

CHAPTER V : MINISTRY OF EXTERNAL AFFAIRS

Passport *Seva* Project Division

5.1 Incorrect application of rate of service charges led to excess payment

Ministry of External Affairs made excess payment of ₹ 2.89 crore to the Service Provider for Passport Services due to incorrect application of rate of service charges for processing passport applications during June 2015 to February 2020.

Mention was made in Para 4.2.2 of C&AG's Audit Report No. 7 of 2016 regarding payment at the rate of ₹ 199 per application to the Service Provider (SP) for passport services, for walk-in applications till May 2015. As only online appointments were being allowed from July 2012 this led to overpayment to the SP. In their Action Taken Note (ATN), Ministry of External Affairs (MEA) informed (April 2017) the Public Account Committee (PAC), of recoveries made from the SP.

The Passport *Seva* scheme was one of the Government's first projects under the National e-Governance Plan (NeGP) to provide digital access to services. The scheme was implemented in a Public Private Partnership (PPP) mode with the private partner viz. M/s Tata Consultancy Services (TCS) having been selected through a public competitive procurement process.

As per the schedule VI under Master Service Agreement (MSA) signed between MEA and TCS i.e. the SP (October 2008), payment of service charges was to be made based on quarterly volume of applications processed by the SP. Service charge for the applicants who apply online would be 75 per cent of the basic service charge applicable for walk-in applicant. In the case of walk-in-applicants, the counter operator was required to assist the applicant in filling the application form and thus carried out data-entry and submitted the application into the system. On the other hand, online applicants complete all these activities themselves before visiting the Passport *Seva* Kendra (PSK) on the appointed date and time. Thus, as more service was rendered by the SP in the case of walk-in applicants compared to on-line ones, service charges rates were higher for the walk-in applicants as shown in **Table No. 1**.

Table No. 1: Rates of Service Charges

(Amount in ₹)

Sl. No.	Quarterly volume	≤15 lakh
I	Service Charge rate for Walk-in applicants	199.00
II	Service Charge rate for Online applicants (@ 75 per cent of I above)	149.25

Regional Passport Offices (RPOs) started (June 2012) organising Passport *Melas*, which were conducted on Saturdays and Sundays and other holidays to cater to growing demand of passport seekers and also to attend to those who could not visit Passport Offices during working days.

Audit scrutiny of records relating to payments of service charges to the SP, disclosed that the payments made for the period from June 2015 to February 2020, included payments for 5.82 lakh applications processed under *Mela* scheme. To participate in these *Melas*, prospective applicants had to log on to the MEA's official website, register on-line, generate Application Registration Number (ARN), pay online fees and then take the appointment. Applicants participating in the *Mela* were required to bring the print out of ARN with appointment details, to the respective PSK along with requisite documents in originals and one set of self-attested photocopies.

Audit noted that the SP claimed service charge at the rate of ₹ 199 per application for handling *Mela* applicants i.e. the rate applicable for walk-in applicants, instead of ₹ 149.25 applicable for on-line applicants. This was despite the fact that *Mela* applicants were required to follow the same process for filling applications as for on-line applicants. In this connection, it is pointed out that after July 2012, only the system of on-line applications remained barring for a few specific categories. This resulted in excess payment to the SP aggregating ₹ 2.89 crore¹, for 5.82 lakh *Mela* applications processed during the period from June 2015 to February 2020.

On this being pointed out (August 2020), MEA stated (October 2020) that for meeting the heavy demand for passports, Passport *Melas* were organised on weekends or holidays which required very high human engagement level and management efforts from the SP. It also stated that this initiative, applicants were allowed to submit their physical applications at PSKs/POs on specific days without any appointment.

In addition, the SP was also required to assist the Government staff in collecting fees, allotting file numbers to each case and offer additional administrative and

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(Amount in ₹)

Period	No. of Online applicants	Rate charged	Rate chargeable	Excess	Amount recoverable (581544 x 49.75)
Jun '15-Feb' 20	5,81,544	199.00	149.25	49.75	2,89,31,814.00

operations support. As such, it approved the payment of ₹ 199 per application received during the the *Melas*.

MEA's reply is not tenable as payment to the SP was being made on the basis of number of applications processed, and processing the applications during the *Mela*, involved same level of work as in the case of normal on-line applications. The contention that during the *Melas*, SP were providing assistance in handling physical application and in collection of fees from applicants, is not acceptable as even in such cases, applicants were required to apply online and bring the print out of ARN with appointment details. Further, these *Melas* were largely intended to handle pending applications submitted on-line and hence payment of extra charges to the SP to clear backlog/rush of applicants was not justified.

Further, the reply of the MEA (October 2020) is also contradictory to its previous response of March 2020. It had then intimated that the payment made to SP for online *Mela* applications at walk-in rates during March 2017 to November 2018 had been reviewed and process of recovery had been initiated.

Thus, incorrect application of rate of service charges for processing passport applications during Passport *Melas* resulted in unjustified excess payment to the SP of ₹ 2.89 crore for the period from June 2015 to February 2020.

South Asian University

5.2 Loss of revenue due to irregular tax exemption

South Asian University (SAU) was established by the eight member nations of the South Asian Association for Regional Co-operation (SAARC). Under the SAU Act, the President and other faculty members were exempted from payment of taxes in respect of their salaries. On 15 January 2009 the Ministry of External Affairs issued a notification to make the Registrar of the University eligible for grant of tax exemption, which was contrary to the provisions of SAU Act. Irregular exemption of income tax granted to the Registrar resulted in loss of ₹ 90.06 lakh to the Government exchequer.

In pursuance of the Prime Minister's announcement at the thirteenth South Asian Association for Regional Co-operation (SAARC) Summit in November 2005 for establishment of a South Asian University (the University), an Inter-Governmental Agreement was signed in April 2007 amongst the eight countries² which stipulated that the main campus of the University shall be located in India. Subsequently, Headquarters' Agreement between the Government of India and the SAARC Secretariat was signed in November 2008

² Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

to provide an overall framework for the functioning and operation of the University and for regulating the relations between the University and the host country. To give the provisions of the Inter-Governmental Agreement force of law, the South Asian University (SAU) Act, 2008, was enacted and notified through Gazette dated 11 January 2009.

As per the provisions of Article 4 of the Inter-Governmental Agreement, the taxation of the citizens of the Founding States employed by the University shall be regulated in accordance with the national legislation of the respective States. The employees of the University from countries other than the host country will be governed by the income tax laws of the home countries and will not be taxed as per the laws of the host countries.

Further, Clause 14 of the SAU Act provides that the University, the President and the members of the academic staff would enjoy such privileges and immunities as the Central Government may notify under Section 3 of the United Nations (Privileges and Immunities) Act, 1947.

Section 3 of the United Nations (Privileges and Immunities) Act, 1947 gives power to the Central Government to confer certain privileges and immunities on other international organisations and their representatives and officers in pursuance to any international agreement, convention etc. by issuing notification in the Official Gazette to give effect to such agreement, convention etc.

In accordance with Section 3 of the United Nations (Privileges and Immunities) Act, 1974 Ministry of External Affairs (MEA) issued notification on 15 January 2009 according the privileges and immunities to the University, Project Office & its officials, President, Registrar and faculty members which *inter alia* included tax exemption.

Audit observed that in this notification the privileges were wrongly extended to the Registrar of the University for grant of income tax exemption since it was clearly set out in the Headquarters' Agreement that tax exemption would be extended to the President and the faculty members of the University only. The reasons for inclusion of the post of Registrar in the Gazette notification were not on record.

Further scrutiny revealed that the incumbents on the post of Registrar were Indian nationals who are subject to the taxation laws of the Government of India. They had not paid income tax aggregating to ₹ 90.06 lakh on their salary

income aggregating to ₹ 3.31 crore during July 2011 to December 2017. Thus, notification of MEA to grant tax exemption to the Registrar of the University was irregular and led to loss to the Government exchequer to that extent.

MEA accepted (January 2019) the irregularity pointed out by audit and intimated (August 2020) that the Ministry of Law and Justice has concurred with its proposal to amend the Gazette Notification of 15 January 2009 with retrospective effect deleting the term 'Registrar' from it and concurrence of MoF is awaited.

High Commission of India, London

5.3 Irregularities in receipt and utilisation of compensation

The High Commission of India (Mission) irregularly engaged a private party, authorising it to: (i) receive and retain government receipts of ₹ 78.41 lakh³ in its private bank account and (ii) disburse a substantial part of the receipts towards the Mission's own expenditure.

A property adjoining "The Nehru Centre" (TNC)⁴ and some other High Commission of India, London (Mission) properties⁵, was being redeveloped by M/s Caudwell Properties Limited (Developer). In terms of prevalent building laws⁶ of the UK, the Developer notified the Mission (6 April 2016), as the owner of above mentioned adjoining properties, of their plan to carry out redevelopment in the adjacent area. On the suggestion of the Developer the Mission appointed a Surveyor to safeguard its interest in view of the redevelopment.

A licence agreement was subsequently signed between the Mission (on behalf of Union of India) and the Developer on 19 December 2016 after several meetings and exchange of communications between the Developer, the Surveyor and Mission officials. This agreement gave certain rights with respect to HCI's adjacent property to the Developer, which in turn agreed to execute works for the Mission to minimise noise and dust pollution arising from the redevelopment work. These works included provision of secondary glazing and installation of free-standing cooling systems in the Mission's adjacent properties located at 8, South Audley Street (TNC) and 51, Hill Street. The Mission also signed a contract (21 December 2016) with the Developer for setting up an escrow account for GBP 150,000 as security to be invoked if the

³ GBP 90,000 (based on RoE of ₹ 87.12 in December 2017).

⁴ TNC-8, South Audley Street, London.

⁵ HCI House-51 Hill Street, London.

⁶ Party Wall Act.

Developer did not discharge its obligations under the licence agreement. Both these agreements were signed with the approval of the then DHC/Acting HC but there were no records to show if Ministry's approval had been obtained for the agreements.

Audit observations based on examination of available records relating to the above agreement, subsequent developments relating to execution of the agreed works, and payment of compensation *in lieu* thereof and its utilisation are detailed in the following paragraphs.

5.3.1 Non transparent and unauthorised arrangements for receipt of compensation *in lieu* of agreed works.

Out of the agreed works the Developer was able to only carry out secondary glazing at 51, Hill Street. It could not carry out secondary glazing at TNC as required 'Listed Building Consent' from the local Council⁷ was not forthcoming. It also did not carry out the work of providing cooling systems. The Developer agreed to pay compensation *in lieu* of the remaining works *i.e.*, secondary glazing in TNC and installation of free-standing cooling systems, to the Union of India through the Mission. Following an exchange of emails between the Developer and Mission officials, Mission conveyed its agreement (28 November 2017) to the Developer to accept GBP 90,000 as compensation and the terms of such payment.

As no documentation or working papers were available in the records of the Mission about how the compensation amount had been worked out, the correctness and adequacy of the compensation agreed to by the Mission cannot be vouchsafed. In addition, there was nothing on record to show the level at which it was decided to accept the compensation of GBP 90,000 from the Developer or if approval of the Ministry was sought. Audit observed however, that acceptance of compensation was conveyed by the then First Secretary (P&M)⁸ of the Mission by e-mail which had also been endorsed to the then Director, TNC and the Head of Chancery (HOC) of the Mission. This was corroborated by the Inquiry Committee⁹ (IC) constituted by the Mission to look into issues relating to receipt of compensation.

⁷ Westminster City Council (WCC).

⁸ P&M: Property and Maintenance.

⁹ Head by the Minister (Economic), other team members included Head of Chancery, Second Secretary (Pol, P&M), and Second Secretary (PIE), Finding of the IC were furnished during audit of the Ministry in October 2020.

5.3.2 Irregular and unauthorised nomination of a private entity to receive the compensation

The above mentioned e-mail from the then FS(P&M) to the Developer for payment of compensation mentioned that the compensation of GBP 90,000 would be in the form of “an *ex-gratia* payment” through M/s Bajaj and Sons Limited, working in conjunction with Mr. Christopher Chaplin. While the IC as mentioned above, noted that e-mail by the FS(P&M) was endorsed to the then Director, TNC and the HOC, it concluded that there was no record available indicating as to who took the decision in the Mission to receive the compensation in a private account. There was also no evidence of any reference being made or approval being sought from the Ministry for the arrangement for receiving and holding the compensation by a private entity.

Audit also noted that the earlier communications¹⁰ of the Mission with the Developer on compensation, had made no reference to M/s Bajaj and Sons who was later authorised to receive the payment. The first such reference was made only in the Mission’s final communication (28 November 2017) to the Developer in this matter. The Mission could also not produce any records during audit in support of the engagement of these two agencies, nor could it give any records relating to their antecedents such as any prior engagement by the Mission etc. In addition, contract/agreement was signed with them outlining *inter alia*, the terms and scope of engagement and remuneration payable. Subsequently, the IC reported that M/s Bajaj and Sons Limited had been hired to negotiate matters with the Developer (July 2017) on the recommendation of the then First Secretary (P&M) and with the approval of the then DHC. This firm in turn, hired Mr Christopher Chaplin for liaising. There was no evidence of any reference being made or approval being sought by the Mission from the Ministry for the hiring of these agencies.

Audit also noted that though M/s Bajaj and Sons Limited was engaged on an understanding that it would not charge any fees, the firm deducted fees of GBP 6,000 (₹ 5.50 lakh¹¹) and GBP 9,700 (₹ 9.56 lakh¹²) in March and November 2018 respectively, from the compensation it had received. No approval of the Mission or the Ministry was sought for the payments made.

¹⁰ From May 2017 to 27 November 2017.

¹¹ Based on RoE of ₹ 91.67 in March 2018.

¹² Based on RoE of ₹ 98.86 in November 2018.

5.3.3 Irregular retention of Government money by a private party

The Mission had allowed M/s Bajaj and Sons to retain the compensation, received from the Developer in its account, instead of crediting the same into the Government account. This was in violation of Rule 6(1) of the Central Receipts and Payments (R&P) Rules, 1983 which mandates that 'all moneys received by or tendered to Government officers on account of revenues or receipts or dues of the Government shall, without undue delay, be paid in full into the accredited bank for inclusion in Government Account'. Audit noted that the Mission had no details of the actual amount received from the Developer by M/s Bajaj and Sons. It was only in February 2019 that an unsigned statement of receipts and expenditure was forwarded to the Mission.

The IC had also observed in its report that it was not able to find any information on record about the reasons for parking the receipts of the Government in a private account and about the person who took the decision. Government money thus irregularly remained outside Government accounts for a period of more than 19 months.

5.3.4 Irregular utilisation of departmental receipts for departmental expenditure

As per Rule 6(1) of the Central Receipts and Payments (R&P) Rules, 1983, moneys received as Government receipts 'shall not be utilised to meet departmental expenditure', except under specified circumstances, 'nor otherwise kept apart from the accounts of the Government'.

In violation of the extant rules, instead of crediting the compensation received in the Government's account, the then acting DHC approved (August 2018) utilisation of the compensation that M/s Bajaj and Sons had received for meeting expenditure on installation of a boiler at TNC. The IC found that this work was awarded to an agency based on a limited tender for a price of GBP 79,879.81¹³ (₹ 72.28 lakh). This was done without seeking the approval of the Ministry. The new incumbents who joined the Mission later were not briefed about this arrangement, and details became known when payment of the last instalment got delayed. Ultimately, the balance payment of GBP 19,550 for installation of the boiler was made by the Mission from its accounts on 30 January 2019, while M/s Bajaj and Sons Ltd remitted the balance amount

¹³ GBP 66,566.51 plus VAT@20%. Out of the total expenditure of GBP 79,879.81, the Mission paid an amount of GBP 19,549.94 (Total outstanding amount GBP 19,969.94 after deducting an amount of GBP 350.00 + VAT offered by the company through a credit note).

held by them in their account, of GBP 14,390 to the Mission on 15 April 2019 which was finally accounted in June 2019.

The matter was brought to the notice of the Ministry (October 2019). The Ministry based on inputs from the Mission, intimated that the help of the hired Consultant (M/s Bajaj and Sons) was taken to negotiate the compensation who then received the compensation in their account; that the compensation amount was adequate and that the compensation was used for infrastructure development of TNC as it was *in lieu of* secondary glazing of TNC. It, however, added that the matter was being examined in the Ministry. The reply, besides being interim in nature, is not acceptable as it does not explain the lack of documentation on the manner of appointment of the Consultants and their terms of engagement, the irregular parking and retention of Government receipts in a private account and the wrongful and unauthorised utilisation of Government receipts to meet expenditure. It is also noted that a proposal from the Mission for *ex-post facto* regularisation of the expenditure was still pending.

The Mission took a decision to accept compensation of GBP 90,000 from a property Developer without the approval of the Ministry and without any documented justification for the amount accepted. It also irregularly authorised a private party to receive and retain government receipts by way of the compensation paid by the Developer amounting to ₹ 78.41 lakh in its private bank account with no record of how and by whom was this decision made. Further, in violation of rules, the Mission allowed use of these receipts directly to incur expenditure. In addition, actions and decisions taken by Mission functionaries, were not adequately documented to obscure these gross irregularities and the Ministry was systematically kept in the dark in the matter.

It is thus, recommended that based on the preliminary findings of the Mission's IC, a further vigilance inquiry may be conducted by the Ministry so that responsibility is fixed and deterrent action taken for the grossly irregular parking of Government funds with a private entity; its unauthorised utilisation, and for keeping the Ministry in the dark in the matter. In addition, as several of the irregular actions appear to have been taken either with the approval of supervisory officers or were within their knowledge, lapses on their part may also be scrutinised for suitable action.

5.4 Grossly irregular and manipulated award and execution of work relating to the renovation of the basement at India House, London, leading to undue benefits being extended to the Contractor

The High Commission of India, London undertook work relating to renovation of the basement at the India House, at a cost of GBP 744,971 (approx. ₹ 6.63 crore¹⁴), without prior approval from the Ministry of External Affairs. The initial award of the work was to an ineligible company through an irregular and manipulated tendering process which was followed by award of extra work without tendering to the same company thereby extending undue benefit to it. Further, additional work was awarded based on fraudulent quotations, to an associated ineligible company, incorporated immediately prior to the award of work and dissolved after receipt of payments.

As per orders¹⁵ of the Ministry of External Affairs (Ministry), the delegated financial powers of the High Commission of India (Mission) for undertaking repair & maintenance works with respect to the Chancery premises, Embassy Residence and DCM's residence taken together, was limited to USD 2 lakh (approx. GBP 150,000)¹⁶ per annum. Further, Ministry orders¹⁷ also state that Missions and Posts are not expected to undertake renovation works for properties abroad which is beyond their delegated financial powers, and where expenditure is debit to the capital budget without prior approval of MEA. In addition, in accordance with Rule 139 of GFRs, 2017 read with para 17 of CPWD Works Manual, 2014 open bids should be called for all works above value of ₹ five lakh which must be well advertised in the press/website. GFRs¹⁸ also do not allow splitting of a work or procurement, to avoid requirement of approval of a higher authority or for open bidding.

In a meeting (April 2017) held by the Deputy High Commissioner to review the security status of the Mission, it was decided to relocate all the Consular services operating from the basement of the India House¹⁹ to the ground floor and shift entry for visitors from the main entrance to the basement so as to increase overall security of the Mission premises. This decision entailed conversion of the basement into a reception area involving partial demolition of existing structures, and renovation and refurbishment of the area as also modifications in the ground floor for relocated consular and visa sections. These works involving substantial revamping and renovation of the premises went

¹⁴ Conversion using average monthly RoE for month in which payments were made.

¹⁵ Ministry's order dated 28 August 2009.

¹⁶ @ 0.73 GBP/USD.

¹⁷ MEA circular dated 20 December 2016.

¹⁸ Rules 138 and 157 of GFRs 2017.

¹⁹ The premises of HCI, London (Chancery) is called "India House".

beyond just repair & maintenance and were of a capital nature. Audit scrutiny of the records of the HCI, London relating to renovation of the Consular Service area and related works, disclosed gross irregularities and violations of rules at all stages covering approval, tendering and execution of the works. These are detailed in the following paragraphs.

A) **Unauthorised execution of works without approval of Ministry**

As mentioned above, the works undertaken were for renovation and revamping of the premises and were capital in nature as it led to upgrade and increase in the asset value of the premises. In terms of Ministry's orders such works required Ministry's approval at all stages. The Mission, however, did not obtain approvals from the Ministry. It was also noted that even the financial powers delegated to the Mission for undertaking repair & maintenance works was exceeded. Further, the Mission disguised the real nature of the works by classifying the entire expenditure on the works as 'minor works' and 'office expenses' instead of as 'capital works', which was a violation of Rule 84 of the GFR, 2017.

B) **Splitting of works**

The Property & Maintenance wing of the Mission initially prepared (April 2017) a Notice Inviting Tender (NIT) for executing the abovementioned works titled 'Renovation of Consular Service Area of the High Commission of India, India House, Aldwych, London WC2B 4NA. However, thereafter the Mission abandoned the tender process for the full renovation project that it had initiated in April 2017, without assigning any reasons. Instead, in blatant violation of rules, it allocated a part of the work *viz.*, **“shifting of consular wing” and “demolition work”** (April to June 2017) to a single company (M/s Zon Associates Ltd.) by splitting the said part work into seven piecemeal orders. Though the splitting of the demolition work was justified on the grounds of ensuring phased execution of the work, it was observed that invoices for all the works had been submitted within a four-day period and processed on the same day. Subsequently, the Mission issued a NIT (August 2017) for **“Renovation of the Basement Area”** covering renovation of the reception area, renovation of toilets, electric works²⁰ and internal works²¹ corresponding to one part of the originally conceived renovation project. This work was taken

²⁰ Supply and air-con bulkhead units, lighting and laying of cables, etc.

²¹ Supply/fitting of carpets in internal area of business centre.

up at a bid cost of GBP 129,800 (₹ 1.07 crore)²². Five months later i.e., in January 2018, the Mission issued another NIT for “**Design and furnishing of the consular service area**”, which was again a part of the original project scope, and awarded this work at a cost GBP 345480²³ (₹ 3.14 crore²⁴). Subsequently, (August/September 2018) the Mission took up “**additional works**²⁵” not originally within the scope of the renovation project valuing GBP 107,694 (₹ 99.06 lakh), by splitting the total work into 19 piecemeal orders. Thus, the Mission resorted to indiscriminate sub division of work with the intention of evading seeking approval of higher authorities/Ministry and avoiding open bidding.

C) Irregularities and manipulation in tendering and award of works

As noted above, the first part of the project i.e. “*shifting of consular wing*” and “*demolition work*”, was split into seven works. It was seen that these works were awarded during April-June 2017, to one company i.e., M/s Zon Associates Ltd on quotation basis in two cases and on nomination basis in the rest. The company was, however, not eligible for the work as it was not registered with the Government of UK for the business of construction activities. It was, thus, not authorised to carry out any construction and related activities. It was also noticed that in the two cases where work was given on quotation basis, the other companies which had submitted quotations were associates of M/s Zon Associates Ltd.

In the case of the work “**Renovation of the Basement Area**” tendered in August 2017, six²⁶ companies bid for the work; of which, bids of three companies²⁷ were accepted. The work was subsequently awarded on 31 August 2017, to the L1 bidder M/s Zon Associates Ltd, at a cost of GBP 129,800 (₹ 1.07 crore)²⁸ excluding VAT even though it was *ab initio* ineligible for being considered for the work. It was noted that three of the six original bidders whose bids were not accepted, were associated with the final L-1 bidder. In addition, the Inquiry Committee subsequently formed by the Mission,

²² @₹ 82.59/GBP i.e. average rate on 31 August 2017.

²³ One contract for supply of furniture for GBP192,300 (₹ 1.74 crore), and another for design and building work for GBP153,180 (₹ 1.40 crore) including VAT.

²⁴ @₹91/pound (average rate on 31 March 2018)

²⁵ Tiling work; work table; wall mounted shelf; steel fabrication; supply and fitting of kitchen equipment; ventilation work, scaffolding; fire doors; refurbishment work in entrance foyer in basement; security equipment etc.

²⁶ Glades Construction Ltd., Kensington International Dev Ltd, RH Renew Homes Ltd., Ratan Services Ltd, Maan Builder Ltd, ZON Associates Ltd.

²⁷ Ratan Services Ltd.; Maan Builder Ltd.; Zon Associates Ltd

²⁸ @₹ 82.59 per GBP (average rate on 31 August 2017)

also found that most of the bidders were not technically eligible for the award of work.

In the case of tender for the work “**Design and furnishing of the consular service area**”, the NIT circulated did not have any details of the Terms and Conditions and technical eligibility criteria were also diluted. As per records, three bidders²⁹ participated in the bidding process, with M/s Zon Associates Ltd. being shown as the L1 bidder. The work was awarded to M/s Zon Associates Ltd. by way of two separate contracts, aggregating GBP 345480³⁰ including VAT (₹ 3.14 crore³¹). Audit noted that bidding in this case had been totally manipulated. Out of the three bidding companies, one company (M/s Kensington International Development Ltd.) had been dissolved in 2014 itself which showed that the bid made on its behalf was fraudulent. Further, the remaining two companies i.e., M/s Zon Associates Ltd. and M/s RH Renew Homes Ltd, were associated with the same person, who had acknowledged them as being ‘sister’ companies. It was noted that in case of other works in the Mission, invoicing of M/s RH Renew Homes Ltd, itself was being done in the name of M/s Zon Associates Ltd, and both companies shared the same bank account. Thus, the work was effectively awarded on the basis of a single bid.

In the case of “**additional works**” taken up in August-September 2018, works were awarded on nomination or quotation basis, to M/s Orient Design and Build which had been set up by the same person, who was associated with M/s Zon Associates Ltd. as its Director and as a person with significant control. The company also had the same registered address as M/s Zon Associates Ltd. The company was also ineligible for the said work as it was not registered with the Government of UK for the business of construction activities³². It was further observed that all the companies that had apparently participated in the quotation process (i.e., M/s Zon Associates Ltd, M/s RH Renew Homes Ltd, M/s Orient Design and Build Ltd and M/s Glades Construction Ltd) were associated with the same person. As per records, M/s Orient & Design Build Ltd. had submitted quotations for the additional works in May 2018, even though it had come into existence only on 27 July 2018, indicating that the quotations submitted in its name were fraudulent. The Mission had thus entertained a sham

²⁹ M/s Zon Associates Ltd.; M/s RH Renew Homes Ltd. and M/s Kensington International Development Ltd.

³⁰ One contract for supply of furniture for GBP192,300 (₹ 1.74 crore), and another contract for design and building work for GBP 153180 (₹ 1.40 crore) including VAT. Against these contract, actual payment of GBP 337821 including VAT (₹ 1.33 crore) was made.

³¹ @ ₹ 91/pound (average rate on 31 March 2018).

³² It was registered for the business of ‘*Other service activities not elsewhere classified*’.

company which was set up only to bag these works on behalf of another contractor which had been entrusted almost all the works in relation to the renovation project.

It is evident from the above that there was blatant subversion of the tendering process to influence outcomes in the favour of a Contractor in all the works undertaken.

D) Violation of contract terms, *ex post* allocation of additional work without tenders and irregular payments leading to undue benefits to Contractor

“Renovation of the Basement Area”

As per the contract, the work was to be executed within 8-10 weeks from 01 September 2017 i.e., by 15 November 2017. However, the work was completed on 31 January 2018. Despite a delay of 10 weeks (minimum) in completion of the work³³, the Mission did not recover liquidated damages amounting to GBP 7,788³⁴ (₹ 6.85 lakh) from the company.

Audit also noted that despite the work of “*Renovation of Toilets*” and “*Supply and Installation of Air Conditioning Units*” being included within the scope of awarded work, the Mission made additional payments to the company for demolition of old toilets (GBP 5,940 in September 2017) and for supply and installation of air conditioning units³⁵ (GBP 23,450, during October-November 2017). Thereby, the Mission extended undue favour to the Contractor and made excess payment (₹ 25.01 lakh) to that extent.

Audit also found that the Mission belatedly (1 December 2017) decided to undertake wooden flooring in the basement area instead of carpeting included in the original scope of internal works. This new item of work was also entrusted to M/s Zon Associates at an additional cost of GBP 36,288 (₹ 31.24 lakh), but the cost of carpeting included in the contract price was not deducted from the payments finally made to the Contractor. The Contractor was, thus, allowed undue benefit on this account.

During the period October-November 2017, it awarded additional works relating to construction of cloak room, removing BT connection wall and

³³ As per the Completion Certificate, the company completed the renovation work on 31 January 2018 and received payment of GBP 149,270 including VAT @ 20 per cent, as per the contract.

³⁴ 0.5 per cent x 10 x GBP 155,760 (GBP 129,800 + VAT@ 20 per cent).

³⁵ This work was given to M/s H&C Aircon Ltd but payments were routed through M/s Zon Associates.

demolition of existing counters to M/s Zon Associates at a cost of GBP 16,780 on nomination/quotation basis. In addition, on account of a decision (November 2017) to use the basement for large gatherings, works relating to supply & installation of acoustic fans were awarded on quotation basis to M/s Zon Associates (installation of duct sand fans at a cost of GBP 5400) and M/s H&C Aircon Ltd (supply of Acoustic Fans at a cost of GBP 6,000). It was noted that the payment to M/s H&C Aircon Ltd was made into the same bank account used for receiving payments by M/s Zon Associates.

“Design and furnishing of the consular service area”

The contracts for the work relating to “Design and furnishing of the Consular Service area” were comprehensive. However, the Mission awarded (May-June 2018) five additional items of work³⁶, at a cost of GBP 16,680 (₹ 15.08 lakh), to M/s Zon Associates Ltd without any tendering. Of these, four items related to furnishing the old HCI Commissariat that had been converted into an “Officers Mess”. The belated addition to the scope of the project and award of the additional work without tendering, was irregular and resulted in a particular Contractor being favoured.

“Additional Works”

In the case of the additional works taken up in August–September 2018, it was noticed that the Contractor M/s Orient Design and Build, obtained these works, completed the same and submitted invoices, all within a span of 15 days from its incorporation³⁷. Soon after (21 February 2019), the process of dissolution of the company was initiated. Further, the Mission paid the company GBP 17,929 (₹ 16.49 lakh) towards VAT, even though the company was not in possession of VAT registration from the UK Government.

Thus, post-tender additions and alterations were made in the scope of the works on multiple occasions without any tendering. This combined with non imposition of LD, failure to make adjustments in contract price following substitution of carpeting and double payment for some items of work, amounted to granting undue favours to the Contractor.

³⁶ Demolition of wall and construction of new wall, refurbishment work in basement, vinyl flooring, painting & decoration of ceiling and wall paper work.

³⁷ The company was incorporated on 28 July 2018 and started submitting invoices from 12 August 2018 onwards.

The para was conveyed to the Ministry (October 2019) for a response. Ministry in its interim reply (25 November 2019), stated that the matter was being examined by the Mission. The Mission, in turn, informed (February 2020) Audit that based on its findings an Inquiry Committee had been setup which had forwarded a report after investigation to the Ministry for appropriate action. The report of the Inquiry Committee (shared with Audit in February 2020) highlights that (i) despite the renovation work being well beyond the delegated powers of the Mission, no approval from the Ministry was obtained. Instead, to accommodate the project within the delegated powers of the Mission, and to circumvent GFR/relevant rules, officials resorted to “piece-mealing” the project; (ii) there was a nexus between the then HoC, a local staff of the Mission and the Contractor (owner of M/s Zon Associates Ltd.); (iii) the tender process was rigged to favour the Contractor’s companies; (iv) the work was split into several sub-works in such a way that all such sub-works were below ₹ five lakh to avoid open bidding; (v) the companies that participated in the quotation/bid process were either linked to the same person or were non existent companies; and (vi) several works were awarded on nomination basis without any justification thereby blatantly violating GFRs. The Mission’s Inquiry Report thus, corroborated observations made by Audit.

The Mission undertook renovation works costing GBP 744,971 (approx. ₹ 6.63 crore) without authority and due approvals, and resorted to irregular splitting of works to evade approvals from higher authority and open bidding. It adopted a grossly manipulated process for award of works to the same person, and made *post facto* additions and alteration in the scope of work which led to undue benefits being extended to Contractors. Such blatant subversion of rules and processes indicates supervisory failure and possible collusion between Mission officials and the agencies. It is, therefore, recommended that the Inquiry by the Mission be followed up by the Ministry with a comprehensive vigilance enquiry so that responsibility is fixed on officers/officials responsible both for the commission of the grossly irregular acts and for supervisory lapses, and suitable deterrent action is taken. In addition, controls on execution of works including documentation at each stage, may be strengthened, and allocation and utilisation of funds for works including minor works may be closely monitored so that diversion of the same for unapproved purposes is curbed.

Nalanda University, Rajgir

5.5 Undue benefit extended to Contractor

Undue financial benefit of ₹ 0.76 crore extended to a Contractor due to irregular inclusion of royalty in BOQ rate by Nalanda University

Rule 27 of Bihar Minor Mineral Concession (BMMC) Rules, 1972 stipulates that any quarrying activity requires the sanction of the competent authority (quarrying permit) to extract/remove minerals from any specified land on pre-payment of royalty at the rates specified in Schedule II of the Rules. Further, Rule 40(1) provides that extraction/removal of minor minerals without obtaining requisite quarrying permit is illegal. Also, Rule 40(8) prescribes that penalty for such illegal removal of minor mineral will be the price of the mineral removed besides the rent, royalty or taxes as the case may be. In this context, Government of Bihar issued a notification (27 January 2012) which *inter alia*, provided that rate of royalty in r/o ordinary clay (or ordinary earth³⁸) which is used for construction of embankment, road building/or levelling was fixed at ₹ 22 per cubic meter³⁹.

The Nalanda University awarded (September 2016) the Work of ‘Construction of Internal Roads and Earthwork for providing water bodies (tender package 1A of Phase I construction work⁴⁰)’ within the permanent Campus of Nalanda University, Rajgir, to a Contractor⁴¹ at a cost of ₹ 37.22 crore⁴². The stipulated date of completion was 30 September 2017. The work was completed in April, 2018, and the Contractor was paid of ₹ 31.82 crore for the entire work.

With regard to the tender package 1A of Phase I construction work, Audit observed that the Tender Documents⁴³ provided that Contractor was liable to deposit royalty and obtain the necessary permits required for the project from

³⁸ ‘Ordinary earth’ used for filling or levelling purposes in construction of embankments, roads, railways and buildings is a minor mineral vide Notification F. No. 7/5/99-M.VI dated 03 February 2000 issued by Government of India under Section 3(e) of the Mines and Minerals (Development and Regulation) Act 1957 (67 of 1957).

³⁹ This was prescribed in Schedule II of BMMC Rules.

⁴⁰ Phase I construction work was split into 10 tender packages viz. 1A, 1B, 1C and packages 2 to 8. Work for second tender package 1B ‘Construction of Non Residential Buildings’ was awarded in January 2017 to another Contractor and work is currently under progress.

⁴¹ M/s M.G Contractors Pvt. Ltd., Panchkula, Haryana.

⁴² 0.24 per cent below estimated cost of ₹ 37.31 crore.

⁴³ Vide clause 37(ii) of the General Conditions of Contract and Clause 5.10 of Special Conditions of Contract.

local authorities. With respect to execution of works⁴⁴ under this tender package, audit observed:

- A) In respect of five earthworks⁴⁴ (**Annexe-5.1**), the rate analysis (June 2016) which formed basis for bills of quantity (BOQ) rate included the component of 'royalty' @ ₹ 22/m³. Since one earthwork was not executed, in four earth works⁴⁵, the Contractor executed total earthwork of 6,41,458m³ for which Contractor received a payment of ₹ 1035.76 lakh from the University (**Annexe-5.1**), Included in this payment was amount of ₹ 1.41 crore⁴⁶ on account of royalty @ ₹ 22/m³ (**Annexe-5.1**).
- B) As per the terms of contract⁴³, the Contractor was required to obtain necessary permits and deposit the royalty to the Statutory/local authorities. There were three earthworks⁴⁷ for which this was required to be done by the Contractor. However, only in one case, the Contractor obtained the necessary permit and deposited royalty of ₹ 26.66 lakh to the Govt. of Bihar (August 2018). After the completion of the construction work mentioned above, the University sought (10 June 2019) directions from the Mines and Geology Department, Govt. of Bihar for depositing of royalty in respect of the work item⁴⁸ for which the payment had not been made by the Contractor. The Department stated (13 June 2019) that royalty was to be paid on the used quantity of earth/clay mineral and directed the University to deposit the royalty as well as penalty on the used quantity of earth/clay mineral as 'quarrying permit' was not taken by the Contractor for the said item. The University deposited ₹ 77.51 lakh⁴⁹ towards royalty and penalty to the Department from the Contractor's RA Bills⁵⁰.
- C) It was further observed in Audit that the BOQ rate for all the four items executed included royalty @ ₹ 22/m³. However, out of four items, royalty was actually payable only on the used quantity of earth⁵¹. As two work

⁴⁴ Viz. item no. 2.03, 2.04, 2.05, 2.06 and 2.07, out of which item no. 2.04 was not executed

⁴⁵ Item nos. 2.3, 2.5, 2.06 and 2.07.

⁴⁶ 641458.08 cubic meter x ₹ 22 = ₹ 1.41 crore.

⁴⁷ Work item 2.03: only quarrying permit required to be obtained; Work item 2.05: only royalty to be paid; Work item 2.06: permit was required, and royalty was to be paid; Work item 2.07: neither permit was required, nor royalty was to be paid.

⁴⁸ No. 2.03.

⁴⁹ (₹ 3875270 royalty @ ₹ 22/m³ + ₹ 3875270 mineral value @ ₹ 22/m³ on used quantity 176148 m³).

⁵⁰ From RA bills against items 2.03 and 2.05.

⁵¹ As per the referred correspondence (13 June 2019) with Mines and Geology Department Govt. of Bihar.

items⁵² did not use excavated quantity, therefore, payment of royalty to the Government was not required. Hence, inclusion of royalty component in all the work items was not required. This resulted in undue financial benefit to the Contractor totaling ₹ 76 lakh as detailed in **Table No. 2**.

Table No. 2: Financial benefit to the Contractor

(Amount in ₹)

Work executed by Contractor	Royalty paid to Contractor by University	Used quantity of earth on which royalty was payable	Amount of royalty payable/paid by Contractor to Govt. of Bihar	Excess payment to Contractor
(1)	(1) x ₹ 22=(2)	(3)	(3) x ₹ 22=(4)	(2) - (4)=(5)
6,41,458 m ³	1.41 crore ⁴⁶	2,97,346 m ³ ⁵³	65 lakh ⁵⁴	76 lakh ⁵⁵

The University accepted audit observation and replied (February 2020) that provision of royalty for entire excavation quantity had been erroneously considered in the estimation by the Architect Consultant⁵⁶, and that in view of audit observation, University has withheld an amount of ₹ 0.75 crore from Architect Consultant's RA bill (March 2020).

Reply may be viewed in light of the fact that Building and Works Committee (BWC) of the University had approved the cost estimate (BOQ) prepared by the Architect Consultant. Hence, required changes/revisions in the cost estimates could have been made by BWC/University before according final approval to the BOQ. This highlights the fact that University needs to exercise greater vigilance in finalising the cost estimates/BOQ pertaining to the remaining tender packages⁴⁰ forming part of Phase I construction work.

The matter was reported to the Ministry (March 2020); reply was awaited (December 2020).

⁵² Viz. 2.03 and 2.07.

⁵³ (121198 m³+ 176148 m³).

⁵⁴ ₹ 26,66,348 paid by Contractor in item no. 2.06 + ₹ 38,75,270 deducted from RA Bills.

⁵⁵ Royalty paid in r/o item no. 2.03 was ₹ 75,46,424 and in r/o item no. 2.07 was ₹ 24,036.

⁵⁶ M/s Vastu Shilpa Consultants, Ahmedabad was engaged (May 2014) by Nalanda University as Architect Consultant for development of University campus in all phases.