CHAPTER IV

Other Irregularities

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4.1 Non-Compliance with Rules and Regulations

4.1.1 Loss of revenue of ₹4.58 crore, due to non-levy of development charges

South 24 Parganas Zilla Parishad did not impose the development charges fixed by the State Government and sustained loss of revenue of ₹4.58 crore

Section 102 of the West Bengal Town & Country (Planning and Development) Act, 1979, stipulates that every Planning Authority or Development Authority shall, by notification published in the Official Gazette, levy a charge (hereinafter called the development charges) on carrying out any land development or change of use of land, for which permission is required. The Kolkata Metropolitan Development Authority (KMDA) delegated (July 1987) power to the local authorities (ZPs), for the assessment of development charges, in the areas of their jurisdiction, at the rates prescribed by the Urban Development Department and instructed them to deposit 80 *per cent* of the collected development charges to the KMDA, after 20 *per cent* had been retained by the ZPs, for developmental purposes. Again, *vide* notification No. 2118- T & CP/ C-2/ T & CP/ 3A-5/ 2008 dated 19.09.2008, issued by the Government of West Bengal, in exercise of power conferred under Section 103 of the WBT&CP Act, 1979, Government fixed the rates of development charges, in respect of planning areas under planning authorities and development authorities, shown in **Table 4.1**.

Table 4.1

Purpose	Rate *(₹ per Sq. Mtr.)*
A) For institution of use[50] (construction/erection of building) i) for commerce	 300.00
B) For change of use of land i) from residence to commerce	 340.00

(Source: Records of the concerned PRIs)

Scrutiny of records of the South 24 Parganas Zilla Parisahd (ZP) showed that a private company had applied (February 2019) for construction of a G+20 complex of 66 meters height, on a residential land 'mouza Hariharpur', which fall under the Kolkata Metropolitan Area (KMA) and governed by the rules of KMDA. As the extant Acts and Rules cited above, the KMDA had allowed the private company to construct the same and the nature of the land had been changed from residential to commercial. The ZP, in March 2020, allowed the private

[50] *Institution of use specifies the purpose for which the proposed building/setup would have been used. The uses are broadly categorized into i) residential purpose of individual, ii) for industrial purpose and iii) for commercial purpose.*

company to build the said complex, comprising of built-up area of 1,04,204.76 sq mt, with a development fee of ₹2.09 crore.

However, in terms of the abovementioned notification, the collectable amount would have been ₹6.67 crore, as shown in **Table 4.2.**

Table 4.2

Built up Area of the proposed building plan	Considering the Purpose	Rate (₹ per Sq. Mtr.)	Revenue that could have been collected (₹)	Actual Amount collected (₹)	Loss of revenue (₹)
104204.76 Sq. Mtr.	A) For institution of use (construction/erection of building) i) for commerce	300.00	3,12,61,428.00	2,09,34,952.00	1,03,26,476.00
	B) For change of use of land i) from residence to commerce	340.00	3,54,29,618.40	0.00	3,54,29,618.40
	Total		**6,66,91,046.40**	**2,09,34,952.00**	**4,57,56,094.40**

(Source: records of the concerned PRIs)

Thus, non- adherence to the order of the State Government resulted in short collection of ₹4.58 crore, by the ZP.

When pointed out (December 2020) the ZP stated that development charges for erection of any building was charged as per the bye laws of the ZP (introduced in 2014) on the basis of local activities. Further, it was stated that no guideline was issued to access and realise development fees as per West Bengal Town and Country Planning Act 1979. The ZP also mentioned that as the concerned GP "Hariharpur" was under KMDA area, the vetting of building with height more than 15m has been forwarded to Panchayat and Rural Development Department for necessary vetting.

The reply of the ZP is not tenable as the proposal for obtaining NOC from KMDA has been approved in terms of resolution of *Purtya Karya–O–Paribahan Sthayee Samiti* (PKOPSS) of the ZP dated 04 January 2018 and the NOC was finally accorded by the KMDA in June 2019 (*vide* letter no. 40/KMDA/SP/DP-73/(1642/SZP) dated 21 June 2019). This very project in accordance with all the above act, rules and orders, was sanctioned by the KMDA. Thus, the contention of ZP that no guideline was issued to ZP is also not tenable as the copies of all the relevant orders issued by KMDA regarding levy of developmental charge have already been forwarded to all the ZPs.

Thus, the excuse of the ZP of applying their own bye-law in cases where government orders pre-exist for application of higher rate does not hold any merit and ground. The possibility of undue favour to a third agency could not be ruled out, in audit. So, it can be concluded in audit that by not following the government directive the Government exchequers (both KMDA and the ZP) in total suffered a revenue loss of ₹ 4.58 crore.

4.2 Expenditure without Justification and against Propriety

4.2.1 Unauthorised deviations in execution of work, amounting to ₹85.91 lakh, without approval of the sanctioning authority and other irregularity

Birbhum Zilla Parishad expended an amount of ₹85.91 lakh, without obtaining approval of the competent authority

Rule 102 of the West Bengal (ZP & PS) Accounts & Financial Rules, 2003, stipulates that any supplementary of excess work order can be issued to the working contractor, provided that the financial implication is within 10% of the original tendered value. Rule 67 of these rules states that the revised estimate should be vetted by the original vetting authority and approved by the original fund sanctioning authority. Furthermore, Rule 78 of these rules specifies that the Zilla Parishads are barred from executing any work without administrative approval and financial sanction. Further, ZPs also need to ensure availability of funds before commencement of work.

The Birbhum Zilla Parishad (ZP) received administrative approval, for construction of a community hall (3-Storied) within the 'Bolpur Dak Bunglow' premises, with an estimated cost of ₹ 315.54 lakh, from the Paschimanchal Unnayan Affairs Department (PUAD), Govt. of West Bengal, in September 2017. The estimate of ₹ 315.54 lakh was duly approved by the competent authority in July 2017, civil portion of the building was vetted by the Chief Engineer, West Zone, Public Works Department, Govt. of West Bengal. The ZP invited e-tender for this work in July 2017 and the amount put to tender was ₹304.96 lakh. After the tendering procedure, the work order was issued (October 2017) to the lowest bidder (M/s Santanu Majumder, contractor). The work commenced and the fourth RA bill (Gross value bill ₹221.68 lakh) was paid to the contractor, in June 2019.

Audit scrutiny revealed that, after completion of 90% (certificate issued in July 2019, by the ZP authority) of the community hall, the ZP again proposed construction of an additional floor (3rd floor), on this under-construction community hall, within the 'Bolpur Dak Banglow'. However, reasons/requirements for the additional floor, were not found available on records. Accordingly, the Sub Assistant Engineer prepared a revised estimate of ₹ 390.87 lakh, which was vetted by the District Engineer (DE), in November 2019. Owing to this revision, the financial upward implication was ₹ 85.91 lakh, which was 28.17% more than the tendered value of ₹ 304.96 lakh. The work done estimate was prepared during the execution of work in November 2019 with a total value of ₹390.88 lakh but the same was not approved by the competent authority.

In this regard, it was noted that the original estimate had been vetted by Chief Engineer, West Zone, Public Works Department, Govt. of West Bengal and the fund approval authority was PUAD, Govt. of West Bengal. The nodal officers for PUAD, in the districts, are the concerned District Magistrates (DMs) of the district.

However, the revised/ work done estimate of ₹ 390.87 lakh, had been approved only by the DE of the ZP, in November 2019, despite the approving power of the DE being limited to ₹ 45.00 lakh. Moreover, this revised estimate had neither been approved by the fund sanctioning department (PUAD), nor by the nodal department of the ZP, i.e., the Panchayat & Rural Development Department. This was in contravention of Rule 67 of the Finance & Accounts Rules mentioned above. Further, the ZP had executed this revised work of extra floor, with an upward financial implication of 28.17% by the existing contractor, which was in contravention of Rule 102 of the aforementioned rules.

Audit scrutiny revealed that, in November 2019, the Artha Sangstha Unnayan-O-Parikalpna Sthayi Samiti (ASUOPSS) of the ZP, had resolved that the upward financial implication of ₹ 85.91 lakh, on account of construction of the additional floor, would be taken from the 4th SFC funds, which were lying in the ZP accounts. However, no material was found available on records to indicate whether the ZP had sent the aforesaid proposal obtained administrative approval for the revised estimate from the funds sanctioning authority (PUAD). Accordingly, the ZP had made payment of 5th RA bill, amounting to ₹ 69.64 lakh (Gross bill ₹ 79.22 lakh), to the concerned contractor, in February 2020, out of the 4th SFC grant.

However, the funds sanctioning order of the 4th SFC grant had stipulated that the funds were to be used for the purpose of recurring and revenue expenditure and not for capital expenditure. Thus, expenditure on construction of a community hall, which was a capital expenditure, from the 4th SFC grant, was in contravention of the purpose of allotment of grant.

The work was continuing, as on the date of audit (November 2020) and an amount of ₹ 345.56 lakh (Gross value of the bill) had been paid to the agency (as per 6th RA Bill having been paid in October 2020).

No reply was furnished by the ZP, in this regard.

4.2.2 Wasteful expenditure of ₹ 71.20 lakh

Matigara Panchayat Samiti incurred wasteful expenditure of ₹71.20 lakh

The Matigara Panchayat Samiti (PS), with the aim of promoting cultural and social welfare of the backward people of the area, had planned to undertake construction of a community hall, with a seating capacity of 500, during FY 2000-01, with an estimated cost of ₹ 45.00 lakh. The PS did not ensure availability of funds beforehand but started the construction of the community hall during FY 2000-01, with an initial funding of ₹ 2.00 lakh, from Member of Parliament Local Area Development (MPLAD) grant. The work stopped in FY 2003-04, due to paucity of funds. Over the next seven years, *i.e.* upto FY 2010-11, the work of construction of the community hall continued in phases, with funds from various sources *viz.* MPLAD, *Bidhyak Elaka Unnayan Prakalpa* (BEUP), Siliguri

Jalpaiguri Development Authority (SJDA)[51] and Siliguri Mahakuma Parishad. In the meantime, in 2009, the PS assessed that the revised estimate for completion of the community hall would be ₹ 92.25 lakh. The cumulative expenditure on these construction phases of the community hall, up to February 2011, was ₹ 71.20 lakh. The PS inaugurated the community hall in February 2011 and declared it complete.

However, during joint physical verification of the community hall, in February 2021, along with the PS officials, it was observed that the internal electrification work, sanitary and plumbing work, plastering work, stage preparation work, seating accommodation work etc. of the community hall, had not been completed.

In reply, the PS stated that, due to paucity of funds, while the community hall could not be completed, the community hall was regularly being used for cultural purposes. The reply of the PS is not tenable, as no document was provided to Audit, to substantiate the PS's claim, in this regard.

Thus, non-ensuring of funds, for completion of the community hall, by the PS, resulted in unfruitful expenditure of ₹ 71.20 lakh, on the incomplete structure and also deprived the local people of the benefits of the community hall.

4.3 Failure of Oversight/Governance

4.3.1 Irregular Expenditure of ₹51.51 lakh, from BADP funds

The North Dinajpur Zilla Parishad and the South Dinajpur Zilla Parishad, irregularly expended, an amount of ₹ 51.51 lakh, from the earmarked BADP grant, in violation of Rules 110 and 8(3) of the West Bengal Panchayat (Zilla Parishad & Panchayat Samiti) Accounts & Financial Rules, 2003.

Rule 110 of the West Bengal Panchayat (Zilla Parishad & Panchayat Samiti) Accounts & Financial Rules, 2003, states that the funds contributed for a work should not be diverted for any other purpose, even temporarily, under any circumstances. Further, as per Rule 8(3) of the West Bengal Panchayat (Zilla Parishad & Panchayat Samiti) Accounts and Financial Rules, 2003, no portion of any loan, special grant or contribution, made for special purpose, either by any person, any institution, any other local authority or by the State Government, may be appropriated, even temporarily, for any purpose, other than that for which it was intended, without the approval of the concerned person, institution, local authority or the State Government sanctioning such funds.

The Border Area Development Programme (BADP) is a core centrally sponsored scheme, aimed at creating physical infrastructure, for developmental activities that would

[51] *SJDA was established under the West Bengal Town and Country (Planning and Development), Act 1979 and entrusted with the responsibility of planning and development of Siliguri-Jalpaiguri Planning Area. It came into existence w.e.f. 01 April 1980.*

schemes, which are of direct benefit in nature to specific village/ individual, needs to be addressed by the State Government under their own development activities.

Scrutiny of record revealed that in contravention to the above scheme guidelines, the Uttar and Dakshin Dinajpur Zilla Parishads (ZPs), expended ₹ 47.09 lakh and ₹ 4.42 lakh, respectively, out of BADP funds, during FYs 2017-18 to 2019-20, towards various activities of recurring nature (as detailed in ***Appendix XIII)***. The expenditure done by these two ZPs out of the BADP funds, was not as per the scope of the BADP guidelines.

Both the ZPs, in reply to the observations made above, accepted the facts and stated that they would be careful while incurring expenditure from earmarked funds. The replies are not acceptable, as both the ZPs, had expended an amount of ₹ 51.51 lakh, from earmarked BADP funds, in violation of Rules 110 and 8(3) of the West Bengal Panchayat (Zilla Parishad & Panchayat Samiti) Accounts & Financial Rules, 2003, on items that were out of the purview of the BADP guidelines

20-02-25

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