilised. It further stated that steps had been taken in 2015-16 to strengthen 17 district hospitals with additional equipment and it would take action to appoint additional manpower to utilise the equipment installed.

Taking cues from the aforesaid PA, a compliance audit of the Department of Health and Family Welfare Services for the year 2017-18 was undertaken, focusing on utilisation and availability of services in the district and taluk hospitals with emphasis on ICU. On scrutiny of records of 10 district hospitals, 22 taluk hospitals and four general hospitals in 12 test-checked districts[59] (Amongst these, 3 district hospitals, 3 taluk hospitals and 1 General hospital pertained to the PA period), besides conducting joint inspection of the facilities, we noticed the following:

[58] ICU is a dedicated unit for critically ill patients who require invasive life support, high levels of medical and nursing care and complex treatment.

[59] Bengaluru Rural, Bengaluru Urban, Chikkaballapura, Chikkamagaluru, Chitradurga, Dharwad, Hassan, Kalaburagi, Kolar, Mysuru, Tumakuru and Udupi.

1. Unfruitful expenditure on establishment of Intensive Care Units

In accordance with the budget speech of the Hon'ble Chief Minister, the State Government approved (November 2015) establishment of ICUs in two district[60] and 25 taluk hospitals. The need assessment committee under the chairmanship of the Deputy Director (Health and Family) identified (December 2015) 14 items and their quantity for establishing an ICU. The Committee also recommended for strengthening the ICUs in the existing 19 district hospitals. Accordingly, tenders were invited (August 2016) for procurement of ICU equipment to 46 hospitals (21 district and 25 taluk) estimated to cost ₹20.08 crore. Consequent on the Government deciding (October 2016) to establish ICUs in all the taluk hospitals, the tender was amended (December 2016) through a corrigendum to procure equipment to 167 hospitals (21 district and 146 taluk) at an estimated cost of ₹37.46 crore. The details of requirement as per the Committee and actual procurement are detailed in **Appendix 3.18**.

Analysis of the actual procurement revealed that

(i) As against the assessment of 4 ICU cots, 4 multipara monitors and 2 ventilators for each hospital, the State Government had procured 3 cots, 2 monitors and 1 ventilator respectively for all the taluk hospitals.

(ii) The additional 121 taluk hospitals identified subsequently were not supplied with 100 mA portable X-ray machine, high flow nasal cannula therapy (C-pap) equipment, infusion pump and emergency trolley. The joint inspection of a few hospitals confirmed this fact. It was further observed that the amended estimated cost of ₹37.46 crore did not include these items despite being fully aware of the fact that such equipment are considered to be the mandatory component of setting up an ICU, which has also been stipulated in the Guidelines issued (2007) by the Indian Society of Critical Care Medicine.

(iii) The two district hospitals, out of 21 identified for establishment of new ICU were not supplied with ICU cots, multipara monitors, ventilators, defibrillators, ECG machine, suction apparatus and crash carts. As a result, the ICUs could not be established in these hospitals. The District Surgeon, district hospital, Ramanagara confirmed (April 2020) that all equipment was not supplied initially and stated that the ICU cots and ventilators were supplied in October 2018 and April 2020 respectively. He further stated that in view of the limited supply of equipment (valuing ₹17.84 lakh) and absence of trained manpower, the ICU could not be made fully functional. The district hospital, Yadgir stated (April 2020) that ICU equipment was received only during April 2020 after which the ICU started functioning effective from 10 April 2020.

(iv) In the existing 19 district hospitals where ICUs were already in place, 11 crash carts were procured in excess of the initial assessment/requirement.

[60] Ramanagara and Yadgir.

(v) None of the hospitals were provided with Air conditioners and syringe pumps under this tender. This was because there were no bidders for Air conditioners and the technical bids of all the bidders who quoted for syringe pumps were rejected. Interestingly, the Government decided to procure these two items in excess of the assessment. The hospitals were supplied with syringe pumps only during November to December 2017 and Air conditioners were not supplied so far.

(vi) Joint verification revealed that ICUs established at a cost of ₹80.87 lakh in five[61] of the test-checked taluk hospitals were not functional. The hospitals attributed lack of doctors, trained staff and other equipment required to make the ICUs fully functional.

(vii) The equipment was supplied between the period April 2017 and September 2017 and carried a warranty of three years from the date of supply. Since treatment of patients depends on the results generated by the medical equipment, the proper and continuous utilisation of these equipment needs to be ensured. Further, any problems or defects identified during the warranty period would have been rectified by the supplier/manufacturer. Non-utilisation would render the equipment remaining idle and also lead to expenditure on defect rectification if any equipment malfunctions on later use.

Evidently, these hospitals could not provide critical care to the needy patients defeating the very purpose of setting up of ICUs. Non-supply of the equipment to all the hospitals, as assessed, resulted not only in non-achievement of the objective of the Government to establish ICUs in all district and taluk hospitals but rendered the expenditure incurred largely unfruitful.

2. Idle equipment

Apart from the above, audit noticed idling of various other equipment such as blood component segregation unit, telemedicine equipment, ultra sound scanners *etc.*, valuing ₹1.32 crore in six test-checked hospitals (including one district hospital in Chikkamagaluru). This was due to non-availability of trained doctors and technicians, non-commissioning of equipment *etc.*, as detailed in **Appendix 3.19**. The non-utilisation of these equipment resulted in non-availability of clinical/diagnostic services to the patients.

Though Government assured (November 2015) to provide essential equipment and necessary manpower to hospitals following the earlier audit, there was no improvement in the situation as many hospitals lacked clinical and diagnostic services.

The State Government replied (May 2020) that it was proposed to have a 3 bed ICU with one ventilator in view of the outbreak of H1N1 and dengue which required ventilator support as maintenance for patients after stabilisation at higher hospitals. It further stated that all equipment had been

[61] General Hospitals - Bangarapet (₹16.71 lakh), Channarayapatna (₹11.78 lakh), Mulbagal (₹12.76 lakh) and Nanjangud (₹18.42 lakh); District Hospital, Dharwad (₹21.20 lakh).

installed at taluk hospitals and efforts have been made to engage requisite manpower on contract basis. The manpower shortage would also be addressed as the Finance Department had permitted the Department to recruit about 300 GDMOs.

The reply cannot be accepted as the justification given was more of an afterthought and the actual justification for establishment of ICU in the additional 121 taluk hospitals was recorded as "Generally 2-5 *per cent* of total medical and surgical patients in a general hospital are critically ill, who require highly skilled lifesaving medical and nursing care with highly specialized staff and equipment. Therefore, it is decided to establish ICU units in all taluk hospitals with ventilators." Further there was no mention of the epidemic outbreak either in the Government order approving establishment of ICUs in all taluk hospitals or in the records produced to audit. The fact, however, remains that the ICUs were not fully functional in few of the hospitals as observed by audit.

It is recommended that the Government take adequate measures to address the shortcomings pointed out and ensure that ICUs are made fully functional and equipment is put to use to benefit patients to the maximum extent.

Department of Collegiate Education

3.7 Exemption of fee concession not extended to girl students of Government aided private colleges

Non-implementation of the Government order by the Department of Collegiate Education resulted in collection of ₹9.68 crore of tuition and laboratory fee by the Government aided private colleges from the eligible girl students who were exempted from paying it.

To encourage higher education among girl students, the Government of Karnataka extended the exemption of tuition and laboratory fees for all girl students studying in Government Aided Private Colleges (aided colleges) from the academic year 2014-15. This exemption was already available to the girl students studying in Government Colleges from the academic year 2007-08. As per the Government Order (June 2014), the Government would reimburse the fee so exempted to the aided colleges subject to the conditions that (i) the girl students should have passed all the exams in the previous semester / year and (ii) should not have availed scholarship from any other sources. This implied that while the first year girl students were eligible for exemption, the girl students studying in second and third years were eligible subject to the condition that they should have passed all the exams of first and second year respectively. An amount of ₹25 crore was also sanctioned during the year 2014-15 for the above purpose.

On scrutiny of records/information furnished by the Department of Collegiate Education and by 123 out of 319 aided colleges during compliance audit of Higher Education (2017-18), we noticed that during the period 2014-15 to 2018-19, the aided colleges had collected both tuition and laboratory fees from

the girl students even though they were exempted from paying the said fees subject to fulfillment of the conditions stipulated in (i) and (ii) above. This indicated that the benefit had not reached the beneficiaries. The fee collected from 65,120 eligible first year girl students worked out to ₹9.68 crore[62]. Though ₹16.01 crore was collected from second and third year girl students, in the absence of data with regard to number of students who have cleared first/second year of degree education and who have availed any scholarship, audit could not work out the fees collected from the students who were eligible for exemption. Audit also observed that the sanctioned amount of ₹25 crore was not utilised.

Thus, non-implementation of the Government order resulted in non-extension of fee concession to the beneficiaries which resulted in non-achievement of the objective for which the concession was extended. Further, audit noticed that the number of girl students in 225 out of 319 aided colleges had either decreased or remained constant during the period 2014-15 to 2019-20.

The State Government replied (April 2020) that the sanctioned amount could not be utilised as the aided colleges had not furnished the required information during 2014-15. It further stated that fee concession was not provided during the subsequent years as grants were not provided for the same and a proposal was now received from the Department for release of funds for the period 2014-15 to 2018-19, which was under consideration by the Government. It also stated that all the aided colleges have once again been directed (March 2020) to ensure that tuition and laboratory fees are not collected from the girl students for the academic year 2020-21.

The reply was not acceptable as the department had failed to collect the information from the colleges and also to seek grants from the Government. Besides ₹25 crore sanctioned for this purpose during 2014-15 was lying with the department and had not been used. It was only after being pointed out by audit that action was initiated to submit a proposal to the Government for release of funds and instructions were issued to the aided colleges to refrain from collecting the fees. Thus, the inaction of the department to ensure implementation of the Government order of extending fee concession to girl students depriving them of the benefit for the years 2014-15 to 2019-20. The information made available (April 2020) showed that 319 aided colleges had collected a total amount of ₹44.93 crore[63] as tuition and laboratory fee from girl students for the period 2014-15 to 2019-20.

It is recommended that the Government ensure that no girl student is deprived of the benefits of fee concession. Action may be taken against those responsible for such failures.

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[62] Amount could vary as the data on students availing scholarships from other sources and details of aided courses/subjects were not readily available.

[63] The aided colleges were permitted to collect tuition and laboratory fee from the students at twice the rates fixed by Government. One portion of the fee was to be remitted to the joint account in the name of Government and the college. The second portion would be credited to the college account. The amount of ₹44.93 crore was the fee portion remitted to the joint account.

Department of Urban Development

3.8 Irregularities in allotment of alternative site

Bengaluru Development Authority allotted and registered 14 alternative sites without approval of its Board and in violation of statutory provisions. This resulted in a loss of ₹10.24 crore to the Authority.

Bengaluru Development Authority (BDA) was established (January 1976) for development of the City of Bengaluru and areas adjacent to it and for matters connected therewith under the BDA Act, 1976. It is the successor to the erstwhile City Improvement Trust Board (CITB). BDA has the power to acquire, hold, manage and dispose of movable and immovable property and to carry out building, engineering and other operations necessary for such development as well as other incidental purpose. In addition, whenever BDA forms a layout, it may offer any or all the sites in the layout for allotment to persons eligible for allotment of sites under BDA (Allotment of sites) Rules, 1984.

Scrutiny of records pertaining to allotment of alternative sites for the period 2017-18 revealed that 14 sites (34,718.2 sq. ft.) of various dimensions were registered (July 2017) in the name of Smt. M R Kamalabai and Sri. M R Krishna Rao, wife and son (allottees) of Late Sri. M S Rama Rao in lieu of land originally reconveyed (May 1969) to Shri M.S Rama Rao. The allotment was based on the recommendations (May 2014) of the Petition Committee of the Karnataka Legislative Council. The possession certificates for the sites were issued in July 2017. The total cost of the alternative sites was ₹10.24 crore.

In this regard, audit observed the following:

(i) The erstwhile CITB had issued a final notification (August 1960) for acquisition of land for formation of Rajajinagar Industrial Suburban Stage I which *inter alia* included land measuring 6 acres 32 guntas in survey number 146 of Yeshwanthpur Hobli, Yeshwanthpur village. Compensation award of ₹18,945 for the said land was passed on June 1960, of which ₹10,637.50 was paid *vide* cheque dated 14 October 1963 and the balance amount of ₹8,307.50 was remitted to Treasury on 01 May 1969.

(ii) The above piece of land was allotted to Agriculture Produce Market Committee (APMC) during November 1962 as evident from the various noting and correspondence between BDA and APMC. However, records relating to allotment were not made available.

(iii) Shri. M S Rama Rao purchased 32 guntas of land in Survey No. 146 of Yeshwanthpur Hobli in February 1963 from the land owner. Since the purchase of land was subsequent to issue of final notification in August 1960, the purchase of land was illegal. Details of purchase were not available with BDA.

(iv) There was no provision in the earlier Board's Rules for re-conveyance/re-allotment of land already acquired. The retrospective applicability of Section 9 of 1994 Amendment of BDA Act, 1976 empowers BDA to review cases for reconveyance from December 1973 onwards.

(v) Despite the illegal transaction and the fact that there was no provision for reconveyance, the Board *vide* its resolution (May 1969) resolved to reconvey/re-allot 30 guntas to Shri M.S Rama Rao out of the 32 guntas of Land which supposedly belonged to him. The land was registered as site No. 154 A[64] in Block I and Block II totally measuring 0-29 1/2 guntas or 32,128 sq. ft. The lease agreement was entered during April 1987 and possession certificate was issued in the name of Sri. M S Rama Rao during February 1995. The absolute sale deed[65] in the name of Smt. Kamala Bai and Sri. M R Krishna Rao, wife and son (allottees) of Late M S Rama Rao respectively was executed during January 2001.

(vi) Smt. Kamala Bai and Sri. M R Krishna Rao filed a complaint (No.100/2010) with the Petition Committee of Karnataka Legislative Council alleging the land (32 guntas) in Survey no 146 has been encroached by APMC and the Committee in May 2014 recommended that BDA should allot equal extent of land or sites and recover the cost from APMC.

(vii) Though the Government had expressed (May 2012) serious concern on the legal validity of the claim and had sought a report within three days after seeking legal opinion, records produced to audit did not indicate any action in this regard.

(viii) The legal advisor of the Authority had also opined (June 2014) that since allotment was done, the legal disputes if any, were required to be settled by the affected parties themselves.

(ix) Further, as per rule 11-A of the BDA (Allotment of sites) Rules, 1984, alternative site could be allotted only when the possession of the site allotted originally could not be given to allottee due to stay order of the Courts or due to other disputes. In the said case, the land was allotted and sale deed was executed and hence did not qualify for allotment of alternative sites.

(x) Despite this, BDA allotted (July 2017) 14 sites aggregating 34,718.2 sq. ft. (32 guntas) and valuing ₹10.24 crore under the orders of the Commissioner and without obtaining approval of the Board and registered all the sites during July 2017. Possession certificates were also issued in the same month without receiving the value of the sites.

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[64] Consequent to the formation of a layout, out of the acquired land under various Survey numbers, the Authority allots individual identification numbers to the sites formed in the said layout and would be identified by these numbers and not survey numbers.

[65] Absolute sale deed refers to as having no conditions attached to the sale except the buyer's payment of the purchase price.

The allotment of alternative sites by BDA was, therefore, highly irregular.

(xi) BDA issued an endorsement to APMC for payment of the value of sites, only during December 2017 *i.e.,* after registering the sites to the allottees. Subsequent reminder was issued in January 2018. The APMC in response stated (March 2018) that it had remitted ₹10 lakh during May 1978 and ₹2.18 lakh during July 1978 being the cost of allotment of 6 acres and 32 guntas, and hence payment of further amounts does not arise. The amount paid by APMC included the area of land in question.

(xii) The hasty and hurried action of the BDA to register the sites before ensuring the receipt of the value of sites violated Rule 13(1) of BDA (Allotment of Sites) Rules, 1984, which stipulated that the sale deed and possession certificate were to be issued only after the payment of required fees for the allotted sites by the allottee.

The Government replied (March 2020) that sites were allotted as per the recommendations of the petition committee and there was no necessity for recovery of cost from APMC, as it had already paid required fee at the time of allotment. It is evident from the reply that the Government was already aware of the fact that the land in question had been irregularly allotted. Hence, the cost of sites had to be recovered from the allottees only.

Thus, the generosity of BDA to initially reconvey the site and subsequently allot alternative sites without any statutory provisions, and without examining the validity of the claim as well as heeding to legal advice, and without recovering the cost from the allottee resulted in loss of ₹10.24 crore to BDA.

It is recommended that the Government identify the persons responsible for causing loss to the Authority and take action to prevent recurrence of such omissions.

3.9 Undue benefit to contractor

Bengaluru Development Authority adopted rates of manual excavation for the work to be carried out through machinery resulting in extending undue benefit of ₹1.92 crore to the contractor.

Bengaluru Development Authority (BDA) follows the Schedule of Rates (SR) of Public Works, Ports and Inland Water Transport Department for preparation of its estimates for various works undertaken by it. The SR provides the Standard Rate analysis for Roads and Bridges (KSRRB) separately in respect of excavation by manual means and mechanical means in various types of soil including soft/hard rock. The cost of excavation by mechanical means is lower when compared to excavation by manual means. Further, manual excavation is resorted to when the quantum of excavation is meagre or where there are space constraints for movement of heavy machineries like hydraulic excavators, tippers, *etc.*

Scrutiny of the records in the Office of the Executive Engineer, BDA – North Division showed that the division had incurred ₹11.14 crore during 2016-17 for payments to contractors. Audit test-checked seven major works, one of which was the work of "Formation of roads, drains and fixing of boundary stones to the sites in Thanisandra village in Arkavathy Layout". BDA had awarded (August 2012) this work to an agency for ₹4.74 crore[66]. The work was completed during May 2016[67] and the final bill for ₹4.72 crore was settled during September 2016. Analysis of the work revealed the following:

The work included items of earth work excavation as indicated in **Table 3.4**.

Table 3.4: Items of earth work excavation

Item no. in the Tender	Name of the work	Quantity of work (in cum)	Estimated rate (₹/cum)
19.1	KSRRB 300-1: Earthwork excavation for road, drains and similar work by manual means in ordinary soil involving an average horizontal throw and an average lift, excavated surface leveled and sides neatly dressed, the disposed earth to be leveled neatly after breaking of clods, with all lead and lift, loading and unloading charges, including cost and conveyance of all materials, equipment, labour charges, hiring charges of all machinery, and all other incidental charges *etc*., complete as per specifications and directions of the Engineer in charge of the work	12,240.0	62.86
19.4	KSRRB 300-4: Earthwork excavation for road formation and forming in embankment by manual means in hard soil (When earth is taken from bank cutting or from burrow pits) including breaking of clods, spreading to required line and level, forming (excluding watering and compaction of earth), with all lead and lift, loading and unloading charges, including cost and conveyance of all materials, equipment, labour charges, hire charges of machinery and all other incidental charges *etc*., complete as per specification and direction of the Engineer in charge of the work.	2,61,792.5	120.96
19.11	KSRRB M300-11: Excavation for road way in soil by mechanical means including cutting and pushing the earth to site of embankment up to a including trimming bottom and side slopes in accordance with requirements of lines, grades and cross sections, with all lead and lift, loading and unloading charges, including cost and conveyance	55,710.0	70.36

[66] With tender premium of 21.84 *per cent* below the estimates prepared based on SR of 2011-12 of Bengaluru Division.

[67] The stipulated date of completion was May 2013.

Item no. in the Tender	Name of the work	Quantity of work (in cum)	Estimated rate (₹/cum)
	of all materials, equipment, labour charges, hire charges of all machinery and all other incidental charges *etc*., complete as per specification and direction of the Engineer in charge of the work.		

Source: Estimates furnished by BDA.

The description of the items of work clearly allowed for use of machinery for manual means also. Moreover, the availability of the equipment such as excavator, vibratory roller and tipper (each 2 nos.) was a pre-requisite for technical qualification. As the SR provided for a separate item for earth work excavation for road formation by mechanical means using hydraulic excavators for which the rate was ₹34.25 per cum and considering the quantity of excavation and the type of soil, employing mechanical means was more economical and judicial.

Audit observed from the photographs, which formed part of Running Account bills, that the excavation of earth was executed through mechanical means. The audit contention was justified by the reply of the BDA (August 2018) which clearly stated that machinery/equipment like excavators, vibratory roller and tipper were required for execution of the excavation works.

Thus, BDA by adopting manual excavation specification in its estimate and tender documents and then allowing the contractor to use mechanical means during execution and paying the rates prescribed for manual excavation resulted in extending undue benefit of ₹1.92 crore to the contractor. The possibility of connivance between the BDA and the contractor needs to be investigated. Further, accountability of the BDA officials, who passed the estimate, the tender and finally the RA bills also needs to be enquired into. The details of the extra payment are indicated in **Table 3.5**.

Table 3.5: Details of extra cost

(Amount in ₹)

Sl. No.	Item No. in tendered document	Quantity executed in cum	Rate at which paid	Rate as per SR for mechanical means	Rate payable[68]	Excess per cum	Extra cost
1	19.1	2,971.40	49.50	34.25	28.91	20.59	61,181
2	19.4	2,88,080.00	95.50	34.25	28.91	66.59	191,83,247
Total		**2,91,051.40**					**192,44,428**

Source: Tender documents and RA bills furnished by BDA.

[68] Including basic rate as per SR plus area weightage at 8 *per cent* plus tender premium of (-) 21.84 *per cent*.

The Government replied (March 2020) that the rates adopted for preparation of the estimate were correct. The reply is not acceptable because adoption of rate of manual means instead of mechanical means for earth work excavation of such huge quantity was not justified, and the contractor had in fact used mechanical means to execute the work.

It is recommended that the Government fix accountability on those responsible and take suitable action as deemed fit.

3.10 Lapses in internal control procedure resulted in double refunds

Due to lapses in Bengaluru Development Authority's internal control procedure, there were double payment of refunds amounting to ₹8.55 crore in 307 cases. Though the Authority stated that the entire amount except ₹12.11 lakh was recovered, it failed to produce recovery particulars for ₹1.14 crore.

Reconciliation is one of the control activities, where the records are reconciled with appropriate documents on regular basis in order to have a good internal control.

Bengaluru Development Authority (Authority) invited applications from the public for allotment of 5,000 sites of various dimensions at Nadaprabhu Kempegowda Layout through its notification (October 2015) detailing amount of Initial Deposit to be paid along with the application. In response to the notification, the Authority received 31,349 applications and ₹717.21 crore as Initial Deposit. On allotment of 5,000 sites, the Authority refunded the Initial Deposits collected to the 26,349 unsuccessful applicants from Canara and Axis Bank through Real Time Gross Settlement (RTGS) and National Electronic Fund Transfer (NEFT).

The Authority, in order to refund the Initial Deposit to the unsuccessful applicants had prepared a master list of unsuccessful allottees and made refunds through RTGS by sending daily a list of payment details to Canara / Axis Bank. The Bank in turn, at the end of the day would forward the list of successful and unsuccessful payments to the Authority which was to be reconcile this list with the master list to rule out double payments while sending the Re-RTGS list to the bank. Thus, proper reconciliation was essential to avoid/ identify double payments.

During Compliance Audit of the Authority (January 2018 to August 2018), scrutiny of records relating to refund of Initial Deposits for the period November 2016 to August 2018 revealed that the Authority had identified (November 2016) 228 cases of double refunds amounting to ₹6.58 crore, for which action was initiated (December 2016) for recovery. Audit, however, compared the successful list of RTGS payments with the successful list of Re-RTGS payments in all the 26,349 cases and noticed 79 cases of double payments involving ₹1.97 crore apart from those identified by the Authority. Out of the 228 cases identified by the Authority, audit could not trace the

credit of refunds in 11 cases amounting to ₹31.98 lakh. In respect of the remaining 217 cases, refunds had been received and properly accounted for. This showed the absence of proper reconciliation and highlights the lapses in the internal control procedure existing in the Authority. Necessary action needs to be initiated against the concerned responsible for double refunds, which has also resulted in the Authority's money remaining outside its accounts causing loss of interest income of ₹18.96 lakh[69]. Audit also observed that the Authority had not framed any policy for regulating the operations of the banking transactions including NEFT/RTGS transactions despite repeatedly being pointed out in the Separate Audit Reports of the Comptroller and General of India on the accounts of the Authority.

The State Government endorsed (March 2020) the reply of the Authority, which stated that only an amount of ₹12.11 lakh from one applicant was still to be recovered. In this connection, the Authority had filed a case before the Sessions Court and the court had ordered (February 2020) for attaching the fixed deposits of the applicant amounting to ₹19.59 lakh.

Audit verified (May 2020) the Authority's claim of recovery of double refunds in 79 cases. The verification revealed the following:

- Recovery of ₹1.03 crore was effected in 33 out of the 79 cases pointed out by audit.

- Recovery of ₹8.11 lakh in four cases was adjusted (May/July 2019) against the initial deposit for the subsequent notification. In three instances, the applicants had requested the Authority for adjusting the excess refunds towards the initial deposit for the second notification. In one case, a proforma bill was raised stating that the applicant had applied for second notification and since the applicant has not responded for the refund request of excess amount, the excess paid will be adjusted as initial deposit. These adjustments were highly irregular. Moreover, refund of excess receipts is a separate issue and payment of initial deposit is altogether a different issue. Besides refunding the excess amount received, the payment of initial deposit for subsequent notification had to be done by the applicants. Hence, this adjustment cannot be considered as recovery of double refunds.

- The recovery/return particulars corresponding to individual excess payments for ₹74.39 lakh in 41 cases (out of 79 cases pointed out by audit) and ₹31.98 lakh in 11 cases (out of 228 cases identified by the Authority) was not produced for verification even after two months of having furnished the reply. Hence Audit could not derive an assurance on the correctness of excess payments recovered.

- As stated in the reply, ₹12.11 lakh from one applicant was yet to be recovered.

[69] Interest calculated at 4*per cent* per annum, in respect of 79 cases pointed out by audit, from the date of second refund till the date of recovery/return. In cases where recovery/return particulars were not furnished for verification, interest calculated till 31 March 2020.

It can be seen from above that ₹1.26 crore was yet to be recovered and hence, the reply cannot be accepted. The reply also does not address the action taken on the concerned responsible for these double refunds and interest loss. It is, therefore, reiterated that the lapses in the reconciliation system leading to double refunds needs to be examined, as audit detected 79 additional cases apart from those identified by the Authority. Proper checks need to be put in place to prevent such occurrences in future.

It is recommended that a policy for regulating banking transactions be formulated. Action may also be initiated against those responsible for such lapses.

3.11 Payments to unauthorised works through false certification

Violation of the provisions of Karnataka Public Works Departmental code by the Engineers of Bengaluru Development Authority with regard to measurement book resulted in false certification of fictitious measurements and led to unauthorised expenditure to the extent of ₹88.91 lakh.

The provisions of Karnataka Public Works Departmental (KPWD) Code stipulate the following:

Rule	Provision
109	The measurement book is the basis of all accounts of quantities and Assistant Executive Engineer (AEE) is responsible for ensuring that all measurement books in his jurisdiction are carefully accounted and kept and measurements are properly recorded.
110 (8)	Measurements recorded by the field engineer shall be check measured by AEE in order to detect errors in measurement, to prevent fraudulent entries and to check or verify whether the works carried out at site and measured are in accordance with the sanctioned plans and estimates and prescribed specifications. After check measurement, the AEE shall record in his handwriting and under his signature with date about the correctness of the measurement. A false certificate either by the field engineer or by the AEE who is a check-measuring officer, can be construed as an attempt to fraudulent claim payment from Government by unfair means and invites penal action.

To prevent encroachment of civic amenity sites and parks that existed in Nada Prabhu Kempegowda Layout formed by the Bengaluru Development Authority (Authority), the Engineering Member of the Authority approved (March 2015) works of providing Chain Link Fencing. During 2016-17, payment towards 19 such works was made by the Authority's North Division. Scrutiny of the records and joint verification of 4 out of these 19 works during July 2018, showed that in two cases, the items of works were executed at other

than the approved places and certificates issued by the AEE were not supported by authentic measurement details as indicated in **Table 3.6**.

Table 3.6: Details of works executed at other than approved places

Sl. No.	Name of the work	Estimated amount (₹ in lakh)	Amount paid (₹ in lakh)	Work to be executed in approved Sy. Nos.	Work actually executed in Sy. Nos.
1	Part in Adishakthi Madanaghattamma Temple, Sy. No. 69 of Phase III, Block I, Kodigehalli.	49.50 / June 2016	53.70 / March 2017	69	42/3, 11/1, 11/2, 120, 121, Basaveswara temple, Ranganatha temple
2	CA site in Sy. No. 36/1B, 123/2, 37/5 and Sri. Prasanna Ganapathi Temple in Sy. No. 15 of Phase II, Block II, Kommaghatta.	49.90 / June 2016	54.00 / February 2017	36/1B,123/2, 37/5, and 15	37/4, 37/5, 8/12, 36/1B, 36/2,15 and 121

Source: Information furnished by BDA

The works of providing chain link fencing was awarded to Karnataka Rural Infrastructure Development Limited (KRIDL). Agreements were entered (June 2016) with KRIDL and as per the conditions of agreement, KRIDL was to execute and complete the works based on the drawings and estimates duly approved by the Authority. Examination of measurement books pertaining to the above two works with other related records revealed the following:

1. Adishakthi Madanaghattamma Temple – Sy. no. 69

(i) The agreement and work order of Adishakthi Madanaghattamma Temple indicated that the work was to be executed in Survey No. 69 of Phase III, Block I. However, as per measurement book No. 2140, only two items of works were partly carried out at approved places and the measurements recorded for other items of work were actually executed in Sy nos. 42/3, 11/1, 11/2, 120 and 121, Basaveswara temple and Ranganatha temple which were not the approved places, as detailed in **Appendix 3.20**.

(ii) The joint inspection showed that the above two items of work were also not executed in Adishakthi Madanaghattamma temple. However, the title of the work in the Measurement Books and Running account bill were recorded as 'Adishakthi Madanaghattamma Temple' though they were executed at other places.

2. Sri Prasanna Ganapathi Temple

(i) The agreement and work order of Sri. Prasanna Ganapathi temple indicated that work was to be executed in CA site in Sy. No. 36/1B, 123/2, 37/5 and Sri. Prasanna Ganapathi Temple in Sy. No. 15 of Phase II, Block II, Kommaghatta. However, as per the Measurement book no. 2138, 47 *per cent* of measurements (valuing ₹25.37 lakh) did not pertain to sanctioned work as indicated in **Appendix 3.21.** These works were carried out in Sy nos. 8/12 and 121 and included items such as earth work excavation, providing and constructing granite size stone masonry in foundation, providing chain link fencing 50 mm, providing and fixing MS block pipes *etc.* Audit observed that seven items of work, which were not included in the work order for the approved sites were carried out in the unapproved sites (**Appendix 3.21**).

(ii) We observed that works such as earth work excavation, providing and constructing granite size stone masonry in foundation, providing chain link fencing 50 mm *etc.*, valuing ₹9.84 lakh (**Appendix 3.21**) were recorded to have been executed in approved survey numbers (37/5, 36/1B) and unapproved survey numbers (37/4, 36/2). The survey number wise details were not available. In the absence of details of the breakup of the executed quantities as well as place of execution in the measurement book, the correctness of the same could not be ensured.

Further, both the MBs recorded execution of work in CA Site no.121, which was not part of the approved work. The joint inspection (**Exhibit 3.1**) revealed that the CA site was being utilised by a firm M/s Ramalingam Construction Company as its site office and for storing materials. The said firm is executing various works for the Authority *viz.*, construction of flats, formation of roads, culverts, drains in Nada Prabhu Kempegowda Layout packages 2 and 3.

Exhibit 3.1: Chain link fencing work executed at Sy.no. 121, which was not part of the approved survey numbers

The above observations indicate that the measurements recorded in the Measurement books were related to the works executed at places other than the approved places. However, the Engineers of the Authority had falsely certified the measurements as having been executed at approved places and made payments.

Thus, violation of the KPWD codal provisions by the Engineers of Authority resulted not only in false certification of fictitious measurements but also unauthorised expenditure to the extent of ₹88.91 lakh[70].

The State Government endorsed (March 2020) the reply of the Authority. The Authority accepted the fact that works were executed at different locations and stated that the works were carried out on the oral instructions of the higher officers and local representatives to protect the precious acquired land and safeguard the interests of the Authority. It further stated that while recording measurement for the works carried out, KRIDL had recorded in the measurement book the actual survey numbers in which the works were carried out though the nomenclature of the work remained un altered.

The reply was not acceptable for the following reasons:

- The Engineers of the Authority certified that the work was executed as per the work order, which was incorrect. Though work valuing ₹7.04 lakh (**Appendix 3.20**) was recorded to have been executed at approved survey number, joint verification showed that no work was executed. This was a clear case of fraudulent certification.

- Execution of works at other than the approved places should be got approved from the concerned authority justifying the reasons for such deviations before actual execution. In the above cases, prior approval was not obtained and were, therefore, unauthorised works.

- Execution of work at Sy.no. 121 was not to safeguard the interests of the Authority but to protect the materials stored by a firm.

Further, audit test-checked only four works in one division and noticed deviations in two works (50 *per cent*). As these are only illustrative cases, the Authority should investigate occurrence of similar deviations in other divisions to prevent execution of unauthorised works.

It is recommended that the Authority put in place a mechanism of seeking approval of the competent authority for any deviations from the original works with proper justification to prevent execution of such unauthorised works.

[70] ₹53.70 lakh (Work 1) + ₹25.37 lakh + ₹9.84 lakh.

3.12 Avoidable expenditure on road side drains works

Adoption of incorrect item and incorrect rates for road side drain works by two Bruhat Bengaluru Mahanagara Palike divisions resulted in avoidable expenditure of ₹1.09 crore.

In accordance with Section 58 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), it shall be incumbent on the Corporation to make reasonable and adequate provision by any means or measures which are lawfully competent to use or to take, for functions which *inter alia* among others include the construction, maintenance and cleaning of drains and drainage works. Further, as per the provisions of the Karnataka Public Works Department Code, for an item rate contract, the division shall prepare an estimate for each item of work by adopting an appropriate item rate from the relevant Schedule of Rates (SR) in the rate analysis.

On scrutiny of records of 22 out of 55 Engineering divisions of BBMP, the following issues were noticed in respect of two Engineering divisions[71] for the period 2016-17 to 2017-18:

(i) In respect of 7 road side drain works out of 26 works test-checked, the Executive Engineer, Dasarahalli instead of adopting the item 37.59.2[72] incorrectly adopted items of cement concrete works under Chapter 4[73] (Buildings) and Chapter 28[74] (Bridges) as specified in SR 2016-17 of PW, P&IWTD[75] South Zone, Bengaluru, respectively in the estimates. This incorrect adoption of rate did not include centering and shuttering, thus, necessitating inclusion of centering and shuttering works as a separate item, which was not necessary had the correct item 37.59.2 been adopted. Had the correct item of work been adopted *i.e.*, 37.59.2, the payment to the contractor would have been worked out to ₹1.81 crore. But, the incorrect adoption of item along with inclusion of centering as an extra item led to payment of ₹2.23 crore to the contractor. As the estimate had been prepared with the adoption of extra item, it resulted in excess payment and extending benefit of ₹0.42 crore to the contractor **(Appendix 3.22)**.

(ii) In one completed package of roadside drain works in Yelahanka division test-checked, the division adopted the specified item (37.59.2), but incorrectly adopted the rate of ₹11,032.48/cum in the rate analysis while preparing the estimate whereas the correct rate to be adopted was

[71] Office of the Executive Engineer, Dasarahalli and Yelahanka.
[72] Providing and laying plain/reinforced cement concrete for side drains using M-20 nominal mix concrete with OPC cement at 300 kgs, with 20 mm and down size granite metal coarse aggregates at 0.69 cum and fine aggregates at 0.43 cum machine mixed, well compacted for walls and bottom including centering, shuttering, cost of materials, HOM of machinery, curing etc., complete excluding cost of steel as per MORTH Specification No.1500, 1700, 2200 – Wall and bottom thickness 15 cm.
[73] Items 4.1, 4.3, 4.5, 4.11, 4.49.1 cement concrete works for building.
[74] Item 28.7.9 - design mix M-20 for Bridges.
[75] Public Works, Ports and Inland Water Transport Department.

₹7,869/cum. The incorrect adoption of rates resulted in avoidable excess expenditure of ₹0.68 crore.

The adoption of incorrect item coupled with adoption of extra item and incorrect rates in the estimates for construction of road side drains by the divisions resulted in avoidable excess expenditure of ₹1.09 crore on test checked works as detailed in **Appendix 3.22**.

The estimates for all the above works prepared by the Executive Engineer were technically sanctioned either by the Superintending Engineer/Chief Engineer, as the case may be. This evidenced failure in the system as there were lapses by the authorised officers entrusted with the task of checking/approving the estimates.

As these are illustrative cases, BBMP may look into this aspect in other engineering divisions also to preclude any further likelihood of excess expenditure.

The State Government endorsed the reply of one division (March 2020) which stated that it had adopted the rates as per SR of 2016-17 Bengaluru circle and there were actual savings. The reply was not acceptable as a corrigendum to SR 2016-17 was issued (January 2017) wherein the rate was reduced and the divisions failed to adopt the revised rates in the estimates, even though these were prepared after the revision. This also highlights the fact that technical sanctions were accorded without proper checks and were thus a mere routine formality.

It is recommended that estimates be checked thoroughly before according technical sanction to prevent such omissions.

3.13 Avoidable expenditure due to non-reduction of quantity of bitumen during road formation

Non-reduction of quantity of bitumen in bituminous concrete works during road formation by the Engineering offices of Bruhat Bengaluru Mahanagara Palike resulted in avoidable expenditure of ₹82.17 lakh.

In accordance with Section 58 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), it shall be incumbent on the Corporation to make reasonable and adequate provision by any means or measures which it is lawfully competent to use or to take, for functions, which *inter alia* among others include construction, maintenance, alteration and improvement of public streets, bridges, subways, culverts and the like.

The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP) with the objective to reduce the waste plastic generated in the city issued guidelines (24 September 2012) and instructed all the Chief Engineers, to compulsorily utilise waste plastic during the formation of asphalted roads. It was also directed to procure waste plastic for this purpose, from M/s KK Plastics Waste Management Pvt. Ltd. The blended waste plastic of eight *per cent* was to be added to the job mix of Bituminous Concrete (BC). Plastic when added to hot

aggregate forms a fine coat over the aggregate and such aggregate when mixed with the binder gives higher strength, better resistance to stagnation of water and consequential better performance over a period of time with minimal maintenance cost. Further, Indian Road Congress (IRC) SP 98-2013 also stated waste plastic of 6 to 8 *per cent* of the weight of the bitumen can be used in wearing courses thereby reducing the quantity of bitumen correspondingly.

Audit scrutiny (July to March 2019) of records in five out of 55 Engineering divisions of BBMP for the period 2013-14 to 2017-18 revealed the following:

(i) In respect of the works executed during 2014-15 (15 works), BBMP Engineering divisions[76] prepared estimates based on the Public Works Department Schedule of Rates (PWD SR) of 2013-14, which were approved by the Chief Engineer. The estimates provided for utilisation of waste plastic procured from M/s KK Plastics Waste Management Pvt. Ltd., in accordance with the Commissioner's instructions. A total quantity of 1,40,387 kgs costing ₹37.90 lakh was procured by the divisions for use in these works. It was observed that though the estimate provided for utilisation of waste plastic, the same was not followed and cent *per cent* bitumen was used and waste plastic was not at all used, thus, violating the Commissioner's instructions, which were based on the IRC Guidelines. Examination of 15 Running Account bills (RA bills) further revealed that due to non-reduction of quantity of bitumen by eight *per cent*, BBMP incurred an additional expenditure of ₹82.17 lakh towards the cost of bitumen as detailed in **Appendix 3.23**.

(ii) The estimates prepared by Engineering divisions[77] for the works during 2016-17 and 2017-18 did not provide for inclusion of waste plastic as admixture as specified in the PWD SR of 2015-16 and 2016-17 and accordingly seven works were executed without use of plastic. This led to non-utilisation of waste plastic and non-adherence to guidelines issued by the Commissioner.

Thus, the engineering divisions in contravention to the guidelines issued by the Commissioner and provisions of IRC failed to reduce the corresponding quantity of bitumen in bituminous concrete works during formation of 15 roads resulting in avoidable excess expenditure of ₹82.17 lakh towards bitumen. Further, the non-utilisation of waste plastic in 22 road works defeated the objective of effective disposal/reduction of plastic waste.

The State Government accepted (March 2020) that waste plastic was not utilised for the works executed during 2016-17 and 2017-18. It further stated that for the works executed during 2014-15, the provision for adding waste plastic was not provided in the approved estimate and the item was executed without waste plastic. The reply was not acceptable as the procurement of waste plastic was included in the estimates prepared by the divisions and

[76] Executive Engineer, Road Infrastructure division, Dasarahalli and West and Executive Engineer, Bommanahalli.

[77] Executive Engineer, Road Infrastructure division, East, Dasarahalli and Yelahanka.

approved by the Chief Engineer. The reply also highlights the violation of the instructions of Commissioner and non-utilisation of waste plastic procured.

It is recommended that the monitoring mechanism be strengthened to ensure that all instructions of the higher authorities are scrupulously followed and suitable action taken for any violations.

3.14 Short/non-recovery of royalty

Incorrect computation of royalty on compacted quantities for the various items of work instead of on actual quantities of minor minerals consumed for works and application of incorrect rate resulted in short recovery of royalty of ₹2.15 crore by Road Infrastructure and Ward divisions, Bruhat Bengaluru Mahanagara Palike.

With a view to collecting royalty on minor minerals consumed in the works executed by various Works Executing Departments/Agencies (WEDAs), the Commerce and Industries Department issued a Circular (December 2007), instructing the WEDAs to deduct royalty from the bills of the contractors executing works on the minor minerals for which no proof of payment of royalty was produced by the contractors. Further, Director, Mines and Geology (DMG) had instructed (March 2013) the WEDAs to include an enabling clause in the contract to deduct penalty at five times of royalty, along with royalty, from the bills of the contractors, if proof of payment was not furnished.

Audit scrutiny (July 2018 to March 2019) of records in seven test-checked divisions[78] pertaining to the road works during the years 2014-15 to 2017-18 revealed that the minor minerals used for the works were not supported with proof of payment of royalty, because of which the divisions had recovered royalty from the bills of the contractors. Audit, however, noticed that the royalty was short recovered as detailed below:

(i) The road construction involves stage by stage construction and each layer shall be compacted to the desired density before the next layer is laid. The royalty was to be recovered at the pre-compaction quantity on the actual material used for the works. Two divisions[79] adopted the compacted quantities of different components (*viz.* Murram, Sand and Jelly) of work for various items of work instead of quantities of material actually consumed before compaction. This incorrect adoption of compacted quantities of materials instead of actual quantity[80] of minor minerals extracted and consumed for the works had resulted in

[78] Executive Engineers, Rural Infrastructure divisions: Bommanahalli, RR Nagar, Dasarahalli and East; Executive Engineers, Ward divisions: Dasarahalli, Yelahanka and Chamarajapet.

[79] Executive Engineers, Road Infrastructure division: RR Nagar and ward division, Dasarahalli.

[80] For a desired 1 cum compacted thickness, the requirement of jelly in the case of Water Bound Macadam (WBM) and Wet Mix Macadam (WMM) are 1.33 times of the stalked quantity. The reason is that the jelly is hexagonal shape and contains voids (air pockets) when stalked. The multiplication factor 1.33 is a constant. Hence the royalty for jelly before compaction will be 1.33 times more than the royalty after compaction.

under recovery of ₹85.16 lakh from the contractors' bills on the road works as detailed in **Appendix 3.24(a)**.

(ii) The Government order dated 13.03.2014 prescribed the royalty to be recovered on road metal (jelly) and sand utilised in the civil works at ₹108/- and ₹103/- per cubic meter (cum) respectively. Scrutiny of records in respect of four divisions[81] revealed that the royalty was recovered at ₹60/- and at ₹54/- per cum for jelly and sand respectively. This resulted in short recovery of royalty of ₹81.07 lakh as detailed in **Appendix 3.24(b)**.

Further, audit observed that in Chamarajapet division, though proof of payment of royalty was not available, the royalty amounting to ₹48.29 lakh was not recovered from the contractor's bills as detailed in **Appendix 3.24(c)**.

Thus, the incorrect computation of royalty charges, short recovery from a contractor and application of incorrect rates resulted in non/short recovery of royalty of ₹2.15 crore. In addition, penalty of ₹10.73 crore at five times the royalty, was also recoverable.

The State Government while accepting the objection replied (March 2020) that an amount of ₹97.35 lakh had been collected and notices have been issued to the contractors for payment of balance amount. The reply was, however, silent on the recovery of penalty.

It is recommended that all calculations are thoroughly checked with reference to the applicable rates before passing bills for payments to prevent such short/non recovery.

3.15 Loss of revenue due to non-recovery of property tax

The Assistant Revenue Officer, Gandhinagar sub-division failed to pursue the recovery of property tax dues towards Kempegowda Metro Station resulting in non-payment of property tax of ₹6.76 crore including interest by Bengaluru Metropolitan Rail Corporation Limited.

In accordance with Section 108-A of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), the State Government notified (January 2009) BBMP Property Tax Rules, 2009 to introduce self-assessment of property tax under Unit Area Value (UAV) system. Different rates were determined for different areas or streets by classifying them into zones, nature of use to which the vacant land or building is being put, and for different classes of buildings and vacant lands. For this purpose, the jurisdictional area of BBMP was classified into six value zones (A, B, C, D, E and F) and properties were grouped into 18 categories (5 residential and 13 non-residential).

The Commissioner, BBMP issued a corrigendum (28 March 2016) to the revised notification (16 March 2016), according to which the rate of property

[81] Executive Engineer, Rural Infrastructure divisions: Bommanahalli, Dasarahalli and East; Executive Engineer, Ward division: Yelahanka.

tax for all properties falling under Category VI[82] in 'A' Zone was ₹25 per square feet (sq. ft.). Further, the revised orders provided for computation of service area at half the rate for non-residential properties falling only under Categories VII, VIII, IX(i), X, XI, and XII and was not applicable for properties under Category VI.

Test-check of records (July 2018) in the office of the Assistant Revenue Officer (ARO), Gandhinagar sub-division, BBMP showed that three metro stations *viz.*, Nada Prabhu Kempegowda, City Railway Station and Mantri Square-Sampige Road falling under category VI were under the jurisdiction of ARO, Gandhinagar. The ARO, Gandhinagar had assessed the property tax payable by Bengaluru Metropolitan Rail Corporation Limited (BMRCL) for the year 2016-17 for Kempegowda station only and had not assessed the property tax for the other two stations. The reasons for this were not furnished.

Further scrutiny of the assessment of Property Tax for Kempegowda station revealed the following:

(i) Karnataka State Road Transport Corporation (KSRTC) had transferred (March 2013) 7 acres 20 guntas of land[83] to Bengaluru Metropolitan Rail Corporation Limited (BMRCL) for construction of Kempegowda metro station. BMRCL had paid property tax amounting to ₹7.90 lakh, including penalty and interest towards vacant land for the year 2013-14 on 29 August 2017. Thereafter, BMRCL had not paid any property tax. The property tax payable for the vacant land for the years 2014-15 and 2015-16 was assessed at ₹8.10 lakh (@ ₹4.05 lakh per year).

(ii) The Joint commissioner (West) approved (June 2017) the bifurcation of khatha transfer[84] with effect from 1 April 2016 and consequent upon the transfer, the ARO, Gandhinagar worked out and assessed (June 2017) the property tax payable by BMRCL for Kempegowda station for the year 2016-17 at ₹63.94 lakh. A special notice was served (June 2017) on BMRCL directing payment of property tax both for vacant land and the building within 15 days after receipt of the notice. Subsequently, a demand notice was also issued in July 2019. However, BMRCL had not made any payments so far (August 2019), the reasons for which were not made available to Audit.

(iii) Examination of the assessment showed that the ARO had incorrectly adopted the UAV rates prescribed for Category V[85] (self-occupied)

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[82] All non-residential use of property, provided with, central Air Conditioning/ Escalators, whether or not, put to use, and where one occupier or several occupiers, including Information Technology and Bio-technology companies or firms but properties not falling under category VIII, IX(ii).

[83] Site area is 3,26,700 sq. ft. Built up area is 1,94,396 sq. ft.

[84] When the ownership of a property is transferred to another for reasons other than outright sale, it is termed as Khatha transfer.

[85] Category V - non-residential buildings that are not equipped with central air condition facility, *etc.*

@ ₹12.50/sq. ft instead of adopting the rates as specified for Category VI i.e. @ ₹25 /sq. ft.

(iv) Further, the ARO had considered 25 *per cent* of the total built up area as utility or service area and computed tax at 50 *per cent* of the UAV even though as per the revised orders, such computation was not allowed for properties under Category VI.

(v) The incorrect classification of property under Category V and erroneous consideration of 25 *per cent* as service area led to incorrect adoption of rates for arriving at the annual tax payable resulting in short assessment of property tax of ₹84.55 lakh for the year 2016-17 as shown in the **Appendix 3.25**.

(vi) The ARO had neither pursued the matter with BMRCL for recovery of property tax dues after issue of special notice nor brought this to the notice of BBMP higher authorities. It was only after being pointed out (July 2018) in audit that the ARO issued (July 2019) a demand notice directing BMRCL for payment of property tax at the applicable rates (@ ₹1.48 crore per year) as detailed in the **Appendix 3.25**.

Thus, the inaction of the ARO to pursue the recovery of property tax dues towards Kempegowda metro station resulted in BMRCL not paying property tax of ₹6.76 crore including interest for the period 2014-15 to 2018-19 as detailed in **Appendix 3.25**. This was further compounded by the ARO's apathy in assessing the property tax for the other two Metro stations under his jurisdiction resulting in significant loss of revenue to BBMP.

As this is an illustrative case, BBMP should look into this aspect for other metro stations[86] in other AROs also to preclude any further likelihood of loss of revenue.

The State Government while accepting the observation replied (March 2020) that a demand notice was issued (January 2020) to BMRCL. The reply was, however, silent on the action taken against the concerned for short assessment of property tax, not assessing the tax for the other two stations and also for not pursuing the recovery for the demands raised. Though payment of property tax rests with the property owners, the statutory provisions do not absolve the tax collecting authorities of their responsibilities to ensure that all properties are brought under the tax net. Hence, there is an immediate need to devise a mechanism to ensure that no property is left out from payment of property tax.

It is recommended that appropriate action be taken against the officials responsible for incorrect assessment and a mechanism be devised to ensure that all properties are brought under the tax net.

[86] There are 40 metro stations under BMRCL as of August 2019.

3.16 Collection of scrutiny fees twice by BBMP resulted in excess collection of licence fee

Collection of full licence fee without deducting the part of licence fee collected as scrutiny fee by the Town Planning department of Bruhat Bengaluru Mahanagara Palike from public resulted in excess collection of licence fee of ₹4.05 crore.

As per Bye-law 3.1 of Bangalore Mahanagara Palike (BMP) Building Bye-Laws 2003, approved (February 2004) by the Government of Karnataka, every person who intends to erect or re-erect a building or make material alterations or cause the same to be done, was required to obtain a licence from the Authority (Commissioner of Bangalore Mahanagara Palike or an officer to whom the powers of sanction of building licences are delegated by the Commissioner). In accordance with Bye-law 3.7.2 of BMP Building Bye-Laws 2003, part of the building licence fee which shall not be less than five *per cent* of the licence fee and subject to a minimum of ₹50 only shall be paid together with the application for building licence, as scrutiny fee, which is non-refundable. The balance amount of licence fee shall be paid on receipt of demand notice from the Authority.

Bruhat Bengaluru Mahanagara Palike (BBMP) prescribed (September 2015) the rates for 'Licence fee' and 'Scrutiny fee' in respect of residential, and non-residential/ commercial buildings. The percentage of scrutiny fee for 'Residential' and 'Non-residential/commercial' buildings was five *per cent* of the percentage prescribed for 'Licence fee' as shown in **Table 3.7**.

Table 3.7: Statement showing the rates of licence and scrutiny fee

Sl. No.	Nature of fee	Residential building	Non-residential/ Commercial building
1	Licence fee to be levied on guidance value	0.18 *per cent*	0.28 *per cent*
2	Scrutiny fee	0.009 *per cent*	0.014 *per cent*

Source: BBMP Circular No. ADTP/ JD (N)/ DM3/PR/ 320/2015-16 dated 04-09-2015

Audit scrutiny of building plan records in the offices of Assistant Director of Town Planning (ADTP), West, Rajarajeshwari Nagar, Yelahanka and Dasarahalli zones of BBMP showed that during the period 2014-15to 2017-18, scrutiny fee was collected at the time of submission of online application and subsequently when the demand notice for other fees such as ground rent, betterment levy on site and building, labour cess, plan copy fee, lake rejuvenation fee, *etc.*, was issued from ADTPs.

The collection of scrutiny fees initially, followed by collection of licence fee without deduction of the amount collected earlier resulted in excess collection of licence fee of ₹4.05 crore in 11,020 licences issued during the years 2014-15 to 2017-18 detailed in **Appendix 3.26**.

As these are illustrative cases, BBMP should look into the similar cases in other zones to exclude the chances of excess collection.

The State Government while accepting the observation replied (March 2020) that due to lack of communication and awareness, the scrutiny fees in respect of few cases collected initially was not deducted from the final license fee and it was difficult to refund the excess payment collected during 2016-17 and 2017-18 as plan sanction was done only once to an applicant. However, it agreed to refund or adjust the claims made by the applicant/owner for excess collection in any financial commitments payable to BBMP in future. Further, it stated that since all payments are now collected online, the initial scrutiny fees paid by applicant would automatically be deducted in the final fees to be collected. The reply was not acceptable as the excess scrutiny fee was collected from online applications also.

It is recommenced that BBMP devise a fool proof mechanism to avoid such excess collections.

Department of Housing

3.17 Loss due to incorrect interpretation of guidelines

Incorrect interpretation of the Government guidelines issued for operation of funds by Karnataka Slum Development Board resulted in loss of interest and penalty amounting to ₹1.20 crore.

The Government of Karnataka issued (January 2017) set of guidelines for operation of funds to ensure transparency and accountability in the management of funds/money through bank accounts. These guidelines were applicable to all State Government Departments, Local bodies or Authorities, Boards, Corporations, Societies, Universities and other State autonomous bodies. The guidelines covered aspects such as opening of new bank account, management of bank accounts and disclosure of bank accounts and did not cover investments of surplus funds.

A review of the compliance to these guidelines in Karnataka Slum Development Board (Board) for the period 2017-18 showed that the Board had prematurely withdrawn its fixed deposits of ₹83 crore during April 2017 and invested the same along with interest in sweep-in-sweep-out account. Consequently, the Board had incurred loss of ₹0.68 crore by way of penalty for premature withdrawal of fixed deposits (detailed in **Appendix 3.27**) and ₹0.52 crore by way of interest for keeping the amount in sweep-in-sweep-out account (detailed in **Appendix 3.28**).

On this being pointed out, the Government endorsed (December 2019) the reply of the Board that since the guidelines prohibited investment of scheme funds in fixed deposits, the amounts were withdrawn. The reply was not acceptable as the guidelines applied to only opening of new accounts and did not cover investments.

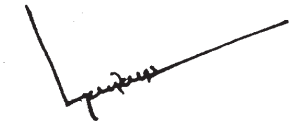
Thus, incorrect interpretation of guidelines by the Board resulted in loss of ₹0.52 crore by way of interest and ₹0.68 crore by way of penalty.

It is recommended that action be taken against those responsible for causing the loss to the Board.

Bengaluru
The 10 Nov 2020

(E. P. Nivedita)
Principal Accountant General (Audit-I)
Karnataka

Countersigned



New Delhi
The 20 Nov 2020

(Girish Chandra Murmu)
Comptroller and Auditor General of India