

**CHAPTER – II**  
**GENERAL SECTOR**



## CHAPTER-II

### GENERAL SECTOR

#### 2.1 Introduction

This Chapter of the Audit Report for the year ended 31 March 2019 deals with the findings on audit of State Government Departments under General Sector.

During 2018-19, against a total budget provision of ₹3,981.21 crore, a total expenditure of ₹2,533.26 crore was incurred by 13 departments under the General Sector. Department-wise details of budget provision and expenditure incurred there-against is shown in **Table-2.1**.

**Table-2.1: Department-wise budget provision and expenditure**

(₹ in crore)

Sl. No.	Name of the Department	Budget Allocation (BA)	Expenditure	Percentage of Expenditure to BA
1.	Finance	2,347.92	1,016.23	43.28
2.	Home	717.03	697.70	97.30
3.	District Councils and Minority Affairs	438.45	428.64	97.76
4.	General Administration	226.80	159.52	70.34
5.	Secretariat Administration	127.50	113.70	89.18
6.	Law and Judicial	44.79	43.30	96.67
7.	Legislative Assembly	30.91	28.08	90.84
8.	Printing and Stationery	16.19	15.49	95.68
9.	Governor	9.89	9.76	98.69
10.	Mizoram Public Service Commission	8.67	8.39	96.77
11.	Vigilance	7.39	7.30	98.78
12.	Council of Ministers	4.99	4.53	90.78
13.	Parliamentary Affairs	0.68	0.62	91.18
<b>Total</b>		<b>3,981.21</b>	<b>2,533.26</b>	

Source: Appropriation Accounts: 2018-19

The overall savings under General Sector was 36.37 per cent against the budget allocation. Barring Finance Department and General Administration Department where the utilisation was 43 and 70 per cent respectively, all other departments managed to utilise more than 89 per cent of the funds allocated to them.

During 2018-19, expenditure of ₹1,652.43 crore including funds pertaining to previous years of State Government under General Sector were test checked in audit. This Chapter includes one Performance Audit and two Compliance Audit Paragraphs, as discussed in the following paragraphs.

**PERFORMANCE AUDIT**

**LAW AND JUDICIAL DEPARTMENT**

**2.2 Performance Audit on 'Development of Infrastructure Facilities for the Judiciary'**

**2.2.1 Introduction**

Development of infrastructure for judiciary is primarily the responsibility of the State Governments. However, the Central Government has been augmenting the efforts and resources of states for construction of court buildings and residential accommodation for judicial officers/ judges covering District and Subordinate Courts since 1993-94 through Development of Infrastructure facilities for the Judiciary, a Centrally Sponsored Scheme (CSS). During the five-year period 2012-17, the scope of the scheme encompassed construction of new court buildings, upgradation or renovation of existing court buildings and provision of residential quarters for judicial officers. Government of India (GoI) extended (November 2017) the Scheme up to March 2020; further including provisions of barrier free access to senior citizens and persons with disability (PwD) and for safety measures in courts.

Further, as part of judicial reforms, it was decided to upgrade Information and Communication Technology (ICT) infrastructure in the courts, through implementation of e-Courts, as part of the National e-Governance Plan (NeGP). It was initiated (2007) as a Mission Mode Project (MMP) with the objective of helping judicial administration in streamlining their day-to-day activities, providing information to the litigants in a transparent manner and providing judges with easy access to legal and judicial databases.

Authorities responsible for implementation of the two schemes in the State are:

CSS for Development of Infrastructure facilities for the Judiciary	e-Court MMP
The Law & Judicial Department, headed by the Secretary to the Government of Mizoram, provides facilities in terms of buildings, manpower and other infrastructure to the courts. The State Public Works Department (PWD) is responsible for construction and maintenance of court buildings and residential quarters for Judicial Officers.	The Gauhati High Court, Aizawl Bench was the implementing agency for the project and the State Government is responsible for undertaking all the activities for sustainability of the project.

The funding pattern for 'Development of Infrastructure Facilities for the Judiciary' in respect of the North Eastern Region (NER) States is 90:10 between the Central and State Governments. The 'e-Courts MMP' is fully funded by Central Government.

Law and Judicial Department (L&JD) in Mizoram was established in the year 1972. In the past, the Department directly administered all District Judiciaries in the State. Consequent to separation<sup>21</sup> of the Judiciary from the Executive, the District Judiciary is under the administrative control of the Gauhati High Court<sup>22</sup>. The offices of the Advocate General, Registrar General of Marriages and the Mizoram State Law Commission are under the administrative control of the L&JD.

<sup>21</sup> w. e. f. July 2008

<sup>22</sup> The Gauhati High Court, Aizawl Bench was established on 05 July 1990

In Mizoram, there are two Judicial Districts viz. (i) Aizawl Judicial District covering Aizawl, Champhai, Kolasib, Serchhip and Mamit Districts and (ii) Lunglei Judicial District covering Lunglei, Siaha and Lawngtlai Districts. The District Courts are situated at the Deputy Commissioners' complexes. In 2014-15, which is the starting year of audit scope, Kolasib and Mamit Districts had their own separate Court buildings while construction of District Court building was on-going in Serchhip District. Thus, out of eight Districts, five Districts viz. Aizawl, Champhai, Lunglei, Lawngtlai and Siaha Districts were yet to function in separate Court buildings. During 2014-15 to 2018-19, construction of court buildings at Aizawl and Siaha was taken up and the construction work was still on-going. Further, in Aizawl, Lunglei and Siaha Districts, there were Judicial Quarters while the remaining five Districts viz. Champhai, Mamit, Kolasib, Serchhip and Lawngtlai Districts had no Judicial Quarters. During 2014-15 to 2018-19, construction of quarters at Lawngtlai and Siaha was taken up and the construction work was still on-going. The status of judicial infrastructure in Mizoram is as shown in the table below:

**Table-2.2.1: Status of Judicial infrastructure in Mizoram in 2014-15**

Sl. No.	District	District Courts			Judicial Quarters		
		Sanctioned strength of Judicial Officers <sup>23</sup>	Men-in-Position	No of Court rooms	Sanctioned strength of Staff	Men-in-Position	No of quarters available
1.	Aizawl	18	14	15	94	64	14
2.	Champhai	07	05	02	22	11	00
3.	Mamit	04	02	03	12	04	00
4.	Serchhip	04	02	01	12	04	00
5.	Kolasib	07	05	03	19	07	00
6.	Lunglei	08	06	06	43	27	04
7.	Lawngtlai	03	02	02	16	04	00
8.	Siaha	04	03	03	16	07	02
<b>Total</b>		<b>55</b>	<b>39</b>	<b>35</b>	<b>234</b>	<b>128</b>	<b>20</b>

Source: Department's records

## 2.2.2 Accountability Framework

The Gauhati High Court, Aizawl Bench is the highest court of justice in the State with jurisdiction over eight districts. There are eight District and Sessions judge courts and other subordinate courts located within the State.

The Law & Judicial Department, headed by the Secretary to the Government of Mizoram, provides facilities in terms of buildings, manpower and other infrastructure to the courts.

The Law & Judicial Department, Government of Mizoram was responsible for preparation of plans, defining scope of works, providing clear sites and funds and monitoring of works at District and State Level.

In respect of the implementation of e-Courts MMP, the e-Committee at Supreme Court of India was involved in policy planning and providing strategic direction and guidance for

<sup>23</sup> Judicial Officers from Sub Divisional Judicial Magistrate to District and Session Judge

the effective implementation of the project. The Gauhati High Court, Aizawl Bench was the implementing agency for the project and the State Government was responsible for undertaking all the activities for sustainability of the project.

The Gauhati High Court, Aizawl Bench is to be assisted by the High Court Computer Committee (HCCC) headed by Chief Justice, Central Project Coordinator (CPC) at High Court, District Court Computer Committees (DCCC) headed by District Judge and a nodal officer for each district and sub divisional court complexes. The CPC was to coordinate with the e-Committee and the vendors, Connectivity Providers, State Data Centre, *etc.* for implementation of all the tasks entrusted by the e-Committee.

## **Audit Framework**

### **2.2.3 Audit Objectives**

The objective of GoI for development of judicial infrastructure as well as e-Courts was to liquidate the pendency in cases and improve the efficiency in performance of the judicial system. A performance audit of implementation of both these schemes *viz.*, ‘Development of Infrastructure Facilities for Judiciary’ and ‘e-Courts Mission Mode Project’ was carried out to assess whether:

- the plan for improving the physical and ICT infrastructure of the Courts was adequate;
- the funds provided for improving the physical and ICT infrastructure of the Courts was adequate and whether the funds were utilised in a timely manner;
- the creation and up-gradation of the physical and ICT infrastructure of the Courts was executed economically, efficiently and effectively; and
- the monitoring and evaluation mechanism for effective implementation of the schemes was adequate.

### **2.2.4 Audit Criteria**

Audit findings were benchmarked against the criteria from the following sources:

- The guidelines for Centrally Sponsored Scheme for development of infrastructure facilities for the Judiciary;
- Policy and Action Plan of the e-Courts Mission Mode Project Phase-II;
- General Financial Rules, 2005 and 2017;
- Central Treasury Rules;
- Central Public Works Department (CPWD) Manual;
- Standard Schedule of Rates of the States; and
- Orders and instructions of the Central and the State Governments.

### **2.2.5 Scope of Audit and Methodology**

Performance Audit (PA) of implementation of ‘Development of Infrastructure Facilities for the Judiciary’ and e-Court MMP was carried out between July 2019 and October 2019 and covered the implementation of both these schemes during the five-year period 2014-19.

Audit methodology involved examination of relevant records at the office of the Secretary to the Government of Mizoram. All eight new projects (construction of two court buildings/six residential quarters<sup>24</sup>) taken up during 2014-19 out of eight districts of Mizoram were verified.

For selection of district/ subordinate courts, a minimum of 30 *per cent* of the total number of the districts of the State were selected on the basis of 'Probability Proportional to Size Without Replacement' with size measure as amount of expenditure incurred under e-Courts and the sampled units were synchronised for both the schemes (i) e-Courts and (ii) Development of Infrastructure Facilities for the Judiciary.

Details of selected units covered under this PA are given in **Table-2.2.2**. Relevant records in the office of the Registrar General, Gauhati High Court, Aizawl Bench were also examined.

**Table-2.2.2: District and subordinate courts, DLSA selected for Performance Audit on 'Development of Infrastructure Facilities for the Judiciary'**

(in number)

Particulars	Total in the State	Selected for detailed scrutiny	Particulars/ Remarks
No. of districts in the State	08	03	Aizawl, Siaha and Lawngtlai districts
District Legal Services Authority (DLSA)	08	01	Aizawl district
District and Subordinate Courts	08	03	All the district courts and subordinate courts of selected three districts

Apart from scrutiny of records of the sampled offices, joint physical inspection of the projects along with the departmental representatives was also conducted.

The PA commenced with an Entry Conference (16 July 2019) with the Secretary, Law and Judicial Department, Under Secretary, Finance Department and the representatives of the Gauhati High Court, Aizawl Bench, wherein the audit objectives, audit criteria and methodology were discussed. The draft report relating to implementation of CSS, was issued to the Secretary, Law and Judicial Department, Government of Mizoram in January 2020. The audit findings, conclusions and recommendations were discussed with the Deputy Secretary, Law and Judicial Department, Under Secretary, Finance Department and the representatives of the Gauhati High Court, Aizawl Bench and Mizoram PWD in an Exit Conference held on 16 March 2020. The Law and Judicial Department and the Mizoram PWD did not furnish any reply on the PA as of December 2020. However, the Registrar, Gauhati High Court, Aizawl Bench furnished (January 2020) the reply on the Audit observations related to e-Court projects. Views and responses of the Registrar, Gauhati High Court, Aizawl Bench and the concerned Departments were duly incorporated in the report, at appropriate places.

### Audit Findings

Significant audit findings noticed in the course of the Performance Audit are discussed in the succeeding paragraphs:

<sup>24</sup> Court Buildings at Aizawl, Siaha and residential quarters at Siaha, Lawngtlai

## 2.2.6 Planning

### A. In-adequate planning in Development of judicial infrastructure

The guidelines/ revised guidelines for implementation of CSS for development of infrastructure facilities for the judiciary provided that the concerned Department in the State Government dealing with judicial infrastructure shall submit proposals in prescribed format each year to the Department of Justice, Government of India (GoI) for seeking financial assistance for new and on-going projects. Demands for grants should be based on the action plan developed for construction of Court buildings and residential accommodations of Judicial Officers of District and Subordinate Courts.

Accordingly, the L&J Department prepared Annual Action Plans (AAPs) for the years from 2014-15 to 2018-19 with a total outlay of ₹178.34 crore for construction of District Courts, Judicial Quarters and renovation/ extension works and forwarded the same to the Ministry. Based on the proposal submitted by the State Government, GoI released ₹44.92 crore during 2014-19. The State Government released funds of ₹50.69 crore, including its State Matching Share (SMS) of ₹5.77 crore, to the PWD for execution of projects during 2014-19 and the total expenditure was ₹37.32 crore. Details of AAPs and actual expenditure are shown in **Appendix-2.1.1**.

Scrutiny of Action Plans revealed that there was a lack of proper assessment of requirements of judicial infrastructure during preparation of the AAPs. No revised AAPs or year-wise priority list of works were prepared based on funds released by the GoI. Hence, the AAPs were unrealistic and works were found to be not executed as per AAP as illustrated below:

- The Ministry allocated ₹44.92 crore out of ₹178.34 crore proposed in the AAPs during 2014-19. The reasons for non-approval/ release of funds as per AAPs were not communicated. Moreover, there was no record showing the communication between the Administrative Department and the Technical Department for prioritisation of works as per need and availability of funds.
- The Department took up the construction work of one court building which was still on-going. Further, a total of six residential quarters were taken up of which, two residential quarters were completed during the period and the remaining four were on-going.
- The estimate for construction of District Court Building at Aizawl was ₹24.29 crore against which, the Department proposed only ₹7.53 crore in the AAP 2014-15 and no further proposals were made during 2015-19. However, expenditure of ₹15.50 crore<sup>25</sup> was incurred till March 2019.
- Despite inclusion in the AAP, the Department did not get the estimates for construction of District Court Buildings at Lawngtlai, Chawngte and Champhai prepared and there was no further activity during the period.
- Though proposal for construction of Judicial Quarters at Kolasib were not included in the AAPs, expenditure of ₹5.03 crore was incurred during 2015-16.
- For renovation/ extension works, there was a proposal of ₹1.82 crore in the AAPs for the years 2014-19, however, no expenditure was incurred.

---

<sup>25</sup> Court Buildings at Aizawl, Siaha and residential quarters at Siaha, Lawngtlai

While accepting the facts, the Government stated in the Exit Conference (March 2020) that survey/ assessment of judicial infrastructure was not carried out and analysis of project estimates were not carried for preparing AAPs. It was also stated that works were taken up on priority basis with the available funds. The contention of the Government/ Department could not be accepted as there was no record of communication between the administrative and executing departments to show that the works were taken up on priority basis.

Thus, the Department was not serious in creating infrastructure for the Judiciary, with proper planning despite Central funds being available to them.

**Recommendation:** *The Government may prepare AAPs as per actual requirement of judicial infrastructure in the State with proper surveys and get estimates prepared and sanctioned for taking up the works.*

### **B. In-adequate planning in e-Courts Mission Mode Project**

As per Policy Document<sup>26</sup>, the project was to be implemented in three years<sup>27</sup>. This was extended (04 August 2015) to four years or till completion of the project by the Ministry. Chapter-2 of the Policy Document laid down the model for finance and procurement under the project wherein the functions of infrastructure procurement and its deployment was entrusted to the High Courts. Further, the total requirement of hardware to be procured was to be proposed by the High Court based on the number of Courts/ Court Complexes identified<sup>28</sup> in the State. Accordingly, the requirement of funds was to be calculated and transferred to the High Court by the Department of Justice.

Various activities to be taken up under the project were as given below:

- Creation of ICT infrastructure for additional Courts to be created during the project period;
- Provisioning of video conferencing facility between under trial prisoners and magistrate with video monitoring;
- Installation of wireless internet facility in Supreme Court and High Court complexes;
- Infrastructure upgradation for centralised facility;
- Manpower and training;
- Upgradation of centralised facility; and
- Digital Archive of record room and library management system.

During audit, it was observed that requirement of hardware/ software to be procured was not identified for each Courts/ Court Complexes by the Gauhati High Court, Aizawl Bench. During the period 2015-19, the Gauhati High Court, Aizawl Bench proposed (November 2017) two action plans on varied activities including renovation of ICT rooms and connectivity of the District Courts and Jails amounting to ₹11.04 crore (₹3.05 crore plus ₹7.99 crore) but the proposal was not accepted by the e-Committee of the Supreme Court. Though, the scheme was being implemented since 2015-16, it was still on-going as on April 2020.

<sup>26</sup> Policy Document for Phase-II of the e-Courts Project

<sup>27</sup> 1<sup>st</sup> year for procurement of infrastructure; 2<sup>nd</sup> & 3<sup>rd</sup> years for software/ knowledge intensive activities, scanning/ digitisation

<sup>28</sup> Three categories A, B and C. Courts in dilapidated/ rented buildings would be considered with a yardstick of one year of duration of the court expected to be there in such building

Thus, it could not be ascertained in audit whether procurement of materials under e-Courts MMP was in line with the actual requirements of the Courts in the State. Further, in absence of year-wise implementation plan, Audit could not ascertain the activities to be taken up each year and their completion in time.

While agreeing with the audit observation, the Registrar, Gauhati High Court, Aizawl Bench stated (January 2020) that the e-Committee of the Supreme Court of India determines the requirements, prepares the estimates and number of items to be procured for each State and all procurements were made as per funds accorded by the e-Committee of the Supreme Court of India. This is an acknowledgement of the fact that proposals and releases under the Scheme were not based on actual requirements of the Courts. As a consequence, it was observed that many hardware, display monitors, etc. were lying unutilised in various courts, as discussed later in the PA.

**Recommendation:** The Gauhati High Court, Aizawl Bench should identify its actual requirement of hardware/ software for procurement and ensure timely submission of Plans.

### 2.2.6.1 Status of projects taken up

The number of judicial infrastructure projects proposed in the Action Plans in the sampled districts and status of the works as on June 2019 is shown in the table below:

Table-2.2.3: Status of project taken up

Year	No. of projects proposed		No. of projects taken up		No. of projects completed		No. of projects on-going for five years	
	Court	Quarters	Court	Quarters	Court	Quarters	Court	Quarters
2014-15	4	3	--	--	--	--	--	--
2015-16	1	1	--	2	--	--	--	--
2016-17	2	9	--	--	--	--	--	--
2017-18	2	3	1	4	--	1	--	--
2018-19	2	1	--	--	--	1	1*	

Source: Law and Judicial Department records

\* Construction of Aizawl District Court

The status of projects taken up in the sampled districts is given the table below:

Table-2.2.4: Status of judicial infrastructure projects executed during 2014-19 in the sampled districts

(₹ in crore)

Name of District & Name of works	Estimated cost	Funds released	Target date of		Actual Commencement	Progress as on June 2019	
			Commencement	Completion		Physical	Financial
District Court, Aizawl	24.29	16.91	15.01.2016	15.01.2019	08.02.2016	70	15.50
District Court, Siaha	18.01	14.16	10.09.2018	21.03.2021	10.09.2018	45	3.82
District Court, Lawngtlai	NA	0.00	--	--	--	--	0.00
Judicial Quarters, Siaha	1.96	1.96	30.06.2018	30.06.2019	30.06.2018	67	0.95

Name of District & Name of works	Estimated cost	Funds released	Target date of		Actual Commencement	Progress as on June 2019	
			Commencement	Completion		Physical	Financial
Judicial Quarters, Lawngtlai			--				
(i) Grade-I	1.11	6.54	12.06.2017	12.06.2018	--	--	2.45
(ii) Grade-II	1.03		12.06.2017	12.06.2018	12.06.2017	87	
(iii) Grade-III	1.26		12.06.2017	12.06.2018	12.06.2017	100 <sup>29</sup>	
(iv) Type-I & II	1.39		12.06.2017	12.06.2018	--	--	
(v) Type III	1.10		12.06.2017	13.06.2018	12.06.2017	87	
Miscellaneous	0.66		--	--	--	--	
<b>Total</b>	<b>50.80</b>	<b>39.57</b>	--	--	--	--	<b>22.72</b>

Source: Department's record

As shown in table above, out of nine works (three District Court buildings and six Judicial Quarters) proposed in the sampled districts, six works (two District Court buildings and four Judicial Quarters) were executed out of which five works were scheduled to be completed between June 2018 and June 2019. However, only one work was completed on 22 January 2019 with time overrun of six months. In the remaining four works, there was physical progress ranging from 45 to 87 per cent as of June 2019 and there was delay of 12 months from the scheduled date of completion in three projects.

### 2.2.7 Financial Performance of Scheme for development of infrastructure facilities

The Ministry of Law and Justice, GoI while informing (29 April 2014 and 23 May 2014) that Utilisation Certificates (UCs) for all financial assistances up to 2012-13 were still pending, instructed the State Government to furnish UCs for the CSS funds for the year 2012-13 and 2013-14 along with the UCs of the State Matching Share (SMS).

The funds received, expenditure incurred on Development of Infrastructure Facilities for the Judiciary under CSS during 2014-15 to 2018-19 are shown below:

**Table-2.2.5: Position of funds received under infrastructure development of the Judiciary and expenditure incurred**

(₹ in crore)

Year	Amount as per action plan	Funds received			Expenditure	Submission of UCs	
		CSS	SMS	Total		Amount	Date
2014-15	21.71	10.85	0.00	10.85	0.00	10.85	15.02.2016
2015-16	14.54	8.13	2.89	11.02	6.86	-	-
2016-17	44.14	0.00	0.00	0.00	1.87	-	-
2017-18	69.33	20.00	2.22	22.22	17.64	20.00	21.03.2018
2018-19	28.62	5.94	0.66	6.60	10.95	5.94	18.03.2019
<b>Total</b>	<b>178.34</b>	<b>44.92</b>	<b>5.77<sup>30</sup></b>	<b>50.69</b>	<b>37.32</b>	<b>36.79</b>	<b>-</b>

Source: Department's records

<sup>29</sup> Civil work component was completed on 22 January 2019

<sup>30</sup> ₹2.89 crore SMS for the years 2012-13 and 2013-14 received during 2015-16

From the above, it can be seen that out of ₹50.69 crore (CSS-₹44.92 crore plus SMS-₹5.77 crore) received during 2014-15 to 2018-19, expenditure of ₹37.32 crore was incurred against which UCs for ₹36.79 crore were submitted to the GoI leaving a balance of UCs for ₹0.53 crore pending for submission to the Ministry.

Further, the State Government released SMS of ₹2.89 crore for the year 2012-13 and 2013-14 only in 2015-16 after a delay of 774 days and 580 days respectively. The State Government had not released SMS of ₹2.11 crore as of March 2020 against the CSS of ₹18.98 crore received during 2014-15 and 2015-16.

The Government stated in the Exit Conference that delays in release of SMS were due to non-availability of funds with the State.

Further, the position of funds released by the GoM to the implementing agency and the expenditure incurred during 2014-15 to 2018-19 in the sampled districts is shown in table below:

**Table-2.2.6: Project wise details of sanctioned cost, expenditure incurred during 2014-19, scheduled completion date and their status as of June 2019 in the sampled districts**

(₹ in crore)

Sl. No.	Type of construction	Name of Court complex/ Location	Project cost	Funds released	Expenditure	Scheduled date of completion	Status as of June 2019
1.	Court building	Aizawl	24.29	16.91	15.50	January 2019	Not fully completed
2.		Siaha	18.01	14.16	3.82	March 2021	
3.	Residence	Lawngtlai	6.54	6.54	2.45	June 2018	
4.		Siaha	1.96	1.96	0.95	June 2019	
<b>Total</b>			<b>50.80</b>	<b>39.57</b>	<b>22.72</b>		

Source: Department's records

From the above, it can be concluded that against the total funds released of ₹39.57 crore, only ₹22.72 crore had been utilised affecting timely completion of the projects.

### 2.2.7.1 Diversion of funds

As per Section-4.1.5 of CPWD Manual, 2014, contingencies can be utilised for construction of site office, engagement of watch and ward staff and works like surveying, material testing, estimating, structural design, drawings, models and other field requirements, etc.

During test check of records of the EE, PWD, Aizawl and Lunglei Building Divisions, it was observed that a total expenditure of ₹26.59 lakh (₹16.59 lakh on contingency charges plus ₹10.00 lakh for construction of family Court building, Aizawl) was incurred on hiring and procurement of vehicles as given in the following table:

Table-2.2.7: Expenditure from contingency charges

(₹ in lakh)

Sl. No.	Name of construction work	Voucher No.	Date	Amount	Purpose
1.	Judicial Quarter Grade-II, Lawngtlai	531	04.06.2019	4.80	Hiring of MZ 02(A) 6082
2.	Judicial Quarter Grade-III, Lawngtlai	534	04.06.2019	4.80	Hiring of MZ 03 7767
3.	Judicial Quarter Type-III, Lawngtlai	533	04.06.2019	0.40	Hiring of MZ 01 J-8405
4.	Judicial Quarter Type-III, Lawngtlai	542	21.06.2019	3.34	Contribution for purchase of vehicle
5.	District Court Aizawl	14	20.06.2019	3.25	
6.	Family Court, Aizawl	14	20.06.2019	10.00	
<b>Total</b>				<b>26.59</b>	

Source: Department's record

The Government stated (April 2020) that a provision of one *per cent* of the estimated cost was meant for quality control and payment of vehicle hiring charges for monitoring was made out of this provision. It was also stated that the balance amount accumulated under this provision was used for procurement of vehicle. The reply is not acceptable since the funds meant for construction of Family Court, Aizawl were diverted for meeting expenditure on hiring and procurement of vehicles under the guise of contingency charges.

Thus, the EE diverted funds meant for construction of Family Court, Aizawl and contingency charges, for meeting expenditure on hiring and procurement of vehicles, which was irregular.

### 2.2.7.2 Excess release and parking of funds

Administrative approval of ₹654.00 lakh for construction of five Judicial Quarters at Lawngtlai was accorded (15 March 2016) by the State Government. The Chief Engineer, PWD, Building Division accorded (05 January 2017) Technical sanction of ₹569.76 lakh. However, the EE, PWD, Lunglei Building Division, surveyed (18 July 2017) the site and reported that the allocated land was not sufficient for construction of five quarters and proposed construction of three quarters only, and expenditure sanction of ₹339.47 lakh<sup>31</sup> was accorded (March 2016) and the three quarters were being constructed.

Before the finalisation of sites for construction of the remaining two quarters, expenditure sanction for ₹314.53 lakh (₹654.00 lakh - ₹339.47 lakh) was accorded in February 2019. Since the amount could not be utilised for the purpose, the entire fund of ₹314.53 lakh was withdrawn and was parked<sup>32</sup> in Public Account under 'not bearing interest' K-Deposit. This is not only violation of the Appropriation Act but also artificially showed the expenditure as incurred.

The Government while admitting the fact stated (April 2020) that five numbers of Judicial Quarters could not be constructed as private land owners asserted their claims on some portions of the land resulting in depositing the amount in K-Deposit. However, the reply was silent on the reason for not surrendering the funds to the Government.

<sup>31</sup> CSS - ₹50.24 lakh and SMS - ₹289.23 lakh

<sup>32</sup> vide challan number 15312 of 28.03.2019

## 2.2.8 Funding for e-Court Mission Mode Project

The funds received and submission of UCs under the e-Courts MMP Phase-II are shown below:

**Table-2.2.8: Funds released and UCs submitted under e-Courts MMP**

(₹ in crore)

Year	Funds released by		Funds utilised and UCs submitted to the Ministry by the High Court, Aizawl Bench
	GoI	GoM	
2015-16	0.71	0.00	0.00
2016-17	2.19	0.71	0.71
2017-18	3.35	2.82	0.21
2018-19	0.13	2.73	2.99
2019-20	0.00	0.00	1.67
<b>Total</b>	<b>6.38</b>	<b>6.26</b>	<b>5.58</b>

Source: Gauhati High Court, Aizawl Bench

It can be seen from the table above that out of the total sanctioned amount of ₹6.38 crore received by the State, the Finance Department, GoM released ₹6.26 crore with the balance of ₹0.12 crore unreleased. Out of the released funds, UCs for ₹5.58 crore was submitted to the GoI. It observed that the State did not receive any further money. It is also seen that GoM released no amount in 2014-15, though an amount of ₹71.00 lakh was received from GoI. Apart from 2018-19, the funds released by GoM were not commensurate with those received from GoI.

## 2.2.9 Project Implementation – Development of judicial infrastructure under CSS

### 2.2.9.1 Execution of contract works by third parties

As per clause Notice Inviting Tender and contract agreement, subletting of works to third parties was not allowed.

The E-in-C, PWD, GoM accorded (between April 2015 and April 2018) approval for restricted tendering of the works for construction of District Courts and Judicial Quarters citing the reason as ‘urgent nature’ of works. Notice Inviting Tender (NIT) for restricted tendering was called and the contractors were selected accordingly. In the course of audit, it was observed that the selected contractors authorised third parties with power of attorney (PoA) on their behalf to execute the contract works and to engage or discharge labour, sign the agreement, sign bill, receive cheques/ payments.

The MPWD instead of taking action against the originally selected contractors, allowed the third party contractors to execute the works without verifying their registration status, eligibility and technical competence.

The Government stated (April 2020) that the selected contractors engaged another person as a work manager by granting PoA to manage the work physically and financially as the contractors could not be always present at the work site due to remoteness. The reply of the Department is not acceptable as the PoA authorised the third parties not only to execute

the works on behalf of the contractors but also devolving on them, defacto responsibilities of the original contractors.

**Recommendation:** *The Government should ensure that works are executed by the contractors as per agreement and proscribe execution of works by third parties.*

### 2.2.9.2 Use of unapproved materials

As per Section A 38 and A 39 of the tender and agreement document, the issue and consumption of cement and iron bars to works shall be regulated and proper accounts maintained. The nominal mass, tensile strength, bend test, re-bend test, *etc.* for iron bars had to be checked with specimen provided by the contractor. The contractor should procure 33/ 43 Grade cement and TMT Bars conforming to relevant BIS Codes from reputed manufacturers approved by Ministry of Industry and Ministry of Steel, GoI respectively. The brands approved by MPWD were:

**Cement:** ACC, L&T, JPRewa, Vikram, Shri Cement, Birla Jute & Cement Corporation of India.

**Steel:** SAIL, TISCO, RINL.

Test check of records of the EE, PWD, Building Divisions, Aizawl and Lunglei for procurement of cement and iron rods submitted by the contractors in the construction works at Lawngtlai and Siaha<sup>33</sup> showed that the materials were purchased locally.

During joint field visit, it was found that:

- (i) unapproved brands of cements - Valley Strong and unapproved brands of iron rods – X Tech 500 and Tiger TMT were used in the construction of Judicial Quarters at Siaha, and
- (ii) in Aizawl District Court, unapproved brands of iron rods *i.e.* KAY2 500 were found at the construction sites. Storage of materials was not proper and the iron rods were found rusted.

The Architect, MPWD during an inspection found out that unapproved materials *viz.* Star cement, Mital Gold TMT 500 Fe bars were used in the construction of Judicial Quarters at Lawngtlai; black tiger cement, X Tech Fe 500 Fe Iron rods were used in Judicial Quarters, Siaha; and Dalmia OPC (cement) and Ladygold TMT (iron bars) had been used in the construction of District Court, Aizawl. Further, the District and Session Judge, Lunglei Judicial District also reported (June 2019) that the works at Lawngtlai were below standards and the buildings were not fit for occupation.

The Government while agreeing to the Audit observation stated (April 2020) that it was not always possible to obtain the approved materials due to remoteness of the work sites.

Thus, purchase and use of unapproved materials from local suppliers is not only irregular but also compromised in the quality of the works.

**Recommendation:** *The Government should regularly monitor and insist on strict quality control norms to ensure that only approved and quality materials are used in works.*

<sup>33</sup> Vouchers for procurement of materials were not submitted by the contractor in respect of construction of District Court building, Aizawl

### 2.2.10 Delays in execution of works

The requirement for construction of District Court, Aizawl and Judicial Quarters at Lawngtlai and Siaha was submitted during 2010-11. However, preparation of the estimates by the State PWD, administrative approval of the works took long period of time due to which the works could be executed only from 2016-17 onwards, after a lapse of five years.

The Government while agreeing to the Audit observation stated (April 2020) that proposal and submission of estimate, etc. was the responsibility of the PWD, but administrative approval of the work is beyond the control of PWD.

#### 2.2.10.1 Non-recovery of compensation for delay in completion of works

Clause 2 & 3 (ii) of PWD's clauses of contract stipulates that if the contractor fails to complete the work in time, compensation for delay of work shall be computed @ 1.5 per cent per month of delay subject to a maximum of 10 per cent of the tendered value of works.

The EE, PWD, Building Division, Lunglei executed the civil works components of the works through contractors. Hindrance Registers maintained by the contractor had not recorded any physical obstruction to the works but, there was delay in completion to the extent of 322 days, 225 days and 321 days in completion of construction work of Grade-II, Grade-III and Type-III quarters at Lawngtlai respectively. In absence of the extension of time granted by the competent authority, the delay in completion of the works was irregular and the contractors were liable to pay compensation of ₹29.19 lakh as per agreement.

The Government while agreeing to the Audit observation stated (April 2020) that extension of time was granted based on hindrance registers by the contractor and there was no question of levying compensation for delay. The reply of the Department was not acceptable as the hindrance registers did not record any hindrance to the above mentioned works.

Thus, though the contractors were liable to pay a compensation of ₹29.19 lakh for delay in completion of works, the Department had not taken steps for recovery as per the terms and conditions of agreement.

**Recommendation:** Necessary action may be taken to recover the compensation amount due for delay of work.

#### 2.2.10.2 Delay in execution of electrical works

For electrical works, the EE, PWD, Electrical Division, Lunglei was responsible for preparation of estimates and execution of the works for which, 12.50 per cent of the total estimated cost allocated for electrical works was to be transferred by PWD, Building Division, Lunglei to the PWD, Electrical Division, Lunglei.

Test check of records of the EE, PWD, Building Division, Lunglei showed that approved design and estimates for electrical works and the stipulated period for execution was not on record. Against the total estimated cost of ₹33.80 lakh for electrical works in three Judicial Quarters, only a sum of ₹12.00 lakh for one quarter was transferred (July 2018) to the EE, PWD, Electrical Division, Lunglei.

Further, the fund required for electrical works in the remaining Judicial Quarters Grade-II and Type-III were yet to be transferred to the electrical division even after a lapse of five months from the date of completion of the civil works.

The Government while agreeing with the Audit observation stated (April 2020) that there was delay in commencement of electrical works as funds were received in September 2019. The works were started and two quarters were ready for occupation as of January 2020.

Thus, due to delay in completion of electrical works, the Judicial Quarters scheduled for completion in June 2018 could not be handed over till the date of Audit.

**Recommendation:** *Necessary steps may be taken to ensure execution of the electrical works and completion of the projects in time.*

### 2.2.10.3 Deviation from approved design

As per Clause 36 (i) of the agreement, the contractor should engage one Civil Engineer, BE and one civil engineering diploma holder, each with minimum experience of five years in the project. The design approved for Judicial Quarter Grade-I, Siaha had provision for double height<sup>34</sup> living room at the ground floor.

It was observed in audit that, in deviation from the approved design, the contractor had constructed RCC floor above the living room. However, the estimate was not revised and approval of the deviation by competent authority was also not obtained. During joint field visit, it was found that the contractor had not engaged any civil engineer or civil engineering diploma holder. Thus, the works had been executed as per the know-how of the labourers and necessary action was not taken up to ensure deployment of site engineer by the contractor.

The Government stated (April 2020) that the modifications of the drawings were done as desired by the client department. However, the reply was not acceptable due to lack of supporting documents *i.e.* proposal for changes in the drawing by the client department and revised estimate approved by competent authority.

**Recommendation:** *Necessary action may be taken up against the contractor for not adhering to the agreement and the design/ estimate be revised with approval of the competent authority.*

## 2.2.11 Project Implementation of e-Courts Mission Mode Project

### 2.2.11.1 Non-utilisation of infrastructure procured

Chapter 2, Clause 5 of the Policy and Action Plan Document Phase-II of the e-Courts Project states that financial disbursement arrangements will be made conducive to optimum decentralisation and effectively eliminate delays in project implementation. Further, Clause 10 *ibid* envisages that warranty period and obsolescence for computer hardware will be taken as three and five years respectively. Again, for identification of Courts, Clause 11 states that the inclusion of Courts in dilapidated/ rented buildings would be considered with a yardstick of one year of duration of the Court expected to be there in such building. Thus, the Courts which are expected to be shifted to new/ other building in less than a year, will

<sup>34</sup> No RCC flooring above the room at the first floor level

be considered only after being shifted. The Ministry, while releasing funds stated that the funds released and expenditure therefrom shall be part of the State Government Accounts.

During 2016-19, the Central Project Coordinator (CPC), Gauhati High Court, Aizawl Bench procured Information Technology (IT) related hardwares worth ₹557.83 lakh for all the district courts/ subordinate courts. However, it was observed in Audit that there was no separate Court building in the sampled districts and yet procurement of IT hardware/software was made for the courts whose status of construction is given as under:

Sl. No.	Name of District & Name of works	Scheduled date of		Actual date of commencement	Physical status as of June 2019
		Commencement	Completion		
1.	District Court, Aizawl	15.01.2016	15.01.2019	08.02.2016	70 per cent
2.	District Court, Siaha	10.09.2018	21.03.2021	10.09.2018	45 per cent
3.	District Court, Lawngtlai	The plan for construction was abandoned			

It can be seen from the table above that procurement was made for these Districts before completion of the Court buildings. Thus, the warranty of the materials would expire in three years and become obsolete in five years. Moreover, procurement of materials for District Court, Lawngtlai, the construction of which was abandoned was totally against the norms of financial propriety.

During physical verification (September 2019) in the sampled districts, it was found that IT materials worth ₹97.88 lakh<sup>35</sup> were found lying idle as detailed in **Appendix-2.1.2**. Some of the photographic evidences of the idle infrastructures are shown below:



Kiosk at District Court, Lawngtlai



HDMI & USB cables, webcam, etc. at Siaha District Jail



HDMI & USB cables, webcam, etc. at Lawngtlai District Jail



Solar batteries stored at Server room in Lawngtlai District Court



1 KV UPS, Samsung LED at Aizawl Central Jail



Miscellaneous items at Siaha District Court

Thus, it is evident from the above that the materials were procured without assessing the actual requirement of each of the Courts. This had resulted in an idle expenditure of ₹97.88 lakh.

<sup>35</sup> Aizawl: ₹45.10 lakh, Lawngtlai: ₹20.26 lakh and Siaha: ₹32.52 lakh

The Registrar, Gauhati High Court, Aizawl Bench stated (January 2020) that the IT hardwares were procured as per allotment of the e-Committee of the Supreme Court of India. The hardware were kept/ stored for future use due to inadequate infrastructure at present. The reply could not be accepted as materials were procured without immediate requirement and the warranty of the un-utilised materials would expire in three years and become obsolete in five years.

**Recommendation:** *The Registrar, Gauhati High Court, Aizawl Bench may ensure that procurement of materials is based on actual requirement and the equipments/ hardware already procured may be fruitfully utilised in other Courts.*

### 2.2.11.2 Video conference facility

Video conferencing facility between under trial prisoners and magistrate is one of the major components of the e-Courts MMP. Phase-I of the project included provision of Video Conferencing (VC) for Jails.

It was noticed in the sampled Jails that the hardware/ software received to facilitate video conferencing were not put to use due to non availability of internet connection. It was also noticed in Audit that the CPC, Gauhati High Court, Aizawl Bench proposed (November 2017) for utilisation of funds to the Joint Registrar-cum-Central Project Coordinator, Gauhati High Court, Guwahati for internet connectivity of District Courts and Jails in Mizoram with an estimate of ₹6.08 crore. However, the proposal was not accepted without any recorded reason. Further, it was also noticed that though a fund of ₹25.87 lakh was available since November 2017 as per the estimate<sup>36</sup> for providing internet connection in the District Court complexes, the Gauhati High Court, Aizawl Bench did not incur the expenditure. Thus, the District Courts as well as the Jails were not provided with internet connection under the e-Courts MMP to facilitate video conferencing between the under trial prisoners and the magistrate during the audit period. However, VC facility have been made available (January 2021) in Aizawl, Lunglei, Champhai and Kolasib district courts while it is yet to be provided in the remaining four district courts.

The Registrar, Gauhati High Court, Aizawl Bench while agreeing to the audit observation, stated (January 2020) that a centralised contract was issued from Delhi for Fibre Optic WAN internet connectivity to all the District Court Complexes across the country, in lieu of BSNL leased line connection.

Thus, video conferencing facility between the under-trial prisoners and the magistrate was yet to be implemented due to non-installation of internet connectivity in jails.

**Recommendation:** *Internet connectivity may be provided at the Courts and Jails to facilitate video conferencing between the under trial prisoners and the magistrate.*

### 2.2.11.3 Software for Judicial Officers vis-à-vis Training

The e-Courts MMP emphasised computerisation of the Courts. To ensure uniformity and standardisation of software across the country, action plan of the e-Courts MMP restrict

<sup>36</sup> Estimate of the service provider - Bharat Sanchar Nigam Limited (BSNL) for multiprotocol label switching (MPLS) - virtual private networks (VPNs)

use of software other than FOSS<sup>37</sup> across the country. The e-Committee of the Supreme Court of India issued (04 May 2011) instructions for installation and use of *Ubuntu-Linux* Operating System (OS) only in the judiciary. The Principal Seat, Gauhati High Court, Guwahati further directed (21 May 2011) all High Courts under its jurisdiction for immediate installation of *Ubuntu-Linux OS* and furnish a report to the e-Committee. In conformity to the above instructions, all the Computers purchased/ supplied under the project were pre-installed with *Ubuntu-Linux OS* and FOSS office suite “Libre Office”. Further, for smooth and effective implementation of the system operating software of *Ubuntu-Linux OS* and FOSS, training of the Judicial Officers and staff was required to be undertaken.

It was seen in audit that all the PCs were running with Microsoft Windows Operating System and Microsoft Office Suite. Further, in terms of capacity building for the works during the period from April 2014 to March 2019, 19 Judicial Officers including two Master trainers were given *Ubuntu-Linux* related trainings. Audit observed that the pre-installed *Ubuntu-Linux OS* and the bundled Software were not utilised and instead the pre-installed OS was substituted with un-authorized and non-licensed version of Microsoft Windows and MS Office software without official sanction. This is against the stipulation of the project and instructions of the e-Committee of the Supreme Court of India.

The Registrar, Gauhati High Court, Aizawl Bench while agreeing with the observation stated (January 2020) that due to unfamiliarity, lack of adequate knowledge and practical difficulties faced by many Judicial Officers with *Ubuntu OS*, Microsoft Windows were installed on their own convenience.

**Recommendation:** Optimum utilisation of knowledge acquired in the training and use of *Ubuntu OS* may be ensured.

#### 2.2.11.4 Data security and disaster mitigation policies

It is a generally accepted practice to implement a fire safety/ disaster management protocol in case of force majeure incidents. Physical access control is an integral part of any IT enabled environment as it safeguards the equipment from tampering and minimises the risk of unauthorised access to sensitive data. For the operation of any IT based system which is dependent on network connectivity and power supply for its smooth functioning, it is important that there is uninterrupted power supply for continuous network linkage. Usage of anti-virus programmes is an effective tool for protection of computer systems from malicious software like viruses, trojans, hacker tools, etc.

The following details indicate that access security and disaster mitigation have not been prioritised as there were no existing safeguards for the server rooms.

**Table-2.2.9: Details of Security and disaster mitigation policies availability**

Sl. No.	Security protocols	Status of availability in the Courts			
		Gauhati High Court, Aizawl Bench	District Court, Aizawl	District Court, Saha	District Court, Lawngtlai
1.	Security protocols for physical access to server rooms	No	No	Yes	No

<sup>37</sup> FOSS: Free and open-source software

Sl. No.	Security protocols	Status of availability in the Courts			
		Gauhati High Court, Aizawl Bench	District Court, Aizawl	District Court, Siaha	District Court, Lawngtlai
2.	Physical barriers in place for access to server rooms	No	No	Yes	No
3.	Security protocols for physical access to computer systems	No	No	No	No
4.	Standardised policies for installation and updation of anti-virus, software and firewalls	No	-	-	-
5.	Firefighting equipment such as smoke detectors and fire extinguisher	No	No	No	No
6.	Backup/ mirror server	Yes, but manual backup	Yes, but manual backup	No	No
7.	Access log to server	No	No	No	No
8.	Specification for server rooms to minimise damage in the event of natural disasters such as fires, earthquakes, etc.	No	No	No	No
9.	Backup for electric supply	2KVA UPS	5 KVA Diesel Generator and 3 KVA UPS	Generator set and UPS	5 KVA Diesel Generator and Solar Energy
10.	Documentation of downtimes of servers	No	No	No	No
11.	Physical damage to servers during audit period	No	No	Yes, but not documented	No

Source: Departmental records

Besides the security and the disaster mitigation, mention may also be made of the following irregularities observed in audit:

- i. In Siaha District Court, ICT room is also used as a store room.
- ii. In Lawngtlai District Court, ICT room is used for storing the Solar batteries only and the Server is placed in open space in the General room.
- iii. In Siaha and Lawngtlai District Courts, Kiosks are not installed which were kept in the store/ General room.
- iv. In Aizawl District Court, Kiosks were seen to be installed and functioning but printers are not installed as envisaged in the Policy and Action Plan of the e-Courts MMP.

The CPC, Gauhati High Court, Aizawl Bench while agreeing to the Audit observation stated in the exit conference that due to non-availability of own Court buildings, data security and disaster mitigation policy could not be prioritised and ensured.

Thus, the existing physical and logical access controls for IT security, disaster mitigation plan and data backup policy was inadequate.

**Recommendation:** Physical and logical security/ access controls, disaster mitigation and data backup plan may be ensured.

### 2.2.11.5 Digitisation of Court cases

The scope of e-Courts MMP *inter alia* is to create Court management system through digitisation, document management, judicial knowledge management and learning tools management and envisages scanning/ digitisation of cases records with the latest technologies with the aim to move towards paperless Courts.

The Gauhati High Court, Aizawl Bench submitted (23 October 2017) proposal of ₹181.65 lakh to GoM for digitisation of Court cases. The Finance Department, allocated ₹181.65 lakh (₹113.00 lakh and ₹68.65 lakh in October 2018 and January 2019 respectively) and released ₹90.83 lakh in June 2019.

During audit it was found that expenditure of only ₹5.77 lakh was incurred during August 2019 and September 2019 towards salary of staff and no steps were seen to be taken for scanning and digitisation of case records till the period of audit (October 2019).

As per information furnished by the sampled Courts, the status of Court cases as per manual record under Aizawl Judicial District<sup>38</sup>, Lunglei Judicial District<sup>39</sup> and the pending cases as recorded by Gauhati High Court, Aizawl Bench are given in the following table:

Table-2.2.10: Status of pending Court cases

Year	Status of pending Court cases as maintained manually by						Status of pending Court cases of the two Judicial Districts as per Gauhati High Court, Aizawl Bench	
	Aizawl Judicial District		Lunglei Judicial District		Total		Criminal	Civil
	Criminal	Civil	Criminal	Civil	Criminal	Civil		
2014-15	1,716	1,709	166	151	1,882	1,860	2,114	1,681
2015-16	2,230	2,124	253	176	2,483	2,300	2,110	1,727
2016-17	2,327	1,909	292	151	2,619	2,060	2,437	1,832
2017-18	2,473	2,232	286	197	2,759	2,429	2,708	2,142
2018-19	2,810	2,662	332	378	3,142	3,040	3,010	2,122

Source: Department's record

It can be seen from the above table that the status of Court cases were totally different which is attributable to non-updating and timely uploading of the status of pending cases in the National Judicial Data Grid (NJDG).

Thus, the objective of digitisation of the case records is yet to be achieved.

The Registrar, Gauhati High Court, Aizawl Bench stated (January 2020) that in depth study of the physical case record management system is being taken up and necessary steps will be taken up to complete the project in the scheduled timeline of February 2021.

<sup>38</sup> Aizawl, Kolasib, Champhai, Mamit and Serchhip

<sup>39</sup> Lunglei, Siaha and Lawngtlai

**Recommendation:** Steps may be taken to expedite the digitisation of the court cases with regular update in the NJDG.

## **2.2.12 Monitoring**

### **2.2.12.1 Monitoring and evaluation mechanism under CSS**

As per the CSS guidelines (May 1999) and revised guidelines (April 2017) for development of infrastructure facilities for the judiciary, there should be a State Level Monitoring Committee (SLMC) headed by the Chief Secretary, which will submit quarterly progress report of the projects to the Department of Justice. The District Level Monitoring Committee (DLMC) headed by the District Magistrate will submit quarterly progress reports to the SLMC. In addition, the High Court Level Monitoring Committee in the State headed by the Portfolio Judge will review the physical and financial progress of the works every six months and have the responsibilities for overall monitoring, ensuring the quality standards of works and timely completion of projects. Further, data and photographs were to be uploaded/ updated regularly to the Department of Justice for geo-tagging and online monitoring of the physical progress of the projects.

The L&JD, GoM constituted (04 August 2010) State Level Committee (SLC) headed by the Chief Secretary and District Level Committees (DLC) for Aizawl and Lunglei headed by the respective District Judges to monitor the development of judicial infrastructure in the State. The High Court Level Monitoring Committee (HCLMC) was chaired by a Portfolio Judge of the Gauhati High Court, Aizawl Bench.

Audit observed that Quarterly Progress Reports either by the DLC or the SLC were not available on record. Half yearly review of physical and financial progress of the works was also not found on record. However, data and photographs for geo-tagging and online monitoring of the physical progress of the projects were uploaded/ updated through Nyaya Vikas mobile applications from time to time.

Thus, in absence of the required reports the effectiveness of the monitoring mechanism for implementation of the projects, quality of the works executed and adherence to the project timelines could not be ensured.

The Government accepted (March 2020) the facts in the exit conference.

### **2.2.12.2 Monitoring and evaluation mechanism under e-Court MMP**

As per policy and action plan 3(3) of the e-Courts MMP, there should be a CPC and District Court Computer Committee (DCCC) at the District Levels with active participation, supervision and guidance to implement the Project components on time and to deliver the service as per the Litigants' Charter.

The Gauhati High Court, Aizawl Bench constituted (16 September 2015) DCCC and a Nodal Officer for both Aizawl Judicial District and Lunglei Judicial District to monitor the implementation of e-Courts MMP. However, there was no revision of the DCCC or Nodal Officer inspite of transfers and postings to other District/ Judicial Districts. Also, there was no record showing monitoring being done either by the DCCC or the Nodal Officer.

Thus, in absence of the active participation, supervision and guidance of the DCCC or the nodal officer, the implementation of the e-Courts projects could not be completed on time to deliver the required services.

The Gauhati High Court, Aizawl Bench accepted (March 2020) the facts in the exit conference.

**Recommendation:** *Monitoring mechanism may be strengthened for effective implementation of the projects on time.*

### 2.2.13 Conclusion

The performance Audit on the CSS on Development of Infrastructure Facilities for the Judiciary and e-Courts MMP in the State has shown that the Schemes were executed without adequate planning. The Department did not take advantage of GoI funds available to improve the judicial infrastructure in the State. Out of eight districts, five districts did not have separate Court buildings while judicial quarters were available in only three districts. Demands for construction of court houses, judicial houses and renovation works, included in the AAP of the Department projected an outlay of ₹178.34 crore for the period 2014-19 but the State received ad-hoc funds from GoI in the form of lumpsum grants of only ₹44.92 crore. Under the CSS 'Development of Infrastructure Facilities for the Judiciary', the State Government released ₹50.69 crore to PWD (including its own share of ₹5.77 crore) for taking up construction projects during the period. The State Government released its matching share of ₹2.89 crore for the years 2012-13 and 2013-14 with a delay of 774 days and 580 days respectively while it did not release SMS of ₹2.11 crore for the years 2014-15 and 2015-16.

It is seen that subsequent to receipt of lumpsum funds, the works were not prioritised or revisited as per actual requirement. Works which were proposed in the AAP were not taken up while works which were not included in the AAPs were taken up for execution. Similarly, no renovation/ restoration works were taken up while there were concrete proposals in the AAP for such works. Preparation of AAPs remained ad-hoc, without any assessment of requirement of infrastructure.

Similarly, under e-Courts MMP, requirement of hardware, software and other equipments as well as prevalent court infrastructure was not taken into account before procurement of the equipments. As a consequence, the hardware and equipments remained idle, which runs the risk of obsolescence and wasteful expenditure.

Funds of ₹26.59 lakh earmarked for construction of projects was diverted on hire and purchase of vehicles and ₹3.14 crore was transferred to Public Account to avoid lapse of funds. Since works were executed by PWD on behalf of Law and Judicial Department, there was no formal and institutionalised mechanism of coordination between the two departments to ensure adequate value for money and timeliness in execution of projects. Contracts were outsourced to third parties by the PWD contractors, there was use of sub-standard materials in construction, deviations in approved designs, etc.

During physical verification of IT infrastructure procured under e-Courts MMP, Audit observed that IT hardware procured for ₹97.88 lakh remained idle due to absence of enabling infrastructure in the courts. Items were bought on the basis of funds received from

the e-Committee of the Supreme Court rather than on an actual assessment of requirement and availability of conducive environment for its utilisation.

Video conference facility between the Magistrates and under trial prisoners remained non-functional in four districts due to lack of internet facility depriving both the parties the benefit of the facility. Provisions for data security, disaster mitigation, electricity back up, fire fighting equipments, etc. were found to be deficient in the Courts. Digitisation of case records remained a non-starter and monitoring of the two schemes remained deficient.

### 2.2.14 Recommendations

*Apart from the recommendations given under individual paragraphs, it is recommended that the Departments/ High Courts ensure:*

**(a) Development of Infrastructure Facilities for the Judiciary:**

- *need based Action Plan for successful implementation of the scheme;*
- *free and fair competition in inviting tenders for works and also adhere to the terms and conditions of the agreement;*
- *timely utilisation of the funds and submission of the Utilisation Certificates; and*
- *proper monitoring of the works being executed.*

**(b) E-Courts Mission Mode Project:**

- *proper assessment of requirement of IT hardwares/ softwares for each Court and utilisation of the materials procured for effective implementation of project;*
- *fruitful utilisation of IT related hardwares already procured in other courts;*
- *security protocols on logical and physical access with disaster mitigation measures;*
- *regular update of cases on the National Judicial data Grid; and*
- *provision of internet facilities in Jails for utilisation of Video Conference facilities by the Judiciary.*

## COMPLIANCE AUDIT PARAGRAPHS

### GENERAL ADMINISTRATION DEPARTMENT (AVIATION WING)

#### 2.3 Irregular appointment of Drawing & Disbursing Officer, irregularities in execution of works and temporary misappropriation of money

**The Department allowed the Principal Consultant, appointed on contractual basis, to function as Drawing and Disbursing Officer in violation of extant State Government's orders as well as observations of the State Finance Department. They failed to ensure compliance to extant rules and procedures in award of works and as well as withdrawal of money from the Government accounts before execution of works. Besides, there was temporary misappropriation of Government money by the Principal Consultant**

As per Government of Mizoram Office Memorandum<sup>40</sup> (August 2008) on guidelines of Engagement of Employees on contractual basis, no engagement on contract basis should be

<sup>40</sup> Department of Personnel & Administrative Reforms (DP&AR), Government of Mizoram Office Memorandum No. G.11021/2/92 PAR/ (ARW) dated 07 August 2008

made against such post(s) having financial powers and a contract employee should neither be delegated with financial powers nor assigned the work of Drawing and Disbursing Officer (DDO) unless there are overriding considerations in public interest justifying such assignment.

The Principal Consultant of the General Administration Department (GAD) (Aviation Wing) was appointed (January 2019) on contractual basis by the GAD and as per the notification for the appointment, he shall exercise the powers of Head of the Department while Deputy Controller, Aviation Wing shall be the DDO.

In response to the proposal of the GAD to appoint the Principal Consultant, Aviation Wing as Head of the Department, the Finance Department observed vide I.D No. FIN (E) 1096/2018 dated 08 April 2019, 'Upon examination of the proposal, there was no justification for delegation of financial powers to the Principal Consultant in the proposal to overrule the above mentioned OM of DP&AR (ARW)'. The Department further stated that 'regarding the issue of Drawing and Disbursing Officer, Rule 142 of the Central Treasury Rules provides that any Head of the Department or Head of Office is competent to declare any gazetted officer under their control as Drawing and Disbursing Officer'.

Further, the Finance Department observed (25 April 2019) that the General Administration Department (GAD) is advised to furnish sufficient justification for delegation of financial power to the contractual employee since OM dated 07 August 2008 prohibits delegation of financial powers to such employees.

In the meantime, the Principal Consultant declared (24 April 2019) himself as Head of the Department as well as DDO, despite clear observations of the Finance Department, that the Principal Consultant could not and should not be delegated financial powers, since he was not a permanent gazetted employee. Hence, the appointment of a contractual officer to be the Head of the Department and Drawing and Disbursing Officer violated the above quoted Rules and Government notification.

(ii) As per Section 2.1(2) of CPWD Manual, no work should normally be commenced or any liability thereon incurred until an administrative approval has been obtained, a properly prepared detailed estimate has been technically sanctioned and where necessary expenditure sanction has been accorded and allotment of funds made.

Further, as per Rule 139 of General Financial Rules (GFRs), 2017, preparation of detailed designs and estimates shall precede any sanction for works. Open tenders will be called for works costing more than ₹five lakh. Execution of Contract Agreement or Award of work should be done before commencement of the work.

Scrutiny of records relating to works taken up in the Department showed that General Administration Department awarded (March 2019) four works costing ₹1.01 crore to M/s Architecture, Interior and Engineering (AIE), Aizawl, Mizoram without inviting tenders, violating Rule 139 of GFRs. Following were the details:

**Table-2.3.1: Details of works awarded without call of tender**

Sl. No.	Name of work	Estimated cost of work	Amount drawn
		(₹ in lakh)	
1.	Construction of Helipad at Darlawn and Sakawrdai (₹9.00 lakh each)	18.00	18.00
2.	Beautification of Lengpui Airport	10.00	9.90
3.	Construction of Stone Masonry Retaining Wall at Mualpui Helipad	65.65	65.65
4.	Repair of residential Staff quarter at Lengpui	7.00	7.00
<b>Total</b>		<b>100.65</b>	<b>100.55</b>

Moreover, the Department issued work orders on 08 and 09 March 2019 to the contractor, who prepared estimates only for two works (Serial Nos. 2 and 3) for which, technical sanction was also not obtained from the competent authority in violation of CPWD Manual.

It was further noticed that the Department prepared final bill for the works and the entire funds were withdrawn (March 2019) before execution of the works and was deposited (March 2019) in the account of the construction firm in violation of Rule 100 (2) of the Central Government Account (Receipts and Payments) Rules, 1983, which stipulates that no money shall be drawn from Government Account unless it is required for immediate disbursement and drawal of money from Government Account in anticipation of demands or to prevent the lapse of budget grants is not permissible.

Later on, the firm was verbally instructed to retain ₹0.25 crore and return the rest in 'cash' to the Principal Consultant, Aviation Wing, GAD. The money so refunded was deposited (April 2019) in the personal bank account of the Principal Consultant. Subsequently, the Principal Consultant transferred (08 May 2019) the funds in the bank account of the GAD (Aviation Wing). Further, the actual final bill for construction of Retaining wall at Malpui Helipad was submitted by the contractor in August 2019 while the construction of Helipad at Darlwan and Sakawrdai were on-going (December 2019).

Thus, the Department failed to ensure compliance to extant rules and procedures in award of works and withdrew money from the Government accounts, before execution of the works. Further, callous attitude of the Department towards compliance to rules and procedures led to temporary misappropriation of Government money by the Principal Consultant.

### **Recommendation**

*The Government may take necessary steps for vesting of DDO powers to regular employees in terms of their own instructions. The Department may also take appropriate action against the Principal Consultant for temporary misappropriation of Government money. They may also fix responsibility for the works irregularities mentioned in the para.*

## **2.4 Non-realisation of Passenger Service Fee**

### **The Department failed to realise Passenger Services Fees of ₹6.34 crore due from Air India Limited**

Passenger Services Fees (PSF) is levied and collected under Rule 88 of the Indian Aircraft Rules, 1937 by licensee from embarking passengers. It has two components, namely,

Security Component and Facilitation Component. Security Component is utilised for incurring the expenditure in respect of the Aviation Security Force deployed at the airports and related equipment. The Facilitation Component is appropriated by the airport operator(s) towards services provided to the passengers at the airport.

We noticed that the management of the Lengpui Airport realised ₹5.56 crore as PSF out of the total due of ₹10.21 crore during the period 2014-15 to 2018-19. The remaining dues of ₹4.65 crore which were due from Air India, remained outstanding in spite of several reminders to Air India Limited to clear the total dues of ₹6.34 crore. There was no response from Air India for on payment of the dues.

Further, the revenue realised from flight operators as PSF were not appropriated into the security and facilitation components as only ₹1.16 crore was appropriated for the purpose of facilitation and security of the passengers during 2014-19.

Due to short receipt of PSF and under utilisation of the amount, many facilities were not made available to the passengers optimally, as brought out in a user satisfaction survey of passengers at Lengpui airport, conducted by audit during October/ November 2019. The results of the survey showed:

- a) Out of 149 respondents, 58 *per cent* were not satisfied with the cooling system of the terminal building. Some of the points highlighted by the respondents include the need for installation of air conditioners especially during summertime and prevention of odour/ bad smell in the departure lounge;
- b) Out of 139 respondents, 56 *per cent* were unsatisfied with the number of power outlets available for charging of electronic gadgets such as mobile phones and laptops within the terminal building;
- c) Out of 104 respondents, 52 *per cent* were unaware of the medical facilities available at the airport;
- d) Out of 118 respondents, 33 *per cent* expressed dissatisfaction with the prepaid cab/ private taxi services citing reason of overpricing; and
- e) 77 to 93 *per cent* of the respondents expressed satisfaction with the facilities like parking, Inner Line Permit (ILP) issuance, gerontology services, ATM facilities and general courtesy.

### ***Recommendation***

*The State Government needs to make more serious efforts to realise Passenger Services Fees due from Air India. Efforts should be made to improve passenger facilities at the Airport for overall passenger comfort.*