

Chapter-III

Corporate Governance

This chapter deals with adherence to Corporate Governance principles by the Government companies. Issues related to appointment of independent directors/women directors in the board of directors of the government companies, their presence in attending the meetings of the board of directors and the committees formed thereunder, holding of meetings of the board of directors *etc.* are highlighted.

Introduction

3.1 Corporate Governance focusses on building the confidence of various stakeholders including customers, suppliers, employees, shareholders, bankers and society at large. A company is directed and controlled with the system of rules, practices and process of the Corporate Governance. Further, Corporate Governance framework of any SPSE depends upon the four pillars namely transparency, full disclosure, independent monitoring and fairness to all. Adherence to the Corporate Governance principles brings accountability, transparency in business and enhances confidence of the stakeholders.

Provisions contained in the Companies Act, 2013

3.2 The Companies Act, 2013 (Act) was enacted on 29 August 2013 replacing the Companies Act, 1956. In addition, the Ministry of Corporate Affairs has also notified (31 March 2014) Companies Rules 2014 on Management and Administration, Appointment and Qualification of Directors, Meetings of Board and its powers and Accounts. The Companies Act, 2013 together with the Companies Rules provide a robust framework for corporate governance. The requirement *inter alia* provides for:

Qualifications for Independent Directors along with the duties and guidelines for professional conduct {Section 149(6) read with rule 5 of the Companies (Appointment and Qualification of Directors) Rules, 2014}.

Mandatory appointment of one woman director on the board of prescribed companies {Section 149(1) of the Companies Act, 2013}.

Mandatory establishment of certain committees like Audit Committee {Section 177(1) of the Companies Act, 2013}, Nomination and Remuneration Committee {Section 178(1) of the Companies Act, 2013}, and Stakeholders Relationship Committee {Section 178(5) of the Companies Act, 2013}.

Holding of a minimum of four meetings of Board of Directors every year in such a manner that not more than 120 days shall intervene between two consecutive meetings of the Board {Section 173(1) of the Companies Act, 2013}.

SEBI/BPE guidelines on Corporate Governance

3.3 Since none of the State Public Sector Enterprises (SPSEs) is listed in the stock exchange, SEBI guidelines on Corporate Governance are not applicable on SPSEs. Further, the Bureau of Public Enterprises (BPE), Government of Rajasthan (GoR) has also not issued any guideline on corporate governance.

Review of compliance of the Corporate Governance provisions

3.4 As on 31 March 2021, there were 42 SPSEs (38 Government Companies and four Government Controlled Companies) under the audit jurisdiction of the CAG of India.

For the purpose of the review, an assessment framework was prepared based on the provisions contained in the Act, 2013 on corporate governance. The review covers all the Government Companies under administrative control of various departments except Rajasthan State Agro Industries Corporation Limited which is under liquidation.

Composition of Board of Directors

3.5 The board is a collective body of either elected or appointed persons that meets at regular intervals to set policies for corporate management and oversee the activities of an organization. As per Section 2 (10) of the Companies Act, 2013 'Board of directors' or 'Board', in relation to a company, means the collective body of the Directors of the company.

Independent Directors

3.6 The presence of independent representatives on the Board, capable of taking an independent view on the decisions of the management is widely considered as a means of protecting the interests of shareholders and other stakeholders.

Section 149 (6) of the Companies Act 2013 *inter alia* stipulated that an independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director and is a person of integrity and possesses relevant expertise and experience. Besides, the independent director shall neither be a promoter himself nor shall be related to the promoters/directors of the company or its holding, subsidiary or associate company. The independent director himself or his relatives shall not have any pecuniary relationship/ transaction (other than remuneration of independent director) with the company, or its subsidiary, or its holding or associate company beyond the monetary limits and during the period prescribed in this section. The independent director himself or his relatives shall not hold key managerial position or any other prescribed relationship viz. employee, auditors, companies secretaries etc. with the company or its holding, subsidiary or associate company during the timeframe prescribed in this section.

Section 149 (4) of the Act, 2013 provides that every listed public company shall have at least one-third of the total number of directors as independent directors. Further, as per Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014, (i) Public Companies having paid up share capital of ten crore rupees or more; or (ii) turnover of one hundred crore rupees or more; or (iii) have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore

rupees shall have at least two directors as independent directors. Further, a company covered under this rule is also required to constitute an audit committee. Such Audit Committee shall consist of a minimum of three directors, with independent directors forming a majority as per section 177(2) of the Act, 2013. Rule further provides that where a company ceases to fulfil any of three conditions for three consecutive years, it shall not be required to comply with these provisions until such time as it meets any of such conditions. Further as per Rule 4 (2), three classes of unlisted public company *i.e.* a joint venture or a wholly owned subsidiary or a dormant company is not required to appoint an independent director.

Audit noticed that out of 41 SPSEs, 26 SPSEs, as shown in **Annexure-3.1**, were required to appoint Independent Directors (IDs) as per the provisions of the Act, 2013 and Rule 4 mentioned above during FY 2020-21. Based on the review of composition of the Board of Directors (BoD) a summarized status of appointment of independent directors in these SPSEs is given in **Table 3.1**:

Table 3.1 Status of appointment of Independent Director (ID)

Particulars	As on 31 March 2020	As on 31 March 2021
No. of SPSEs required to appoint IDs	26	26
No. of SPSEs having required number of IDs	5	6
No. of SPSEs not having required number of IDs	4	2
Number of SPSEs not having any ID	17	18

Source: Compiled on the basis of information provided by SPSEs

Out of SPSEs not having any ID as on 31 March 2020 and 31 March 2021, one SPSE *i.e.* Rajasthan Small Industries Corporation Limited (RSICL) was liable to appoint IDs on its BoD during 2018-19 to 2020-21 considering its turnover (₹ 136.06 crore) during 2017-18 whereas rest of the SPSEs were liable to appoint IDs due to continuous fulfilment of the conditions prescribed under Rule 4 the Companies (Appointment and Qualification of Directors) Rules, 2014.

It could be seen from **Annexure 3.1** that two SPSEs⁵⁶, which had one ID as on 31 March 2020, did not appoint new IDs till 31 March 2021 after expiry of the tenure of previous IDs in August 2020. Though, there was decrease in the number of SPSEs which did not have the required number of IDs, the number of SPSEs not having any ID has increased to 18 as on 31 March 2021 as compared to 17 as on 31 March 2020.

Thus, the SPSEs did not ensure compliance of the provision of the Companies Act 2013 as well as Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014.

Woman Director in the Board

3.7 Section 149 (2) of the Act, 2013 read with Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014 provides for appointment of at least one woman director in - (i) every listed company; (ii) every other public company having - (a) paid-up share capital of one

56 Rajasthan Rajya Vidyut Prasaran Nigam Limited and Rajasthan Urja Vikas Nigam Limited (Sl. No. 4 and 7 of **Annexure-3.1**).

hundred crore rupees or more; or (b) turnover of three hundred crore rupees or more. Further, any intermittent vacancy of a woman director shall be filled-up by the Board at the earliest but not later than immediate next Board meeting or three months from the date of such vacancy whichever is later.

Audit observed that 19 SPSEs, as shown in **Annexure-3.1**, were required to appoint woman director during 2020-21. Of these 19 SPSEs, 13 SPSEs had at least one woman director throughout FY 2020-21 as given in **Table 3.2**:

Table 3.2: SPSEs having at least one-woman director during FY 2020-21

Sl. No.	Name of SPSE
1.	Ajmer Vidyut Vitran Nigam Limited
2.	Jaipur Vidyut Vitran Nigam Limited
3.	Jodhpur Vidyut Vitran Nigam Limited
4.	Rajasthan Rajya Vidyut Utpadan Nigam Limited
5.	Giral Lignite Power Limited
6.	Rajasthan Rajya Vidyut Prasaran Nigam Limited
7.	Rajasthan State Industrial Development and Investment Corporation Limited
8.	Rajasthan State Food & Civil Supplies Corporation Limited
9.	Rajasthan State Beverage Corporation Limited
10.	Rajasthan State Ganganagar Sugar Mills Limited
11.	Jaipur Metro Rail Corporation Limited
12.	Kota Smart City Limited
13.	Rajasthan State Mines and Minerals Limited

Source: Compiled based on the information provided by SPSEs

Audit noticed that one SPSE *i.e.* Rajasthan State Gas Limited did not have woman director throughout the FY 2020-21 and two SPSEs (Udaipur Smart City Limited & Rajasthan State Road Development & Construction Corporation Limited) did not appoint new woman directors after expiry of tenure of previous women directors on 5 July 2020 and 31 October 2020 respectively. Further, one SPSE *i.e.* Barmer Lignite Mining Company Limited ensured compliance of provision of Rule 3 by filling up the vacancy of woman director within the prescribed time period. Audit observed that two SPSEs (Jaipur Smart City Limited & Rajasthan Medical Services Corporation Limited) filled up the vacancy of woman director after a delay of six months and 15 months respectively.

Appointment and Functioning of Independent Director

Issuance of formal letter of appointment and approval at General Meeting

3.8 As per schedule IV of the Companies Act 2013, appointment of independent director shall be approved at the meeting of shareholders (General Meeting). Further, the appointment of Independent Directors shall be formalised through a letter of appointment which shall set out the terms and conditions of appointment. Further, the terms and conditions of appointment of independent directors are also required to be posted on the Company's website.

Two SPSEs (Rajasthan Ex-Servicemen Corporation Limited and RajComp Info Services Limited) appointed independent directors during 2020-21. Audit observed that RajComp Info Services Limited did not obtain approval of

appointment in the General Meeting and formal letters containing terms and conditions of appointment issued to the appointed Independent Directors were not found on record.

Training of Independent Directors

3.9 As per Schedule IV {Para III (1)- Duties of Independent Directors} of the Companies Act, Independent Directors shall undergo appropriate induction training and regularly update and refresh their skills, knowledge and familiarity with the company. Audit, however, observed that none of the SPSEs except two⁵⁷ SPSEs imparted such training for the Independent Directors who were on the Board during FY 2020-21.

Attending meeting of the Board, Board Committees and General meetings of the Company

3.10 Schedule IV (III) (3) of the Act, 2013 provides that Independent Directors should strive to attend all the meetings of Board of Directors and Board Committees of which he/she was a member.

A. Board meetings

Status of attendance of the independent directors who were on the Board at the time of the meeting are given in **Table 3.3**.

Table 3.3 Presence of Independent Directors in meetings of the Board

Sl. No.	Name of the SPSE	No. of Board meeting	No. of meetings with 100% presence of ID
1.	Rajasthan Rajya Vidyut Prasaran Nigam Limited	3	3
2.	Rajasthan Urja Vikas Nigam Limited	3	3
3.	Rajasthan State Beverage Corporation Limited	2	0
4.	Rajasthan State Ganganagar Sugar Mills Limited	3	1
5.	Rajasthan State Mines & Minerals Limited	1	1
6.	RajComp Info Services Limited	4	2
7.	Jaipur Metro Rail Corporation Limited	4	2
8.	Udaipur Smart City Limited	1	1
9.	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited	2	1
10.	Barmer Lignite Mining Company Limited (SPSE not required to appoint IDs under Section 149 of Companies Act 2013)	1	1

Source: Compiled based on the information provided by SPSEs

It could be seen from the table above that 100 *per cent* presence of Independent Directors was only in 63 *per cent* of the Board Meetings. Further, the Independent Directors appointed in the board of Rajasthan State Beverage Corporation Limited did not give importance to the role assigned to them on behalf of the stakeholders by not attending the board meetings.

B. Meeting of Board Committees

Corporate Social Responsibility (CSR) Committee- Audit also reviewed the presence of the Independent Directors in the Companies where meetings of the constituted CSR Committees were held during 2020-21 and the independent

57 Rajasthan Ex-Servicemen Corporation Limited and Udaipur Smart City Limited

directors were on board at the time of meeting. The attendance of Independent Directors in CSR Committee Meetings is given in **Table 3.4**.

Table 3.4 Attendance of ID in CSR Committee Meetings

Sl. No.	Name of the SPSE	Date of meeting	No. of ID in board	No. of ID attended
1.	Rajasthan State Beverage Corporation Limited	25.03.2021	2	0
2.	Rajasthan State Ganganagar Sugar Mills Limited	25.03.2021	2	1
3.	RajComp Info Services Limited	05.03.2021	2	1

Source: Compiled based of the information provided by SPSEs

It could be seen that both the Independent Directors of Rajasthan State Beverage Corporation Limited remained absent in CSR Committee meeting whereas only one Independent Director of two SPSEs (Sl. No. 2 and 3) attended the meeting.

Audit Committee- The status of presence of the Independent Directors on board during Audit Committee meetings held in FY 2020-21 is given in **Table 3.5**.

Table 3.5 Attendance of ID in Audit Committee Meetings

Sl. No.	Name of the SPSE	Date of meeting	No. of ID on board	No. of ID attended
1.	Rajasthan Rajya Vidyut Prasaran Nigam Limited	29.06.2020	1	1
2.	Rajasthan Urja Vikas Nigam Limited	29.06.2020	1	1
3.	RajComp Info Services Limited	23.10.2020	2	2
4.	Jaipur Metro Rail Corporation Limited	08.10.2020	1	1
		02.11.2020	1	1
5.	Udaipur Smart City Limited	09.09.2020	1	0
6.	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited	28.07.2020	2	2
		05.01.2021	2	2
7.	Barmer Lignite Mining Company Limited	23.11.2020	3	3
8.	Rajasthan State Beverage Corporation Limited	23.10.2020	2	1
9.	Rajasthan State Ganganagar Sugar Mills Limited	17.09.2020	2	1
		04.12.2020	2	2

Source: Compiled based of the information provided by SPSEs

C. General Meetings

Schedule IV (III) (5) of the Act, 2013 states that Independent Directors shall strive to attend all the General Meetings of the Company. Audit noticed that Independent Directors in 6 SPSEs were on board at the time of Annual General Meeting (AGM) during FY 2020-21. The details of the Annual General Meeting (AGM) held in 2020-21, number of independent directors on board of SPSE and number of independent directors that attended the meeting are given in **Table 3.6**.

Table 3.6 Attendance of ID in Annual General Meetings

Sl. No.	Name of the SPSE	Date of AGM	No. of ID on board	No. of ID attended
1.	RajComp Info Services Limited	12.02.2021	2	1
2.	Jaipur Metro Rail Corporation Limited	23.12.2020	1	0
3.	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited	23.03.2021	2	1
4.	Rajasthan State Beverage Corporation Limited	11.12.2020	2	1
5.	Rajasthan State Ganganagar Sugar Mills Limited	29.12.2020	2	1
6.	Barmer Lignite Mining Company Limited	02.03.2021	3	1

Source: Compiled based on the information provided by SPSEs

It could be seen from the table above that the independent director on board of Jaipur Metro Rail Corporation Limited did not attend the AGM whereas participation of independent directors of remaining five SPSEs (Sl. No. 1, 3, 4, 5 and 6) was less. Further, none of the SPSEs conducted AGM with full attendance of Independent Directors.

Separate meeting of Independent Directors

3.11 As per Schedule IV (VII) (1) of the Act, 2013, the independent directors of the company shall hold at least one meeting in a financial year, without the attendance of non-independent directors and members of management. Further, all the independent directors of the company shall strive to be present at such meeting to review the performance of non-independent directors and the Board as a whole. The performance of the Chairperson of the company would also be reviewed taking into account the views of executive directors and non-executive directors.

Audit noticed that out of the six SPSEs wherein more than one Independent Directors were on board during 2020-21, Independent Directors of only one SPSE *i.e.* Rajasthan Ex-Servicemen Corporation Limited conducted a separate meeting on 31 March 2021, whereas Independent Directors of remaining five SPSEs did not conduct separate meetings during 2020-21.

Audit observed that in the absence of separate meetings, the very purpose of appointing the Independent Directors on the board of six SPSEs *i.e.* to review the performance of non-independent directors, chairperson and the Board as a whole was defeated. Further, assessment of the quality, quantity and timeliness of flow of information between the company management and the Board, necessary for the Board to effectively and reasonably perform their duties, could also not be done as required in Schedule IV (VII) (3) (c).

Filling-up the posts of Key Managerial Personnel

3.12 Section 203(1) of the Act, 2013 provides that every company belonging to such class or classes of companies, as may be prescribed, shall have whole time Key Managerial Personnel (KMP) viz; (i) Managing Director, or Chief Executive Officer (CEO) or Manager and in their absence, a Whole-Time Director; (ii) Company Secretary; and (iii) Chief Financial Officer (CFO).

Further, Rule 8 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 provides that every listed company and every other public company having a paid-up share capital of rupees ten crore or more shall have whole-time key managerial personnel. Section 203(4) of the Act, 2013 further provided that if the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

Audit noticed that the paid-up capital of 24 SPSEs, as given in **Annexure-3.1**, was ₹ 10 crore or more as per their latest finalized accounts. Hence, these companies were required to appoint whole time KMPs. Of these 24 SPSEs, whole time KMPs were found appointed in 20 SPSEs except four SPSEs as shown in the **Table 3.7**.

Table 3.7: Status of appointment of KMPs

Sl. No.	Name of SPSE	Status of KMP
1	Rajasthan State Road Development & Construction Corporation Limited	Company Secretary post was vacant for more than six months
2	Rajasthan State Industrial Development and Investment Corporation Limited	
3	Rajasthan Tourism Development Corporation Limited	Company Secretary post was vacant during 2020-21
4	Rajasthan State Handloom Development Corporation Limited	Full time Company Secretary (CS) was not appointed in 2020-21

Source: Compiled based on the information provided by SPSEs

Further review of records related to filling up of KMPs vacancies disclosed that the KMP's vacancies which occurred during 2020-21 were filled up within a period of six months from the date of such vacancy except in PSUs as mentioned in above table.

Meeting of the Board of Directors

3.13 As per section 173 (1) of the Act, 2013, every company shall hold the first meeting of the Board of Directors (BoD) within thirty days of the date of its incorporation and thereafter hold minimum four meetings of BoD every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board.

Ministry of Corporate Affairs provided (24 March 2020) an extension of 60 days in holding the meetings of BoD within the intervals provided in the section 173 till next two quarters i.e. till September 2020 as a one-time measure.

The details of number of BoD meetings conducted by each SPSE during the year 2020 are given in **Annexure-3.1**. It could be seen that out of 41 SPSEs, 18⁵⁸ SPSEs failed to conduct four BoD meetings during the year 2020-21 whereas Six⁵⁹ SPSEs held only one BoD meeting during the year 2020-21. Further, details of SPSEs where the intervening period of two BoD meetings was found more than the prescribed time limit of 120/180 days are given in **Table 3.8**.

58 Sl. No. 9, 10, 11, 12, 14, 17, 18, 19, 23, 24, 25, 27, 28, 31, 32, 39, 40 & 41.

59 Sl. No.10, 18, 25, 31, 39 & 40.

Table 3.8: Intervening period in holding of two consecutive BoD Meetings

Sl. No.	Name of SPSE	Date of meeting	Date of next meeting	Intervening period (in days)
1	Rajasthan State Handloom Development Corporation Limited	31.10.2019	13.10.2020	348
2	Barmer Lignite Mining Company Limited	19.11.2019	28.10.2020	346
3	Rajasthan State Petroleum Corporation Limited	09.12.2019	08.06.2020	182
		08.06.2020	22.03.2021	256
4	Rajasthan Rajya Vidyut Utpadan Nigam Limited	09.12.2019	10.06.2020	183
5	Rajasthan Small Industries Corporation Limited	18.06.2020	26.10.2020	130
6	Rajasthan State Mines & Minerals Limited	10.12.2019	16.10.2020	311
7	Jaipur Smart City Limited	29.08.2019	22.01.2020	146
		22.01.2020	10.09.2020	232
8	Ajmer Smart City Limited	11.11.2019	16.03.2020	127
		22.07.2020	30.12.2020	161
9	Kota Smart City Limited	14.08.2019	02.09.2020	385
10	Udaipur Smart City Limited	31.12.2019	29.09.2020	272
11	Rajasthan Civil Aviation Corporation Limited	31.10.2019	05.08.2020	279
		05.08.2020	26.03.2021	233
12	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited	17.08.2019	29.01.2020	165
		29.01.2020	29.07.2020	182
		29.07.2020	15.01.2021	170
13	Rajasthan Police Infrastructure Development Corporation Limited	19.12.2019	29.07.2020	222
		27.10.2020	07.06.2021	223
14	Rajasthan Tourism Development Corporation Limited	25.06.2020	18.11.2020	146
15	Rajasthan State Hotels Corporation Limited	25.06.2020	09.11.2020	137

Source: Compiled based on the information provided by SPSEs

Further, Section 173(3) of the Act, 2013 provides that a meeting of the Board shall be called by giving not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means. A review of the date of the notices and the meetings disclosed that the following 13 SPSEs conducted BoD meetings without serving seven days' notice.

Table 3.9 Detail of Board Meeting called with shorter notice

Sl. No.	Name of the SPSE	Date of Notice	Board Meeting Date
1	Giral Lignite Power Limited	16.06.2020	19.06.2020
		12.10.2020	16.10.2020
		18.12.2020	22.12.2020
		24.12.2020	29.12.2020
2	Dholpur Gas Power Limited	16.06.2020	19.06.2020
		25.09.2020	29.09.2020
		24.12.2020	29.12.2020

3	Chhabra Power Limited	16.06.2020	19.06.2020
		25.09.2020	29.09.2020
		24.12.2020	29.12.2020
4	Rajasthan State Industrial Development and Investment Corporation Limited	22.06.2020	25.06.2020
		21.10.2020	22.10.2020
		23.12.2020	24.12.2020
5	Ajmer Smart City Limited	11.03.2020	16.03.2020
6	Rajasthan State Gas Limited	11.11.2020	12.11.2020
7	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited	27.01.2020	29.01.2020
		25.07.2020	29.07.2020
8	Rajasthan State Hotels Corporation Limited	04.11.2020	09.11.2020
9	Rajasthan State Power Finance and Financial Services Corporation Limited	11.12.2020	16.12.2020
10	Ajmer Vidyut Vitran Nigam Limited	21.12.2020	24.12.2020
11	Rajasthan Medical Services Corporation Limited	03.02.2020	05.02.2020
12	Rajasthan Ex-servicemen Corporation Limited	08.06.2020	12.06.2020
13	Rajasthan Skill and Livelihood Development Corporation	02.12.2020	04.12.2020

Source: Compiled based of the information provided by SPSEs

Audit Committee and Other Committees of the Board

Constitution and Composition of Audit Committee

3.14 As per Section 177 (1) of the Act, 2013 and Rule 6 of the Companies (Meetings of Board and its powers) Rules, 2014, the BoD of every listed public company and all public companies with a paid up capital of ₹ 10 crore or more; or having turnover of ₹ 100 crore or more; or having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding ₹ 50 crore or more, except Joint Venture Companies and wholly owned subsidiary companies shall constitute an Audit Committee.

Audit noticed that out of 41 SPSEs, 26 SPSEs, as given in **Annexure-3.1**, having requirement of Independent Directors in their board were required to constitute Audit Committee. Audit observed that all SPSEs, except Rajasthan State Handloom Development Corporation Limited (RSHDCL) and Kota Smart City Limited (KSCL), have constituted Audit Committee as on 31 March 2021.

Composition of the Audit Committee

3.15 Section of 177(2) of the Act, 2013 provides that the Audit Committee shall consist of a minimum of three directors, with independent directors forming a majority. Further, the majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand the financial statement.

Audit observed that two SPSEs (RSHDCL and KSCL) did not constitute the Audit Committee. Out of remaining 24 SPSEs, wherein Audit Committee was constituted, all SPSEs except one SPSE *i.e.* Rajasthan State Industrial Development and Investment Corporation Limited, fulfilled the criteria of having at least three directors in their Audit Committee during FY 2020-21.

Further, the majority of Independent Directors was found in five⁶⁰ SPSEs only whereas in remaining 19 SPSEs (including Rajasthan State Seeds Corporation Limited having five directors in its Audit Committee but not having any independent director during 2020-21), the Independent Directors were not found in majority.

Terms of reference for Audit Committee

3.16 Section 177(4) of the Act, 2013 provides that every Audit Committee shall act in accordance with the terms of reference (ToR) specified in writing by the Board.

Audit noticed that out of 24 SPSEs (excluding RSHDCL & KSCL) which have constituted Audit Committee, the ToR of only 14 SPSEs, as shown in **Table 3.10**, was found approved by their respective Boards.

Table 3.10: SPSEs where ToR of Audit Committee approved

Sl. No.	Name of SPSE
1.	Ajmer Vidyut Vitran Nigam Limited
2.	Jodhpur Vidyut Vitran Nigam Limited
3.	Jaipur Metro Rail Corporation Limited
4.	Jaipur Vidyut Vitran Nigam Limited
5.	Rajasthan State Industrial Development and Investment Corporation Limited
6.	Rajasthan Medical Services Corporation Limited
7.	Rajasthan Rajya Vidyut Utpadan Nigam Limited
8.	Rajasthan Small Industries Corporation Limited
9.	Rajasthan State Power Finance & Financial Services Corporation Limited
10.	Rajasthan State Seeds Corporation Limited
11.	Rajasthan Urja Vikas Nigam Limited
12.	RajComp Info Services Limited
13.	Rajasthan Renewable Energy Corporation Limited
14.	Rajasthan Rajya Vidyut Prasaran Nigam Limited

Source: Compiled on the basis of information provided by SPSEs

A review of ToR disclosed that all these SPSEs (except SPSEs at Sl. No. 8 and 10) included all points as specified in Section 177(4).

SPSEs wherein ToR of Audit Committee was not approved by their respective boards are given in **Table 3.11**.

Table 3.11: SPSEs where ToR of Audit Committee not approved

S. No.	Name of SPSE
1	Rajasthan State Beverage Corporation Limited
2	Rajasthan State Ganganagar Sugar Mills Limited
3	Rajasthan Tourism Development Corporation Limited
4	Rajasthan State Food and Civil Supplies Corporation Limited
5	Rajasthan Ex-Servicemen Corporation Limited
6	Rajasthan State Mines & Minerals Limited
7	Rajasthan State Road Development & Construction Corporation Limited

60 Rajasthan State Beverage Corporation Limited, Rajasthan State Ganganagar Sugar Mills Limited, Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited, RajComp Info Services Limited and Rajasthan State Mines & Minerals Limited

8	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited
9	Jaipur Smart City Limited
10	Udaipur Smart City Limited

Source: Compiled on the basis of information provided by SPSEs

Review of functioning of Audit Committee

3.17 The terms of reference under Section 177(4) of the Act, 2013 *inter alia* includes (i) review and monitor the auditor's independence and performance and effectiveness of audit process; (ii) examination of the financial statement and the auditors' report thereon; (iii) evaluation of internal financial controls and risk management systems. Further, Section of 177(5) of the Act, 2013 provides that the Audit Committee may call for the comments of the auditors about internal control systems, scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of company.

The details of Audit Committee meetings held by SPSEs are given in **Annexure-3.1**. One SPSE i.e. Rajasthan State Mines & Minerals Limited did not hold any Audit Committee meeting in FY 2020-21. To assess whether the constituted Audit Committees acted in accordance with the approved ToR, an analysis of minutes of the meetings of the Audit Committees held during 2020-21 was done. Audit analysis revealed that the Audit Committees of only five⁶¹ SPSEs evaluated the internal controls mechanism existing in the SPSE whereas Audit Committees of none of the SPSEs reviewed and monitored the auditor's independence and performance.

Nomination and Remuneration Committee

3.18 As per Section 178(1) of the Act, 2013 and Rule 6 of the Companies (Meetings of Board and its powers) Rules, 2014, the BoD of every listed public company and all public companies with a paid up capital of ₹ 10 crore or more; or having turnover of ₹ 100 crore or more; or having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding ₹ 50 crore or more, shall constitute a Nomination and Remuneration Committee (NRC).

Audit noticed that 26 SPSEs, as shown in **Annexure-3.1**, were required to constitute the NRC. However, the following 10 SPSEs did not constitute the NRC as on 31 March 2021:

Table 3.12: SPSEs which did not constitute NRC

Sl. No.	Name of the SPSE
1.	Rajasthan State Handloom Development Corporation Limited
2.	Rajasthan Tourism Development Corporation Limited
3.	Rajasthan Small Industries Corporation Limited
4.	Rajasthan State Mines & Minerals Limited
5.	RajComp Info Services Limited

61 Rajasthan Renewable Energy Corporation Limited, Jaipur Metro Rail Corporation Limited, Jaipur Smart City Limited, Rajasthan State Power Finance and Financial Services Corporation Limited, Rajasthan Urban Drinking Water sewerage & Infrastructure Corporation Limited

6.	Kota Smart City Limited
7.	Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited
8.	Rajasthan Rajya Vidyut Utpadan Nigam Limited
9.	Rajasthan State Industrial Development and Investment Corporation Limited
10	Rajasthan State Road Development and Construction Corporation Limited

Source: Compiled on the basis of information provided by SPSE

The Act, 2013 further provides that the NRC should consist of three or more non-executive directors out of which not less than one-half shall be independent directors. The chairperson of the Company (whether executive or non-executive) may be appointed as a member of the NRC but shall not chair such Committee.

An analysis of the NRC constituted in 16 SPSEs disclosed that the composition of the NRC (except RSBCL, RSGSML & REXCO) was not as per the provisions of the Act, 2013 as summarized in the **Table 3.13**.

Table 3.13 Composition of NRC in SPSEs as on 31 March 2021

Sl. No.	Name of the SPSE	Composition and remarks
1.	Jodhpur Vidyut Vitran Nigam Limited	Three non-executive members but no Independent Director
2.	Rajasthan Rajya Vidyut Prasaran Nigam Limited	Three non-executive members but no Independent Director
3.	Ajmer Vidyut Vitran Nigam Limited	Three non-executive members but no Independent Director
4.	Jaipur Metro Rail Corporation Limited	Three non-executive members including one Independent Director
5.	Udaipur Smart City Limited	Three executive and one Independent Director, instead of prescribed number of non-executive members. Independent Director did not have majority.
6.	Rajasthan Medical Services Corporation Limited	Three non-executive members but no Independent Director
7.	Rajasthan State Beverage Corporation Limited	Three non-executive members including two Independent Director
8.	Rajasthan State Power Finance & Financial Services Corporation Limited	Three non-executive members but no Independent Director
9.	Rajasthan State Ganganagar Sugar Mills Limited	Three non-executive members including two Independent Director.
10.	Rajasthan Ex-Servicemen Corporation Limited	Four non-executive members including two Independent Director.
11.	Rajasthan State Seeds Corporation Limited	Four non-executive directors and one executive director. No Independent Director.
12.	Rajasthan State Food & Civil Supplies Corporation Limited	Three non-executive members and one executive member. No Independent Director.
13.	Jaipur Smart City Limited	Three non-executive members but no Independent Director
14.	Rajasthan Urja Vikas Nigam Limited	Three non-executive members but no Independent Director
15.	Jaipur Vidyut Vitran Nigam	Three non-executive members but no

	Limited	Independent Director
16.	Rajasthan Renewable Energy Corporation Limited	Three non-executive members but no Independent Director

Source: Compiled on the basis of information provided by SPSEs

Audit observed that the SPSEs did not comply with the provisions of the Companies Act 2013 while constituting the NRC during FY 2020-21.

Stakeholders Relationship Committee

3.19 Section 178 (5) of the Act, 2013 provides that the Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee (SRC) consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board. Further, Section 178(6) of the Act, 2013 provides that the SRC shall consider and resolve the grievances of security holders of the company.

Audit observed that only one SPSE *i.e.* Rajasthan State Seeds Corporation Limited, having 4342 members, constituted/re-constituted (September 2015/ March 2021) the SRC, however, no meeting of SRC was held in 2020-21 as no grievance was received during the period.

Whistle Blower Mechanism (WBM)

3.20 Section 177(9) of the Companies Act, 2013 read with Rule 7 of the Companies (Meetings of Board and its power) rules provides that every listed company; the Companies which accept deposits from the public; the Companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees shall establish a Vigil Mechanism for their directors and employees to report genuine concerns and grievances about unethical behavior, suspected fraud or violation of Company's code of conduct or ethics policy . It provides for adequate safeguards against victimization of persons who use such mechanism.

Audit noticed that 11⁶² SPSEs, which have borrowed ₹ 50 crore or more, were required to establish Whistle Blower Mechanism (WBM) during FY 2020-21. However, two SPSEs, as given in the **Table 3.14**, did not have whistle blower mechanism.

Table 3.14: Implementation of Whistle Blower Mechanism

Sl. No.	Name of SPSE
1.	Rajasthan State Seeds Corporation Limited
2.	Giral Lignite Power Limited

Source: Compiled on the basis of information provided by SPSE

62 As mentioned at Sl. No. 1 to 5, 15 to 17, 22, 37 and 40 of Annexure 3.1

Internal Audit Framework

Role of Internal audit

3.21 The Institute of Internal Auditors (IIA) defines Internal Auditing as: “An independent, objective assurance and consulting activity designed to add value and improve an organization’s operations. The internal audit activity helps an organization to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.” Accordingly, the role of internal audit is to provide independent assurance that an organisation’s risk management, governance and internal control processes are operating effectively.

The framework governing internal audits issued by ICAI defines internal audit as an independent assurance on the effectiveness of internal controls and risk management processes to enhance governance and achieve organisational objectives.

Legal Framework

3.22 Section 138(1) of the Act, 2013 read with Rule 13 of Companies (Accounts) Rules, 2014, provides that (a) every listed company; (b) every unlisted public company having paid up share capital of fifty crore rupees or more; or turnover of two hundred crore rupees or more during the preceding financial year; or outstanding loans or borrowings from banks or public financial institutions exceeding one hundred crore rupees or more; or outstanding deposits of twenty-five crore rupees or more at any point of time during the preceding financial year shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

Audit noticed that 24 SPSEs, as given in **Annexure-3.2**, were required to appoint internal auditor. Of these 24 SPSEs, two⁶³ SPSEs did not appoint internal auditor for FY 2020-21. In the remaining 22 SPSEs, where Internal Auditors were appointed, internal audit in 15 SPSEs was conducted by the Chartered Accountant firms whereas in remaining seven SPSEs it was conducted by other internal auditors. The details of internal audit conducted by other internal auditors is given in **Table 3.15**.

Table 3.15: SPSEs wherein internal audit conducted by other Internal Auditors

S. No.	Name of the SPSE	Internal auditor
1.	Rajasthan Rajya Vidyut Prasaran Nigam Limited	Out of 58 units, expenditure audit of 17 units was conducted by the Company’s employees.
2.	Ajmer Vidyut Vitran Nigam Limited	Internal Audit wing of SPSE
3.	Giral Lignite Power Limited	Internal Audit wing of SPSE

⁶³ Rajasthan Urban Drinking Water Sewerage & Infrastructure Corporation Limited and Rajasthan State Food & Civil Supplies Corporation Limited

4.	Jodhpur Vidyut Vitran Nigam Limited	Internal Audit wing of SPSE
5.	Jaipur Vidyut Vitran Nigam Limited	Internal Audit wing of SPSE
6.	Rajasthan Rajya Vidyut Utpadan Nigam Limited	Internal Audit wing of SPSE
7.	Jaipur Smart City Limited	Institute of Public Auditors of India

Source: Compiled on the basis of information provided by SPSEs

Frequency and Reporting of Internal Audit

3.23 Section 138 (2) of the Act, 2013 provides that the Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

Audit, however, noticed that the rules have not been prescribed so far (March 2021) and hence the internal audit in SPSEs was conducted on quarterly, half-yearly and annual basis. Further, only six SPSEs reported the internal audit findings to the Board whereas the remaining SPSEs reported the internal audit reports to the Audit Committee, Director Finance *etc.* as given in **Annexure-3.2**.

Conclusion

Out of 26 SPSEs, where Independent Directors were to be appointed, 18 SPSEs did not appoint Independent Directors whereas in two SPSEs, required number of Independent Directors were not appointed. Further, one SPSE did not have Woman Director throughout FY 2020-21 and two SPSEs did not appoint new Women Director after expiry of tenure of previous Women Directors. Two SPSEs appointed Independent Directors during 2020-21, however, appointment letters were not issued by both the SPSEs and one SPSE appointed Independent Director without obtaining approval in general meeting. 100 *per cent* presence of Independent directors was only in 63 *per cent* of Board meetings. Separate meeting of Independent Directors was not conducted in five SPSEs wherein more than one Independent Directors were on Board. Four SPSEs did not have whole time Key Managerial Personnel. The intervening period of conducting two consecutive meetings of the Board in 15 SPSEs ranged between 127 days and 385 days. Audit Committee did not consist of two-third independent directors in 19 SPSEs. Further, Audit Committee of 19 SPSEs did not evaluate internal control management system. Nomination and Remuneration Committee was not constituted in 10 SPSEs; whereas in 13 SPSEs composition of NRC was not as per provision of the Act. No whistle blower mechanism existed in two SPSEs. And also, two SPSEs did not appoint Internal Auditors.

Recommendation

Government of Rajasthan may ensure compliance to the provisions of Companies Act, 2013 so as to achieve the objectives of Corporate Governance in SPSEs.