

## CHAPTER-III

### PERFORMANCE REVIEWS

*This Chapter contains three performance reviews on Implementation of Consumer Protection Act and Rules thereof, Sardar Sarovar Narmada Canal based Bulk Water Transmission Project and Gujarat Maritime Board.*

### FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT

#### 3.1 Implementation of Consumer Protection Act and Rules thereof

##### *Highlights*

*Implementation of Consumer Protection Act, 1986 intended to provide easy, simple, speedy and inexpensive redressal to the consumers' grievances was not satisfactory. Government had not declared any policy outlining various programme objectives intended to achieve through specific schemes. There was delay of two to 18 years in setting up of Consumer Courts. Recruitment Rules for staff in the consumer courts were not framed. Various schemes intended to create awareness among the consumers were not successful. District Consumer Information Centres were established in only eight districts. Some of the significant findings of the review are given below:*

Government had not created separate department to ensure that consumer protection programmes got focussed attention for protecting and promoting the welfare of the consumers.

(Paragraph 3.1.5)

There was delay of two to six years in establishing the District Forums. District Forums were not established in newly created six districts in November 1999. In Dangs district, District Forum had not been established even after 18 years of notification of the Consumer Protection Act.

(Paragraph 3.1.6)

Adequate infrastructure facilities, such as buildings, drinking water, furniture, etc. were not available with the State Commission and in test checked District Forums.

(Paragraphs 3.1.9 and 3.1.10)

**During 2000-05, against available fund of Rs.1.23 crore, Rs.30.17 lakh only were disbursed by the Director, Consumer Awareness Protection Agency of Gujarat amongst 30 Consumer Protection Mandlis. Rupees 92.82 lakh (including interest) were invested in fixed deposits for one/two years with the Gujarat State Financial Services Limited during April 2003 to May 2005.**

**(Paragraph 3.1.13)**

**District Consumer Information Centres were set up only in eight out of 25 districts during 2001-05 and that too after delays ranging from one to four years.**

**(Paragraph 3.1.14)**

**The posts of President were vacant in three District Forums since their creation and that of Member in six District Forums.**

**(Paragraph 3.1.18)**

### ***3.1.1 Introduction***

To provide better protection for the interest of the consumers by simple, speedy and inexpensive redressal to the consumers' grievances in relation to goods purchased and services availed, the Government of India (GOI) has enacted the Consumer Protection Act, 1986 (CP Act). The CP Act came into effect from 1987<sup>1</sup> after the GOI framed the Consumer Protection Rules, 1987. In pursuance of powers vested under the CP Act, the State Government notified (February 1988) Gujarat Consumers Protection Rules, 1988. The CP Act provides for establishment of separate three-tier quasi-judicial consumer disputes redressal machinery at National, State and District levels called the Consumer Dispute Redressal Agencies. They are commonly known as Consumer Courts and at the district levels as District Forums (DF). The responsibility of setting up of the State Commissions and the DFs and to ensure their effective functioning rests with the State Government. These agencies have been empowered to give relief to the consumers by awarding compensation. The CP Act was amended in 2002 to discourage adjournments, allow senior most member to preside during absence or vacancy of President, empowering courts to punish those disobeying orders of the courts to facilitate quicker disposal of the complaints.

### ***3.1.2 Organisational set up***

The Principal Secretary, Food, Civil Supplies and Consumer Affairs Department is responsible for implementation of Act and Rules thereof at the State level. The Director of Consumer Affairs cum Controller of Legal Metrology, Ahmedabad (DCA), assisted by two Deputy Controllers and 17 Assistant Controllers implements the consumer awareness programmes. At district level, the Additional Collectors have been designated as Nodal

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<sup>1</sup> Chapter I, II and IV of the CP Act came into force with effect from 15 April 1987 and Chapter III from 1 July 1987

Officers for consumer activities and the District Civil Supplies Officers perform the duty of the District Consumer Protection Officers. The President of the State Commission i.e. Consumer Dispute Redressal Commission, Ahmedabad (CDRC) is the head of department of the Consumer Forums and is assisted by a Registrar and Presidents of 19 DFs in discharging his functions.

### 3.1.3 Audit objectives

The audit review on the implementation of the CP Act and the Rules relating to Consumer Protection was conducted to assess whether:

- the adjudication mechanism had been created as prescribed;
- any documented policy for achieving the intended objectives and strengthening of infrastructure exist;
- rules governing issues of implementation of the Act had been formulated;
- the infrastructure created for disposal of the complaints met the expectation of the consumers and fulfilled the purpose of the enactment of the Act;
- Consumer Protection Councils had been notified and were functioning;
- a uniform plan for staffing and operation had been prescribed and being adhered to in staffing and operation of the DFs and the State Commission;
- various steps and initiatives including schemes by the GOI/State Government had succeeded in creating awareness amongst the populace;
- adequate system of monitoring of the grievances of consumers had been created with a view to ensuring their timely disposal.

### 3.1.4 Audit coverage

Records relating to implementation of the CP Act and Rules thereof in relation to the consumer protection maintained at the Food, Civil Supplies and Consumer Affairs Department, DCA, Consumer Affairs Protection Agency of Gujarat (CAPAG), CDRC, six Forums<sup>2</sup> out of 19 DFs and six Consumer Protection Mandlis<sup>3</sup> (CPM) covering the period 2000-05 were reviewed during May-August 2005. ORG-MARG, an independent agency, was also engaged for a nation wide survey and study on the subject and to assess the level of awareness and impact of the CP Act on consumers, manufacturers and service providers, Non Governmental Organisations (NGOs) and appropriate laboratories. The engagement of ORG-MARG for survey was intimated to the State Government in June 2005. The findings are incorporated in this review at appropriate places. Executive summary of the findings is given as Annexure to this review.

<sup>2</sup> Ahmedabad (City), Ahmedabad (Rural), Mehsana, Nadiad, Rajkot and Surat

<sup>3</sup> Consumer Protection Mandlis are NGOs engaged in consumer protection activities. They are: (1) Consumer Education and Research Society, Ahmedabad; (2) Bhavnagar Grahak Suraksha Mandal, Bhavnagar; (3) Consumer Protection Association, Himatnagar; (4) Rajkot Sahar / Zilla Grahak Suraksha Mandal, Rajkot; (5) South Gujarat Consumer Protection Education and Research Centre, Surat and (6) Jagrut Grahak, Vadodara

## **Audit Findings**

### **Creation of Adjudication Mechanism**

#### **3.1.5 Non-creation of Consumer Affairs Department**

Government of India had directed (November 1998) all the State Governments to create separate nodal Department for consumer affairs responsible for promoting consumer awareness. However, after lapse of 11 months, the Government created (October 1999) a Directorate of Consumer Affairs at Gandhinagar without any field office at district/taluka level. The Directorate was subsequently merged (July 2004) with the Controller of Legal Metrology, Ahmedabad so as to monitor the consumer activities at district/taluka level by engaging the administration of Legal Metrology in addition to their regular responsibilities. Resultantly focussed attention for consumer protection and awareness programmes for the welfare of consumers was not ensured.

#### **3.1.6 Delay in establishment of the State Commission and DFs**

#### **Delay in establishing the District Forums**

The CP Act envisages a three tier grievance redressal system of National Commission, State Commission and DFs. State Government was to establish the State Commission and one or more DF in each district. In the DFs, claims up to Rs.20 lakh are dealt with whereas the State Commission deals with claims above Rs.20 lakh and upto Rupees one crore and appeal cases from lower courts. Claims above Rupees one crore and appeal cases from the State Commission are decided in the National Commission. However, the State Commission and 19 DFs<sup>4</sup> in 18 districts were established between March 1989 and August 1990 after lapse of one year and eight months to three years and one month from the date of notification (July 1987) of the CP Act. Of these, 18 DFs<sup>5</sup> functioned with only one active member for periods ranging from nine to 12 years till 1999-2001. DFs were not established in Dangs district even after 18 years of notification of the CP Act and in six new districts<sup>6</sup> created in November 1999. Registrar (CDRC) stated (May 2005) that three DFs were being established in three districts<sup>7</sup>.

#### **3.1.7 Delay in creation of Circuit Benches**

To cover the vast geographical territory and to reach out to the consumers, mechanism of Circuit Bench, where the State Commission performs its functions at different places, was introduced (2002) vide Sections 17B and 22(C) of the CP Act. However, orders for constituting three Circuit Benches were issued by the Government only in March 2005, i.e. after lapse of three years. Thus, despite availability of enabling provisions in the CP Act, consumers were denied the benefit of Circuit Benches for three years.

How the consumers perceive the Governments' inaction to increase the capacity of the State Commission and the DFs to deal with more cases came

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<sup>4</sup> Including one additional DF in Ahmedabad District (Rural)

<sup>5</sup> Ahmedabad (Rural), Amreli, Banaskantha, Bharuch, Bhavnagar, Gandhinagar, Godhra, Himatnagar, Mehsana, Nadiad, Jamnagar, Junagadh, Kutch-Bhuj, Rajkot, Surendranagar, Surat, Vadodara and Valsad

<sup>6</sup> Anand, Dahod, Narmada, Navsari, Patan and Porbandar

<sup>7</sup> Anand, Navsari and Patan

out in the survey conducted by ORG-MARG. They reported that almost 78 *per cent* of the consumers responded either that the Government was not doing enough to safeguard consumer rights or that they were not aware of such efforts by the Government.

## **Formulation of Policy and Notification of Rules**

### **3.1.8 Non declaration of policy**

**Government had not declared any policy outlining objectives intended to achieve through specific schemes**

Government had not declared any policy outlining various programme objectives intended to be achieved through specific schemes for creation and strengthening of infrastructure of the adjudication mechanism, greater involvement of the State/District Administration/NGOs and for empowerment of the consumers.

**Recruitment Rules had not been framed**

Rules governing issues of implementation of the CP Act were notified in February 1988. These Rules contained various provisions governing the service conditions of president/members of the State Commission and DFs but rules governing the staff including their recruitment rules were not framed as of March 2005.

In absence of a documented policy the objectives of the CP Act that were set out to achieve remained unfulfilled.

Results of ORG-MARG survey revealed that 36 *per cent* of the complainants filed their complaints using stamp papers on the advice of Advocates/agents although the CP Act provides for a simple registration process with an application filed on plain paper. Further, 31 *per cent* of complainants who registered their complaints prior to March 2003 had deposited court fee notwithstanding the fact that the court fee was introduced in March 2003. Such wrong procedure and incorrect ideas of the consumers can be attributed to the failure to prescribe and disseminate clear rules and guidelines for the public.

## **Infrastructure**

### **3.1.9 Consumer Courts accommodated in rented buildings**

According to the CP Act, the responsibility of setting up of the State Commission and DFs rested with the State Government and as such the Government was to provide adequate infrastructure and facilities for the functioning of CDRC and DFs. However, buildings for the CDRC and two DFs<sup>8</sup> were not constructed and were being run in hired buildings. Government spent Rs.1.12 crore on rent of these buildings from March 1990 to March 2005. Absence of a proper building also makes it more difficult for consumers in general to become aware of the existence and the location of the redressal agency.

<sup>8</sup> Jamnagar and Junagadh

Results of ORG-MARG survey revealed that only six *per cent* of the consumers were aware of the existence of any redressal agency and even out of those who were aware of the CP Act, 50 *per cent* were not aware of the location of the consumer forum in their respective districts.

### **3.1.10 Inadequacy of infrastructure in CDRC and DFs**

#### **Lack of amenities in CDRC and DFs**

The CDRC is situated in residential area far from Railway/Bus stations. Adequate facilities *viz.* drinking water, furniture, etc. were not available causing hardship to the consumers. Registrar (CDRC) stated (August 2005) that these problems would be taken care of as soon as the Government accommodation earmarked for CDRC is allotted.

Inadequacy of infrastructure was also noticed in five<sup>9</sup> out of six selected forums. Inadequacy of furniture in the waiting lounge for the complainants was noticed in Ahmedabad (City), Mehsana and Nadiad Forums and computers were not available in Ahmedabad (Rural) and Nadiad Forums. Drinking water facilities were not available in Nadiad and Surat districts and record rooms were not available in Mehsana and Nadiad districts.

Thus, the Government failed to ensure that adequate facilities were available at CDRC and DFs as required by the CP Act which hampered efficient functioning of the DFs. The President of CDRC stated (August 2005) that the process of making available appropriate premises for CDRC/Forums was slow and lack of infrastructure adversely affected the functioning of the consumer courts.

## **Consumer Protection Councils**

### **3.1.11 Functioning of Consumer Protection Councils**

#### **Details of dates of setting up of CPC and dates of meetings were not available**

Under the provisions of Section 7(1) of the CP Act, the State Government was to establish State Consumer Protection Council (SCPC) with the objective to promote and protect the rights of the consumers as laid down in clauses (a) and (f) of Section 6 of the CP Act. Scrutiny revealed that Notifications for constitution of SCPC was issued in January 1988.

Similarly, according to Section 8A (1) of the CP Act as amended in 2002, District Consumer Protection Council (DCPC) was to be established for every district. However, notification for constitution of DCPC was issued in January 2004, after two years, empowering the Collectors of the respective districts to make appointment of Non-Government Members. However, the records relating to formulation SCPC and DCPC, dates of meetings, minutes of meetings/the records of business transactions and the recommendations made were not available with the Department.

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<sup>9</sup> Ahmedabad (City), Ahmedabad (Rural), Mehsana, Nadiad, and Surat

## Awareness and empowerment of Consumers

### 3.1.12 Consumer Welfare Fund

A Consumer Welfare Fund (CWF) was established (November 1992) by the GOI to which the amounts due for refund under Central Excise and Salt Act, 1944 which could not be refunded to the manufacturers were credited. In August 2004, the GOI instructed the State Government to establish a CWF for the State. However, the State Government had not established a CWF (March 2005). Resultantly adequate fund could not be made available to various activities for generation of awareness.

### 3.1.13 Functioning of NGOs

The DCA and CAPAG carried out various consumer awareness programmes like holding of exhibitions, seminars, distribution of pamphlets, etc. and recommending NGOs engaged in consumer protection activities for recognition and providing financial assistance to NGOs i.e. Consumer Protection Mandlis (CPM). A scheme for providing recognition and financial assistance to CPMs engaged in consumer protection activities was introduced by the Government in October 1972. The scheme was amended in March 1986 and again in June 2003 enhancing the ceiling of assistance to CPMs. Accordingly, CPMs established at Taluka, District and Municipal Corporation levels were entitled to assistance up to Rs.60,000, Rs.80,000 and Rs.1.00 lakh respectively. The State consists of 25 districts, 225 talukas, and six Municipal Corporations. As such at least 256 CPMs were to be recognized by the Government to cover all the geographical area. As against this, only 53 CPMs were recognized and of these 30 CPMs were assisted by the Government up to March 2005. Further, out of 30 CPMs assisted, 23 CPMs were at district level, of which eight were located in Ahmedabad district alone, and seven were at taluka level. Thus, even after 33 years of introduction of the scheme, the Government could not recognise and assist adequate CPMs to protect the interest of the consumers throughout the State and the funds available for this purpose were not utilised fully.

**Out of Rs.1.23 crore received during 2000-05, only Rs.0.30 crore were disbursed and Rs.0.93 crore were invested in fixed deposits**

Out of Rs.122.55 lakh received by the Director, CAPAG during 2000-05, only Rs.30.17 lakh were disbursed to 30 CPMs. The amount of assistance ranged from Rs.580 (one CPM) to Rupees one lakh (two CPMs). Director, CAPAG instead of returning the unutilized balance of Rs.92.82 lakh<sup>10</sup> to the Government, invested the same in fixed deposits for one/two years with the Gujarat State Financial Services Limited. (GSFS) during April 2003 to May 2005. Director stated (May 2005) that according to the directives (July 1995) of the Government, unutilised amount was to be parked with GSFS to earn interest. This indicated that the Government/Director has given priority to earning interest on unutilised fund rather than ensuring utilisation of the fund by evolving suitable programmes to strengthen the CPMs to make it effective in the field of consumer awareness. DCA attributed non-payment of grant to non-fulfillment of conditions viz. furnishing of audit reports and utilisation

<sup>10</sup> Including interest of Rs.44,000

certificates, etc. as provided in the Government Resolution of June 2002 and June 2003, by CPMs.

ORG-MARG survey also revealed that only 1.3 *per cent* of the consumers learnt about the CP Act through NGOs. Thus lack of activities had an adverse impact on the cause of consumer awareness through CPMs in the State.

### **3.1.14 District Consumer Information Centre**

District Consumer Information Centre (DCIC) was to function as information, resource and guidance centre with financial assistance from the National Consumer Welfare Fund, in each district through Panchayati Raj Institutions like, Zilla Parishads and NGOs. The scheme provided for financial assistance of Rs.5 lakh to be allotted in three installments, Rs.2.50 lakh in first year, Rs.1.75 lakh in second year and Rs.0.75 lakh in third year.

**DCICs were set up only in eight districts**

DCICs were to be set up in all districts of the State. However, in only eight<sup>11</sup> (32 *per cent*) out of 25 districts, NGOs were approved by the Government for setting up of DCIC during 2001-2005, after delays ranging from one (three DCICs) to four years (four DCICs). Thus, the intended benefit of the programme initiated for involvement of NGOs for strengthening of consumer groups and creation of awareness remained largely unaccomplished.

### **3.1.15 Non formulation of media policy**

The success of the consumer movement mainly depends upon the level of consumer awareness generated to educate the consumers about their rights and responsibilities. Government did not formulate any media policy, for dissemination of information pertaining to awareness about the CP Act, mechanism for filing of complaints and procedure of adjudication including location of DFs, State Commission, etc. through advertisement in electronic and print media.

Result of ORG-MARG survey revealed that 76 *per cent* of the consumers at large were not aware of the consumer rights and 84 *per cent* were unaware of the CP Act. The CP Act envisaged to benefit all the consumers in urban and rural areas, only 14 *per cent* of rural population was aware of the CP Act and only six *per cent* were aware of the existence of any redressal agency. Almost all complainants resided in urban areas and majority (99 *per cent*) were educated lot and earned monthly household income of Rs.9,021. This implied that facilities provided by redressal agencies were availed of mostly by the residents of urban areas.

**Despite implementation of various schemes the consumers in rural/urban areas were not fully aware of their rights and duties**

DCA admitted (June 2005) that despite implementation of various consumer awareness programmes *viz.* exhibitions, seminars, distribution of pamphlets, etc, the consumers in both rural and urban areas were not fully aware of their rights and duties; Traders/distributors were not following the rules relating to the consumer protection and were taking undue advantage of the negligence of the consumers by not issuing receipts/cash memos for the goods

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<sup>11</sup> Bhavnagar, Kachh-Bhuj, Patan, Panchmahal, Rajkot, Sabarkantha, Surat and Vadodara



purchased/services availed of by them and refusing to accept the goods returned.

### **Monitoring Mechanism**

**No mechanism was evolved to monitor the implementation of the schemes/programmes under the CP Act**

**3.1.16** Government had not evolved any mechanism to monitor the implementation of the schemes/programmes under the CP Act. In the absence of an efficient monitoring mechanism, the Government could not ensure that the implementation of the Act and Rules thereof was in consonance with the legislative intent.

### **3.1.17 Filing and Disposal of cases**

The CP Act provides that disposal of complaints should be made within three months wherein no laboratory checks were required and in cases where laboratory checks are required, disposal should be made within five months. Scrutiny revealed that as of March 2005, 24,427 cases were pending with CDRC and 19 DFs, age-wise break-up was as under:

**As of March 2005, 7,061 and 17,366 cases were pending with CDRC and 19 DFs respectively**

	<b>CDRC</b>	<b>DFs</b>	<b>Total</b>
Total cases admitted	21,281	95,302	1,16,583
Total cases outstanding	7,061	17,366	24,427
Cases outstanding upto six months	5,279	4,647	9,926
Cases outstanding for more than six months upto one year	79	4,260	4,339
Cases outstanding for more than one year upto three years	117	2,859	2,976
Cases outstanding for more than three years	1,586	5,600	7,186

As of March 2005, pendency of cases in the test checked DFs ranged between 160 (Ahmedabad (Rural)) and 2,590 (Ahmedabad (City)).

The Registrar (CDRC) attributed the pendency to (i) acute shortage of staff, (ii) vacancy of the posts of President in some DFs for long duration, (iii) vacancy of the post of members of DFs in absence of whom, cases could not be heard and (iv) absence of parties concerned.

### **3.1.18 Redressal of complaints**

In three<sup>12</sup> DFs, the posts of Presidents were vacant since the creation of these Forums and Presidents of adjoining districts were given charge for functioning. The posts of Member were vacant in six<sup>13</sup> DFs since inception of the forum. In three<sup>14</sup> DFs, women members were not appointed as required under the CP Act. Thus, these DFs were only partially functional. This further aggravated the pendency complaints. Registrar (CDRC) stated (August 2005) that the delay in appointment of Presidents and Members was due to non-receipt of approval from the Government. Prolonging of the cases works against the basic objectives of the CP Act and increases the cost of litigation which also is against the basic tenet of the CP Act.

<sup>12</sup> Jamnagar, Junagadh and Valsad

<sup>13</sup> Ahmedabad(Rural), Amreli, Banaskantha, Bharuch, Mehsana and Surendranagar

<sup>14</sup> Ahmedabad City, Mehsana and Amreli

An analysis of the time taken at various stages of the cases during the ORG-MARG survey showed that on an average 2.3 days were spent for registering a case and about 44 days were taken for serving the notice, the first hearing was held after 27 days after serving the notice. On an average 8.9 hearings were required to resolve the case. Around 66 *per cent* of cases were still unresolved even after almost 6.1 hearings and most of these cases were against insurance (35 *per cent*). Further, analysis of data revealed that to resolve a case on an average 14 months were spent. Results of survey further revealed that on an average, the complainant had to spend Rs.3,300 to resolve the case. For the complainants who hired advocates, the mean of lawyers' fee was Rs.3,966. The survey further revealed that majority of the complaints were against services (91 *per cent*) such as insurance services (30 *per cent*), other financial services (22 *per cent*) and banking (19 *per cent*). This may imply that competition in the product market takes care of the consumer problems but in case of monopolistic situation the consumer has to approach consumer redressal agencies to seek relief against the Government owned service providers, agencies, public utility concerns, boards and organisations.

### ***3.1.19 Computer Networking***

Consumer Courts were to be interlinked by computer network to monitor and access various kinds of data and to ensure effective and transparent functioning in the interest of the consumers. However, computerisation process had not commenced (March 2005). Registrar (CDRC) stated (August 2005) that the matter was under correspondence with the National Informatics Centre, New Delhi.

### ***3.1.20 Conclusion***

Government had not developed a system to ensure that the consumer protection programmes get focussed attention for protecting and promoting the welfare of the consumers. District Forums were created only in 18 out of 25 districts and there was delay ranging from two to 18 years in setting up of these DFs. As of March 2005, 24,427 cases were pending with CDRC and 19 DFs. Computerisation/networking programme had not commenced. Government had not declared any policy outlining various programme objectives intended to be achieved through specific schemes for generation of consumer awareness. District Consumer Information Centres were set up only in eight out of 25 districts.

### ***3.1.21 Recommendations***

For effective implementation of the CP Act and Rules thereof in relation to consumer protection, the Government should

- evolve a suitable mechanism for exclusively promoting consumer awareness and empowerment of consumers and expeditiously to take up various schemes for this purpose;
- vacancies in the District Forums should be filled up expeditiously;

- Adequate number of District Forums and Circuit Benches should be established urgently;
- Adequate infrastructure for the consumer courts should be provided to make it effective;
- To promote awareness District Consumer Information Centres should be set up urgently in the districts where it is not established yet.

**Annexure  
(Reference Paragraph 3.1.4)**

**EXECUTIVE SUMMARY**

In order to gain an understanding of the functional status of the Consumer Protection Act Consumers at large, Complainants, manufacturers /service providers, NGOs and appropriate laboratories were covered under the survey. In state of Gujarat a total of 1952 consumers spread across urban and rural areas were interviewed after making contacts with 2453 eligible respondents. Besides 70 complainants, 10 manufactures/ service providers, 3 NGOs and 2 laboratories were interviewed. The survey was conducted during second week of July to fourth week of August 2005.

**FINDINGS OF THE SURVEY**

Overall 54 per cent of the Consumers at large gave importance to knowing the Consumer Protection Act (CPA) but 76 per cent not aware of consumer rights an 84 per cent still unaware of Consumer Protection Act.

The act is envisaged to benefit all the consumers in urban and rural areas but only 14 per cent of the rural population has heard about it.

In response to, whether the government is making any effort in safe guarding the consumer rights, only 22 per cent replied positively remaining either carrying negative or have no idea of the same.

Formal source of awareness - electronic and print media stand at 73 and 44 per cent respectively and only 1.3 per cent learnt about CPA from the NGOs.

Nearly half of the aware Consumers at large (50 per cent) have come to know about the act only in the last 4 years where as the act has been in existence for past 19 years.

Overall, only 6 per cent reported to be aware of the existence of any redressal agency. Awareness on this among those aware of rights and CPA was obvious higher.

Around 50 per cent aware of CPA did not know the location of the redressal agency in their respective district.

Almost all complainants resided in urban areas and majority (99 per cent) were the educated lot and earned a monthly household income of Rs.9021/-. This implied that facilities provided by redressal agencies were availed mostly by residents of urban areas and that too by the middle /upper middle strata of the community.

Majority of the complaints were against services (91 per cent) such as Insurance services (30 per cent), other financial services (22 per cent) and banking (19 per cent). This may imply that competition in the product

market takes care of the consumer problems but in case of monopolistic situation the consumer has to approach consumer redressal agencies.

Like consumer at large, nearly two third of complainants (72 *per cent*) came to know about the redressal agencies through friends / neighbors. Electronic media (23 *per cent*) and print media (56 *per cent*) were the other sources of awareness regarding redressal agencies. NGOs not a popular source of awareness (2.9 *per cent* overall).

Nearly 36 *per cent* of the complainants used stamp paper to file the case and in nearly 48 *per cent* of cases the lawyers /agents advised them to do so.

Around 31 *per cent* of complainants who registered their complaints prior to March 2003 reported to have deposited court fee notwithstanding the fact that the court fee was introduced only in March 2003.

An analysis of time taken at various stages of the cases show that on an average 2.3 days were spent for registering a case and about 44 days were taken for serving the notice, first hearing was held after 27 days after serving the notice.

On an average 8.9 hearings were required to resolve the case. Around 66 *per cent* cases were still unresolved even after almost 6.1 hearings and most of these cases were against insurance (35 *per cent*).

To resolve a case on an average 14 months were spent. In case of unresolved cases the same were pending for past 25 average months.

There were 7 cases where the decree was passed and compensation was yet to be received. On an average the compensation was due for 10.3 months. For those who received compensation the same was received within an average period of 1.5 months.

On an average the complainant had to spend Rs.3300/- to resolve the case. For complainants who hired advocates, the mean of lawyers fee was Rs.3966/-.

The manufacturers and service providers were well aware of CPA and most of them had formal mechanism to deal with cases in consumer court on the contrary not many Consumers at large were aware of Act or the redressal system.

The NGOs were involved in spate of activities such as consumer education, advocacy, organizing seminars /camps etc. They are also facilitating the consumers in filing cases and act as agents, thus helping them in complaint redressal.

Overall all the stakeholders and the complainants perceive the redressal as simple but not very speedy.

**NARMADA, WATER RESOURCES, WATER SUPPLY AND  
KALPSAR DEPARTMENT**

**3.2 Sardar Sarovar Narmada Canal Based Bulk Water  
Transmission Project**

*Highlights*

*Sardar Sarovar Narmada Canal Based Bulk Water Transmission Project aimed at providing assured safe drinking water to scarcity-hit Saurashtra and Kachchh regions. The master plan envisaged distribution of water through regional and group water supply schemes. The Project commenced in 1999-2000 was scheduled to be completed by 2002, but, was lagging behind due to defective planning and lack of co-ordination among different agencies. Water was being supplied only to 31 per cent of the projected villages and large number of villages and towns had to rely on local sources/water tankers. Some of the significant points noticed in audit are as follows:*

**Obtaining loan from commercial bank instead of Housing and Urban Development Corporation proved costlier by Rs.17.37 crore.**

**(Paragraph 3.2.7.1)**

**Only 29 per cent of installed capacity of water was used and only 415 of 1,342 targeted villages/towns were covered (31 per cent).**

**(Paragraph 3.2.8.3)**

**Non-adoption of standard bidding documents resulted in termination of contract with a cost overrun of Rs.125 crore and delay in execution of works in Jamnagar district.**

**(Paragraph 3.2.9.1)**

**Improper clause in the contract led to acceptance of surplus stores of Rs.48 lakh and avoidable payment of Rs.5.46 crore on awarding of works on turnkey basis.**

**(Paragraphs 3.2.9.2 and 3.2.9.3)**

**Failure to verify credential of the bank guarantee before its acceptance resulted in loss of Rs.1.04 crore.**

**(Paragraph 3.2.9.4)**

**Irregular payment of Rs.2.11 crore was made to a contractor on excise duty and transportation of steel plates.**

**(Paragraph 3.2.10.4)**

### **3.2.1 Introduction**

Gujarat State has a long history of droughts and the regions of Saurashtra, Kachchh, North Gujarat and Panchmahals were susceptible to drought and water scarcity and according to the Government estimates (2000-01) around 9,500 villages, four cities and 79 towns faced acute water shortage for basic human needs in these drought susceptible regions of the State.

To provide safe drinking water to scarcity hit regions, Narmada Tribunal, in its award allocated 1.06 Million Acre Feet (maf) (3,571 million litres a day (mld)) water from the Sardar Sarovar Project (SSP) for domestic and industrial use; of which 0.86 maf (2,921 mld) was reserved for drinking water needs of 8,215 villages and 135 urban centers. Government, therefore, conceived (1999-2000) an ambitious drinking water supply master plan 'Sardar Sarovar Narmada Canal Based Bulk Water Transmission Project' (Project) with Sardar Sarovar Narmada Canal as the source of water. The execution of work under the Project commenced during 1999-2000 and was scheduled to be completed by 2002.

### **3.2.2 Project objectives**

The Project aims at supplying 3,571 mld water for domestic and industrial use for Saurashtra, Kachchh, North Gujarat and Panchmahals covering projected population of 290 lakh by 2021 (in 8,215 villages and 135 urban centers). The Project envisages transmission of bulk water through pipelines and its distribution in the Project areas.

### **3.2.3 Organisational set up**

Secretary, Water Supply in Narmada Water Resources, Water Supply, and Kalpsar Department is responsible for overall implementation of the Project. While Gujarat Water Infrastructure Company Limited (GWIL) formulated the Project based on Malia branch canal, Gujarat Water Supply and Sewerage Board (GWSSB) and GWIL were jointly responsible for execution of the Project. Out of 13 sub projects selected for review five (NC-8, NC-10, NC-11, NC-18 and NC-19) were being executed by GWIL and the remaining eight by the divisions<sup>15</sup> of GWSSB.

### **3.2.4 Audit objectives**

Audit was conducted to assess whether

- The financial management of the Project was done with a view to ensure economy in financing of the cost,
- the performance was consistent with the target projected to be achieved in terms of supply of adequate quantity of water to villages/urban centres,

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<sup>15</sup> (1) PH works Division-I and II, Rajkot; (2) PH works Division I and II, Morbi; (3) PH works Division I and II, Anjar; (4) PH works Division, Gandhidham and (5) PH works Division, Mundra

- controlling and the executing agencies ensured efficiency and economy in implementation of the Project

### **3.2.5 Audit criteria**

The audit criteria adopted for ensuring the audit objectives were:

- Norms and targets fixed for supply of water to villages/urban centres
- Terms and conditions in the contracts and agreements entered for consultancy services and with various contractors for execution of the works
- Agreement entered with various financial institutions and banks for financing of the Project
- Detailed Project Report (DPR) prescribing various components of works to be executed in the sub projects

### **3.2.6 Audit coverage/Methodology**

The Project was conceived to avail the supply of Narmada water from Saurashtra Branch Canal (SBC) with off-take point at Dhanki. From Dhanki, there were two routes of supply of water as conceived in the Project. The implementation of the first route of the Project<sup>16</sup> was partially covered in audit and mention was made in Paragraph 3.3 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Civil) – Government of Gujarat.

The second route was based on Maliya Branch Canal (MBC) with off-take point at Khirai and further distribution network through pipelines of 889 km. The total sanctioned cost of the Project was Rs.3,714 crore and the Project was divided into 92 sub-projects/61 group water supply schemes (WSS). Of these, 92 sub projects, 13 sub-projects as detailed in **Appendix-XXV** involving an expenditure of Rs.808.24 crore (22 *per cent* of the total sanctioned cost) and 12 out of 61<sup>17</sup> group WSSs, involving an expenditure of Rs.181.56 crore (13 *per cent* of the total estimated cost (Rs.1,416 crore) of 61 groups) as detailed in **Appendix-XXVI** were taken up for detailed review in audit in Jamnagar, Kachchh and Rajkot districts. The examination of records covers aspects relating to conceptualation of the Project, its planning and implementation including related distribution network in these three districts. For this, the records for the period 2001 to 2005 were examined during June-August 2005 at the Board office of GWSSB and GWIL, three zonal offices at Ahmedabad, Kachchh and Rajkot and eight divisions of GWSSB and one unit of GWIL.

### **3.2.7 Financial management**

The Project cost of 13 sub-projects comprised Rs.1,331.78 crore; of this, the State Government contributed 18 *per cent* of the Project cost and the balance 82 *per cent* was availed as loan by GWIL (Rs.75 crore) and GWSSB (Rs.566 crore). The Asian Development Bank (ADB) also contributed towards restoration of WSSs damaged in earthquake in these districts.

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<sup>16</sup> Saurashtra Pipeline Project for supply of water in Ahmedabad (partial), Amreli and Bhavnagar districts

<sup>17</sup> Of the 61 WSSs, 21 off-takes from Khirai. Test check was conducted in 12 out of 21 WSSs

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**Availing finance from bank proved costlier****3.2.7.1 Avoidable payment of interest and guarantee fees**

For execution of sub-project Tankara–Jamnagar section, GWIL obtained (January 2002) a loan of Rs.75 crore from Oriental Bank of Commerce (OBC). The loan carried interest of 11 *per cent* per annum, repayable in 40 equal quarterly installments after initial moratorium period of 18 months. The loan from HUDCO was available at the interest rate of 10.75 *per cent* with easier repayment conditions and hence raising of loan from OBC proved costlier by Rs.17.37 crore. GWIL stated (August 2005) that availing finance from bank was to reduce intermediation cost and for building relationship for future project financing. The reply was not tenable in view of payment of guarantee fee and a huge additional interest outgo of Rs.17.37 crore.

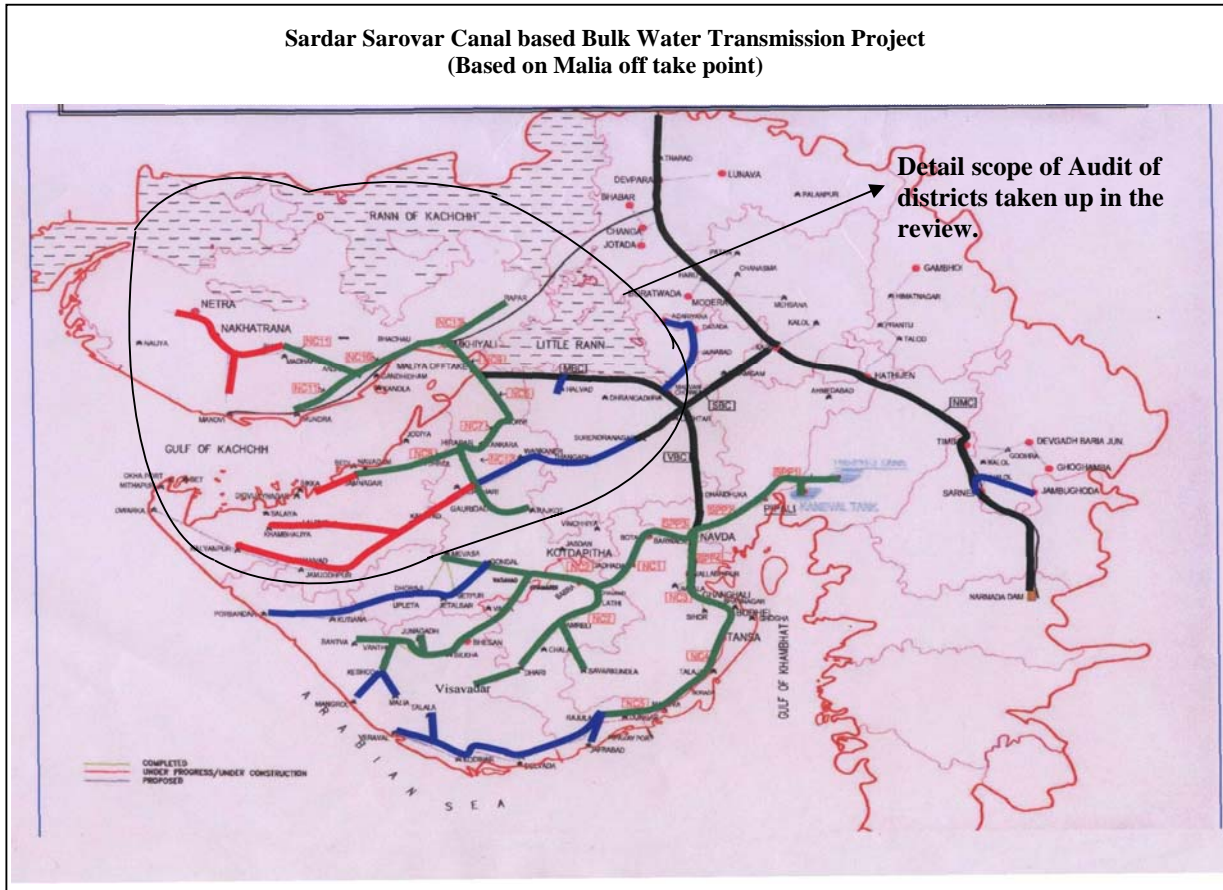
**3.2.7.2 Irregular drawal of loan**

HUDCO sanctioned (November 2001) a loan of Rs.135 crore for Maliya-Bhachau sub-project. Due to non-execution of Balancing Reservoir<sup>18</sup> (BR), GWSSB decided (November 2003) not to draw part of loan of Rs.17 crore meant for it and got the Government guarantee vacated (November 2003). However, GWSSB later drew (March 2004) the amount irregularly for construction of BR, which was not constructed (August 2005) and the amount was utilised towards the Government share on the sub -project.

**3.2.8 Planning****3.2.8.1 Master plan**

Five hundred mld water to Saurashtra and Kachchh regions was planned to be drawn from MBC that off-takes from SBC of Narmada Canal network, as indicated in *figure-1*, for transmission through trunk line to Rajkot-Jamnagar (400 mld) and Kachchh (100 mld) districts. The master plan (March 2001) envisaged distribution of water through regional and group WSSs. Following deficiencies in planning were noticed in audit.

<sup>18</sup> A component for storage of water for 10 days requirement that was originally included in the project report



(Figure -1)

### 3.2.8.2 Deviations from Detailed Project Report (DPR)

Master plan of the 13 sub-projects estimated to cost Rs.1,331.78 crore was formulated (September 2000) without detailed site survey, design and proper/detailed engineering leading to deviations as detailed below.

**Objectives of un-interrupted supply of water remained non-achieved**

DPR of NC-6 and NC-9 envisaged (April 2001) construction of BR for storage of 2,000 million litres near Maliya for uninterrupted supply of water. During implementation, this was deleted due to non availability of suitable land. Thus, in the absence of BR the objective of ensuring uninterrupted supply during shut-down of canal for maintenance remained unachieved.

DPR provided for construction of staff quarters, guesthouses, administrative buildings, etc. at site only. However, GWSSB constructed staff quarters which were not at site, but at Rajkot and Guest House at Dwarka. This led to diversion of funds of Rs.91 lakh, as also its consequent non-utilisation for the Project purposes.

**Utilisation of water was 29 per cent of capacity created**

### **3.2.8.3 Delay in completion of works**

Six WSSs taken-up for execution during the period under review were incomplete. Relevant details are given in **Appendix XXVII**.

Failure of GWSSB as well as consultant in monitoring the execution of works indicated ineffective internal control resulting in cost and time overrun and deprivation of benefits to the targetted population.

As a result of delay in execution of works, the gross average daily intake from Khirai off take point during May 2003 to June 2005 was 145.17 mld (29 per cent) against capacity utilization of 500 mld. Of the envisaged coverage of 1,342 villages/urban centres benefit reached only to 415 villages/urban centres (31 per cent).

### **3.2.8.4 Expenditure on staff quarters**

**Expenditure on staff quarters proved unfruitful**

For sub-projects of Maliya-Morbi and Morbi-Tankara, staff quarters, guesthouses, office buildings, etc. were constructed (August 2002) at a cost of Rs.1.69 crore<sup>19</sup>. However, these remained idle from the beginning. GWSSB attributed reasons for vacant buildings to non-deployment of staff for operation and maintenance of the system by outsourcing these works. The reply was not tenable considering the indistinct possibility of utilization due to remote sites of pumping stations, which resulted in the expenditure of Rs.1.69 crore unfruitful.

### **3.2.8.5 Idle investment**

**Rs.2.64 crore remained idle**

GWSSB deposited Rs.2.64 crore (May 2002) with GEB for erecting 27 km long 66-KV feeder line for power supply at Hadala pumping station. Despite lapse of three years, GEB did not erect the line. As a result, Rs.2.64 crore remained blocked with GEB. The pumping station was being operated with temporary power connection of 11-KV. Due to non-availability of required power supply, only two pumps were operated as against requirement of four as per the design. This adversely affected the water supply network of Rajkot city.

### **3.2.8.6 Consultancy services**

GWSSB followed FIDIC<sup>20</sup> norms for Construction Supervision Consultancy (CSC) for supervision of procurement of material and construction under the ADB financed Phase-I (sub projects NC 10,11 and 13) WSSs estimated to cost Rs.583.97 crore. GWSSB entrusted (September 2002) the work to M/s. MECON (a Government of India enterprise) at Rs.2.78 crore towards consultancy fees with performance period fixed initially till December 2003, which was extended upto June 2005 on account of additional CSC work for Phase II. Audit scrutiny of the records revealed that GWSSB reduced (March 2003) scope of work under Phase I by canceling 20 Desalination Plants (DPs) and 13 Water Treatment Plants (WTPs) (estimated cost Rs.20.65 crore). Since scope of work under Phase I was reduced, GWSSB was required

<sup>19</sup> Maliya-Morbi Rs.84.48 lakh and Morbi-Tankara-Rs.84.48 lakh

<sup>20</sup> International Federation of Consulting Engineers

to set off CSC charges for 17 WTP of Phase II against CSC charges for reduced 20 DPs. Non-adjustment of CSC charges resulted in overpayment of Rs.1.94 crore.

### **3.2.9 Executions of works**

Six<sup>21</sup> out of 13 sub-projects of Bulk Water Transmission Project were financed by the ADB and remaining by HUDCO and OBC.

#### **3.2.9.1 Cost overrun due to non-inclusion of standard bidding clause**

Clause 2.29 of ADB guidelines for procurement of material provides that contracts containing a large material component should contain price variation clause to protect the borrower and the contractor from losses due to abrupt change in price. However, price variation clause was not incorporated in the contract for procurement of Mild Steel (MS) pipes allotted (November 2003) by GWSSB to an agency at fixed priced tender cost of Rs.143.38 crore against estimated cost of Rs.193.44 crore for three<sup>22</sup> ADB financed sub-projects for Jamnagar district.

**Non adhering to ADB guidelines resulted in cost overrun of Rs.125 crore**

The agency failed to supply the pipes due to steep increase in the cost of raw material (Mild Steel). Therefore, contract was terminated (May 2004) and the GWSSB reallocated (February 2005) procurement contract with the benefit of price variation to other agencies which resulted in cost overrun of Rs.125 crore, besides time overrun. As a consequence of non procurement of pipes, related civil works for these sub-projects as well as distribution water supply schemes, which were otherwise stipulated to be completed by March 2005 had also not progressed as per schedule. Resultantly, the goal of providing water to 510 villages and eight urban centers had also not been achieved. Due to non completion of the works, water was being supplied to the targeted villages through tankers incurring additional expenditure Rs.1.66 crore (2003-05), besides loss of revenue of Rs.55 crore per annum from September 2004 onwards on sale of water to industries as admitted (August 2005) by GWIL.

#### **3.2.9.2 Unfruitful expenditure and execution of extra quantity**

The work of sub-section Tankara-Gauridad-Aji (NC-12) was allotted (August 2001) to an agency on turnkey basis. The scope of work included supply and fixing of 19 butter-fly valves<sup>23</sup> as per approved design. During execution, alignment and design of pipeline were modified, as a result of which only 9 valves<sup>24</sup> were utilized. However, GWSSB took on stock (May 2002) ten surplus valves which remained unutilized resulting in unfruitful expenditure of Rs.48 lakh.

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<sup>21</sup> (1) Bhachau-Anjar, (2) Anjar-Kukma, (3) Anjar-Mundra-Mandvi, (4) Samakhiyali-Rapar, (5) Khijadia-Moti-Khavdi and (6) Ratanpur-Panchavada, Panchavada-Kalyanpur and Samana-Khambhalia

<sup>22</sup> Khijadia-Moti-Khavdi (NC-18), Ratanpur-Panchavada (NC-20), Panchavada-Kalyanpur, Samana-Kambhalia (NC-21)

<sup>23</sup> 13 of 1400 mm and 6 of 1000 mm

<sup>24</sup> 5 valves of 1400 mm and 4 of 1000 mm

### 3.2.9.3 Excess/Avoidable payments

Lump-sum contract for bulk water transmission from Maliya-Bhachau sub-section (NC-9) was allotted (September 2001) to an agency at his tendered cost of Rs.130.31 crore. The work was completed (May 2003) at a cost of Rs.125.86 crore. The contract envisaged providing and laying of 54,600 metres (1800 mm dia) and 7,000 metres (1350 mm dia) MS pipes. Lump-sum price for both was quoted (September 2001) at Rs.99.56 crore and Rs.12.12 crore respectively. Execution of excess quantity or less quantity would entail variation of payment at the rate of Rs.8,000/metre (1800 mm dia) and Rs.7,200/metre (1350 mm dia). Actual laying of pipes and payments made were as under:

Size of pipe (dia/mm)	Quantity (Mtr.)			Payment due	Payment made	Excess payment
	Contracted	Executed (Not executed)	Contracted rate per metre			
1800	54,600.00	52,458.82 (2,141.18) 54,600.00	18,234.43 (8,000.00)	95.66 1.71 97.37	97.85	0.48
1350	7,000.00	3,761.07 (3,238.93) 7,000.00	17,314.28 (7,200.00)	6.51 2.33 8.84	9.78	0.94
<b>Total</b>	<b>61,600.00</b>				<b>107.63</b>	<b>1.42</b>

**Defective contractual clause led to avoidable payment of Rs.5.46 crore on laying of pipes**

As the contract provided payment even for unexecuted quantity, it was necessary to avoid extra expenditure and to make sure with precision the actual length to be laid. In the instant case, though the contracted quantity was 61,600 metres, the actual pipeline laid was 56,219.89 metres for which Rs.4.04 crore had to be paid as per the contract conditions which included Rs.1.42 crore which was paid due to incorrect computation.

It was further observed that the length under the various sub-sections in the areas particularly in adjoining reaches were not correctly worked out. While NC-9 had 61,600 metres of length, the adjoining NC-10 also had 47,500 metres which included unexecuted 5,380.11 metres length of NC-9 for which payment of Rs.4.04 crore had already been made. This could have been avoided through proper planning.

### 3.2.9.4 Bank guarantee

**Failure to verify genuineness of bank guarantee resulted in loss of Rs.1.04 crore**

Civil works for three WSSs<sup>25</sup> covering 110 villages and 5 towns of Kachchh district were allotted (May 2002-March 2003) to an agency at tendered cost of Rs.11.35 crore scheduled for completion between December 2002 and July 2003. The agency abandoned (June-2003) the works after receiving payment of Rs.5.26 crore. The bank guarantee (BG) of Rs.1.04 crore tendered (May 2002-March 2003) by the agency<sup>26</sup>, when sent to bank<sup>27</sup> (August 2003) for encashment was not honoured stating that no such guarantee was given by the Bank. Failure to verify genuineness of the BG before acceptance resulted

<sup>25</sup> Kandla-Gandhidham, Bhuj bulk and Bhachau regional WSSs

<sup>26</sup> As performance security and security against payment of mobilization advance

<sup>27</sup> Indian Bank, Elluru branch, Andhra Pradesh

in loss of Rs.1.04<sup>28</sup> crore. A police complaint was lodged (October 2003) and final out come of the complaint was still awaited (November 2005).

### 3.2.10 Water Supply Schemes

#### 3.2.10.1 Enforcement of contractual condition

**Non-enforcement of contractual condition resulted in loss of Rs.5.54 crore on procurement of pipes**

Agreements (June 2002) for procurement of MS and Duct Iron (DI) pipes fixed with two<sup>29</sup> agencies for ADB assisted distribution 16 sub projects provided for supply of 15 *per cent* additional quantity, if ordered within validity of contract. Instead of enforcing contractual clause, GWSSB entered into fresh contracts (January 2003) with the same suppliers during currency of earlier contract and procured pipes (May-July 2003) at higher rates leading to loss of Rs.5.54 crore on procurement (MS pipes Rupees one crore, DI pipes Rs.4.54 crore). Of these, DI pipes costing Rs.5.97 crore were lying unutilized at three divisions<sup>30</sup> due to change in alignment. Further, pipes worth Rs.53 lakh were diverted to Sanni WSS which was outside scope of ADB assisted project. This indicated that the procurement of pipes at higher rates was made without assessing the actual requirement.

#### 3.2.10.2 Avoidable payment due to lack of co-ordination

**Lack of co-ordination between GWSSB/GWIL resulted in avoidable payment of Rs.54 lakh**

Scrutiny of the records of implementing agencies revealed that during May 2002, GWSSB had placed order for supply of 711/7mm MS pipes with M/s PSL holdings Limited at US \$43.63 per running metre (rmt) for execution of ADB funded WSSs. Though the contract with M/s PSL holdings was in force, GWIL too placed (October-2002) order with M/s Welspun Gujarat Stehel Rohren Limited for supply of 18,018 rmt of same dimension pipes at US \$49.83 per rmt leading to rate difference of US \$6.20 per rmt. Non assessment of total requirement of pipes jointly by both implementing agencies resulted in avoidable payment of Rs.54 lakh<sup>31</sup> on procurement of pipes by GWIL.

#### 3.2.10.3 Procurement of pipes

**Acceptance of sub standard PVC pipes affected life of system**

GWSSB placed an order (June 2002) with an agency for supply of PVC pipes valued at Rs.13.40 crore, which was supplied during September-November 2002. Though the pipes were not conforming to specifications<sup>32</sup>, the consultants responsible for checking and certifying quality reported (September 2003) the fact only after entire quantity was supplied. The pipes were sent (July 2003) for testing at the Central Institute of Plastic Engineering and Technology after a lapse of one year after completion of delivery. GWSSB stated (August 2005) that though pipes were not as per specification,

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Sr.No.	Bank Guarantee No.	Date	Amount (Rs. In lakh)
1	9/ 2002-03	21 May 2002	30.75
2.	39/ 2002-03	23 October 2002	28.05
3.	47/ 2002	13 February 2003	14.83
4.	48/2002	13 March 2003	30.75

<sup>29</sup> M/s. Electro Steel casting Ltd. and PSL Holdings Ltd.

<sup>30</sup> Anjar, Bhuj and Gandhidham

<sup>31</sup> On then prevailing conversion rate of Rs.48.50 per US \$ as fixed in contract

<sup>32</sup> ISO 9001 and IS-4985-2000 on account of presence of ash content in excess of permissible limit up to 11 *per cent*

these were accepted at reduced rates. Acceptance of sub-standard pipes and their utilization in works would affect life of the system leading to wasteful expenditure. The issue, therefore, needs further investigation by the Department.

#### 3.2.10.4 Overpayments

**GWSSB made over payment of Rs.60.43 lakh on acceptance of pipes without gunniting**

To safeguard the MS pipes from corrosion, the contract provided reinforced gunniting of external surface of pipes with wire mesh and 40 mm mortar. However, 6,928.28 metres of MS pipes were laid by March 2003 in Maliya-Bhachau section without gunniting. The average cost of the gunniting was five *per cent* of the cost of pipes. But as against reduction of Rs.63.17 lakh for non-execution of gunniting, Rs.2.74 lakh alone was deducted leading to overpayment of Rs.60.43 lakh<sup>33</sup>. Sub-standard work also exposed the pipes to corrosion thereby reducing life of system.

**Non-deduction of rebate for excise and transportation resulted in over payment of Rs.2.11 crore**

Similarly, an agency executing the work for Tankara-Gauridad-Aji offered supply (June 2001) to MS pipes at the rate ranging from Rs.15,594 to Rs.5,115 per rmt depending on size/diameter of the pipe. The agency was to bring the pipes from Kachchh district enjoying exemption from payment of excise duty and hence, GWSSB while accepting the bid had imposed a condition that the Agency would pass on Rs.448 per tonne towards benefit of excise duty exemption on steel and Rs.750 per tonne on account of saving in scope of transportation of MS plates. The agency utilized 17,683 tonnes of steel in manufacture of MS pipes for which the GWSSB was required to deduct Rs.78 lakh towards excise duty and Rs.1.33 crore on transportation from the payment to the agency. However, no such deduction was made by GWSSB while making the payment. This resulted in overpayment of Rs.2.11 crore.

#### 3.2.10.5 Avoidable liability

**Non-payment of water charges resulted in creation of liability of Rs.66.94 crore**

The Project envisaged drawal of 500 mld of water from Sardar Sarovar Canal on payment of charges, as may be fixed by the Government from time to time. Scrutiny of bills raised (October 2003 July 2005) by SSNNL for supply of water and drawal by GWSSB from Khirai off take point revealed that as against billing for supply of 1,04,622.23 ml water by SSNNL (April 2003 to June 2005), GWSSB had drawn 70,701.74 ml water during this period leading to a difference of 33,920.49 ml valued to Rs.21.71crore. GWSSB attributed the difference as transmission loss (ranging between 27 and 38 *per cent*) during April 2004 to June 2005 due to evaporation, seepage due to unlined canal and theft (by the farmers). The reasons advanced were not tenable as billing was being done from the place of drawal by GWSSB for supply in the trunk lines and hence there was no possibility of loss on account of any of the reasons put forward. Since the factual position was in variance with the reply, the matter needs further investigation by the Department. The SSNNL raised (August 2005) demand for Rs.66.94 crore for supply of water (March 2003 to

<sup>33</sup> Cost of pipe per metre Rs.18234.43 five *per cent* of which works out to Rs.911.72  
length of ungunnited pipes 6928.28 metres x 911.72= Rs.63,16,651  
Amount deducted Rs. 2,74,018  
Over payment Rs.60,42,633

June 2005), but no payment was made by GWSSB on account of dispute over quantum of water supplied. As a result avoidable liability was created.

### **3.2.11 Water Regulating Authority**

For regulating issues relating to water pricing policy, legal and regulatory measures to control and regulate water supply sector as a whole, a high-level empowered committee set up by the Government recommended (March-2000) for setting up an independent Water Regulating Authority (WRA). Tata Energy Research Institute (TERI) was entrusted the work of formulating framework of WRA. Though TERI submitted report (August 2000) and GWIL made proposal to the Government for setting up of WRA, no action was taken by the Government (December 2005).

### **3.2.12 Conclusion**

Out of 13 sub-projects costing Rs.1,331.78 crore for bulk water transmission, works to the extent of Rs.808 crore were completed (March 2005). Of the 21 regional/group WSSs (out of 61 WSSs) to be served from the Project<sup>34</sup>, only seven were completed and remaining 14 were under various stages of construction. Of the envisaged coverage of 1342 villages/towns, benefits reached only to 415 villages/urban centres. Gross average daily intake from Khirai off take during three years of its operation (May 2003 to June 2005) was 145.17 mld only (29 per cent) against capacity utilization of 500 mld. With projected requirement of 500 mld water and large number of unexecuted distribution networks there was no prospects of optimum utilization of the capacity in immediate future. Time overrun of three years resulted in cost overrun of Rs.125 crore in three<sup>35</sup> sub-projects/WSS. Cases of losses, excess/overpayments, avoidable expenditure, idle investments, etc. were noticed. Due to non-setting up of independent authority, issues relating to water pricing policy, legal and regulatory measures to control and regulate water supply, etc. remained unresolved.

### **3.2.13 Recommendations**

- System for reviewing DPRs based on adequate survey before commencement of tendering process should be evolved so as to avoid variations, adoption of non-uniform specifications, sub-standard construction and inefficient project management
- Better financial management and closer monitoring of cash management (to bring down the cost of capital) should be ensured
- Government should consider setting up an independent Water Regulatory Authority for controlling issues relating to the water supply sector as a whole.

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<sup>34</sup> Off-takes from Khirai

<sup>35</sup> Khavdi, Khijadia-Moti Khavdi and Ratanpur-Khambhalia-Kalyanpur



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**PORTS AND FISHERIES DEPARTMENT****3.3 Gujarat Maritime Board***Highlights*

*Gujarat Maritime Board (GMB) established in April 1982 under the Gujarat Maritime Board Act, 1981 is vested with the administration and management of 40 minor ports of the State. A review of working of the GMB for the period 2000-2005, revealed various deficiencies such as meagre contribution in cargo handling by the GMB jetties and underutilization of wharfs, unfruitful expenditure on repairs to tugs and dredgers, unfruitful expenditure on dredging, incorrect application of rules for recovery of revenue, improper terms and conditions in the agreements leading to non recovery of dues, etc. Some of the important findings are as follows:*

**Return on capital employed declined from 21.43 per cent in 2000-01 to 15.16 per cent in 2004-05.**

**(Paragraph 3.3.6.1)**

**The contribution of the GMB's own jetties in total cargo handling ranged between six and seven per cent only.**

**(Paragraph 3.3.7.1)**

**Out of 400 metres wharf constructed at Rozi Port at Jamnagar at a cost of Rs.8.50 crore in 1996-97, 250 metres wharf remained unutilized, resulting in revenue loss.**

**(Paragraph 3.3.7.2)**

**The utilisation of the GMB's own dredgers ranged between 39 per cent and 51 per cent only during 2000-05 and non completion of dredging work rendered expenditure of Rs.6.20 crore unfruitful.**

**(Paragraph 3.3.8)**

**Due to indecision of the GMB on status of jetty constructed by the Gujarat State Fertilizer Company Limited in 1987, revenue of Rs. 15.21 crore remained unrealized.**

**(Paragraph 3.3.9.2)**

**Incorrect application of rebate on cargo handled from one GMB port to any other port in India, resulted in short recovery of wharfage charges to the tune of Rs.9.60 crore from two captive jetty operators.**

**(Paragraph 3.3.10.3)**

**Wrong calculation of wharfage rate of Neptha and Paraxillin handled through single point mooring by Reliance Industries Limited resulted in short recovery of wharfage charges of Rs. 4.07 crore.**

**(Paragraph 3.3.10.4)**

**At the end of allotment period of ten years of ship breaking plots at Alang, premium amounting to Rs. 7.75 crore remained unrecovered from 24 parties due to deficiency in the contracts.**

**(Paragraph 3.3.11.1)**

### **3.3.1 Introduction**

Gujarat leads India with an impressive coastline of approximately 1,600 km. The major port at Kandla is managed by the Kandla Port Trust under Major Ports Trust Act, 1963. There are 40 minor ports in the State of Gujarat which were managed by the State Government till April 1982. With the enactment of Gujarat Maritime Board Act, 1981 (GMB Act) in April 1982 the management of these ports was taken over by the Gujarat Maritime Board (GMB).

Out of 40 ports under the GMB, two ports<sup>36</sup> were given to private parties (September 1998 and February 2001) for development as all weather direct berthing ports. This facility is also available in seven<sup>37</sup> other ports. While in seven<sup>38</sup> other ports the lighterage<sup>39</sup> facilities are available, 24 ports are handling sailing vessels besides being used for fishing. GMB had also developed two ship breaking yards.<sup>40</sup>

The main objectives of the GMB are:

- to provide necessary facilities at various ports for handling and shipping of cargo, handling equipment, provide transit and storage space, water supply, electrification, communication, navigational aid in harbour and their approaches for safe navigation,
- to levy port dues and other port charges like lighterage, crane charges, tug/launch charges, godown rents, etc.,
- to frame rules, regulations and bye laws under the Indian Ports Act, 1908, Gujarat Maritime Board Act, 1981 and enforce various rules *viz.* Gujarat Port Rules, 1962, Gujarat Minor Ports (Passenger Vessels) Rules, 1961 and to prescribe port charges for various services,
- enforcement of port health rules and
- declaring port limit and landing place of various ports.

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<sup>36</sup> Mundra (February 2001), Pipavav (September 1998)

<sup>37</sup> Bhavnagar, Porbandar, Magdalla, Mul Dwarka, Sikka, Okha and Zafarabad

<sup>38</sup> Mandvi, Navlakhi, Bedi, Salaya, Veraval, Pindhara and Jakhau

<sup>39</sup> Ship is anchored in stream and cargo is brought to wharf through barges

<sup>40</sup> Alang and Sanchana

### 3.3.2 Organisational set up

Ports and Fisheries Department is the nodal department for the administration of the GMB. GMB has ten members including the Chairman; who are appointed by the State Government. Administrative control and management of the affairs of the GMB is carried out by the Chief Executive Officer and Vice Chairman. For administrative convenience, 40 ports under the GMB have been divided into ten groups, each headed by a Port Officer. GMB has six Circles<sup>41</sup>, for carrying out development works of ports, its maintenance, repairs, etc. and each Circle is headed by a Superintending Engineer.

### 3.3.3 Audit objectives

The main audit objectives were to assess whether:

- sufficient infrastructure facilities had been created and were being utilized effectively,
- the services provided at ports by the GMB for shipping and cargo handling were adequate and the rates for these services are fixed, levied and accounted for as per Schedule of Port Charges,
- the dredging at various ports was carried out efficiently and the port dredgers were effectively utilized,
- terms and conditions for captive/private jetties were properly finalized and implemented.

### 3.3.4 Audit Criteria

The Audit criteria adopted for ensuring the above audit objectives were:

- Availability and utilization of infrastructure facilities at ports under the GMB.
- Actual cargo handled by the GMB's own jetties, private jetties and captive jetties *vis-à-vis* targets that were fixed.
- Estimate with respect to dredging requirements and actual dredging carried out.
- Terms and Conditions of contracts and agreements entered for the development of captive and private jetties.
- Schedule of port charges and actual port revenues levied and collected.

### 3.3.5 Audit coverage

A review on the performance of minor ports of the GMB was undertaken by audit between May and July 2005 covering a period of five years (April 2000 –March 2005). GMB office at Gandhinagar and four groups of ports (Bedi, Magdalla, Porbandar and Okha) were selected for detailed assessment after considering factors such as volume of traffic handled and revenue earned. These groups of ports handled about 75 *per cent* of total traffic during 2000-05 and had earned about 56 *per cent* of total revenue during this period.

<sup>41</sup> Superintending Engineer (SE) (Civil), Jamnagar; SE (Civil), Bhavnagar; SE (Civil), Gandhinagar; SE (Civil), Porbandar; SE (Dredging cell), Jamnagar and SE (Mechanical), Gandhinagar

## Audit Findings

### 3.3.6 Financial management

GMB maintained their accounts on cash basis till 2001-02. From 2002-03, it has switched over to mercantile system. The financial position of the GMB during 2000-2005 was as follows.

(Rupees in crore)					
Income & Expenditure	2000-01	2001-02	2002-03	2003-04	2004-05
<b>Income</b>					
Operational income	160.72	172.75	200.32	208.87	227.61
Interest income	28.22	6.37	15.58	25.65	26.75
Other income	1.92	2.19	6.01	5.06	1.56
<b>Total</b>	<b>190.86</b>	<b>181.31</b>	<b>221.91</b>	<b>239.58</b>	<b>255.92</b>
<b>Expenditure</b>					
Operational expenditure	69.60	67.03	74.62	71.53	68.00
Pension and Gratuity contribution	5.00	0.00	37.95	37.95	30.00
Other financial expenditure <sup>42</sup>	0.00	0.00	0.00	10.62	8.18
Revenue sharing with Government of Gujarat	38.17	36.26	44.38	71.87	76.78
<b>Total Expenditure</b>	<b>112.77</b>	<b>103.29</b>	<b>156.95</b>	<b>191.97</b>	<b>182.96</b>
<b>Net Revenue</b>	<b>78.09</b>	<b>78.02</b>	<b>64.96</b>	<b>47.61</b>	<b>72.96</b>
<b>Financial Position</b>					
<b>Fixed Assets</b>	<b>254.59</b>	<b>365.74</b>	<b>378.31</b>	<b>383.17</b>	<b>398.45</b>
Less: Depreciation	16.93	50.48	96.64	104.37	116.78
<b>Net Fixed Assets</b>	<b>237.66</b>	<b>315.26</b>	<b>281.67</b>	<b>278.80</b>	<b>281.67</b>
Work in Progress	59.70	3.43	9.70	22.00	51.60
Investments	220.04	224.61	302.70	342.98	206.02
Current Assets	155.25	177.03	117.59	85.94	267.20
<b>Total</b>	<b>672.65</b>	<b>720.33</b>	<b>711.66</b>	<b>729.72</b>	<b>806.49</b>
Revenue Reserves	285.30	375.55	387.80	436.43	508.24
Other funds	299.07	313.79	234.97	180.51	178.92
Current liabilities	88.28	30.99	88.89	112.78	119.33
<b>Total liabilities</b>	<b>672.65</b>	<b>720.33</b>	<b>711.66</b>	<b>729.72</b>	<b>806.49</b>

Increase in net revenue in 2004-05 was mainly due to increase in traffic from 872.99 lakh tonne (2003-04) to 961.56 lakh tonne (2004-05) and also reduction in expenditure.

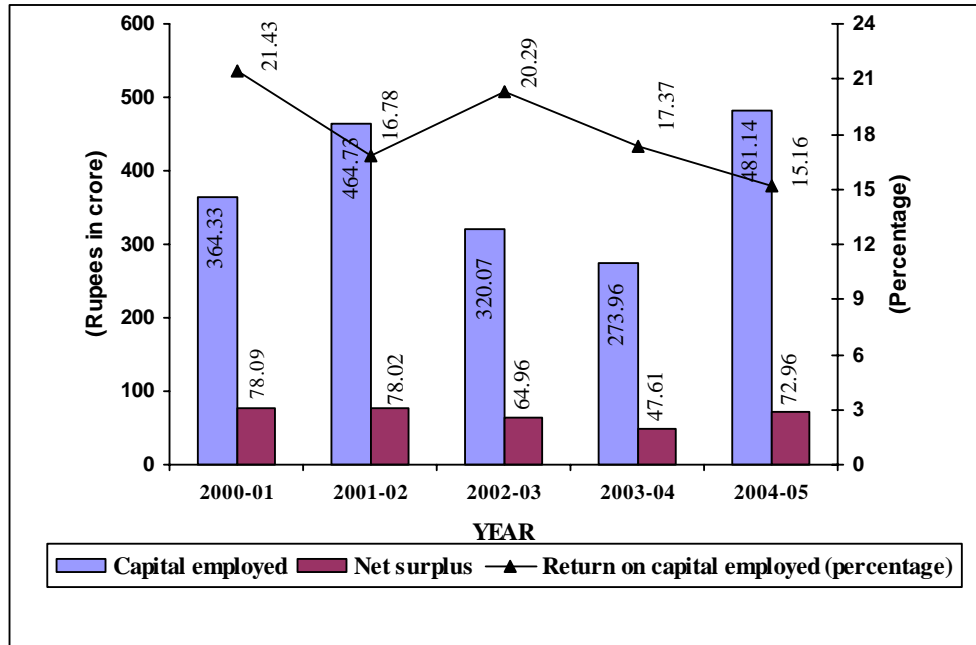
Increase in fixed assets and depreciation provision during 2001-02 was due to writing back the several items of replacements costing Rs.93.71 crore and accumulated depreciation of the assets before switching over to Mercantile Accounting System.

Reduction in investments and increase in current assets during 2004-05 was due to change in exhibition of investment made in the cash deposit with the Gujarat State Finance Service as cash and Bank Balance instead of reflection of the same as investments earlier.

<sup>42</sup> Other financial expenditure incurred during 2003-04 and 2004-05 represents payments made on account of special voluntary retirement scheme launched during this period

### 3.3.6.1 Capital employed and returns thereon

The position of capital employed, net surplus and return on capital employed for the last five years as worked out by audit was as follows:



The income of the GMB increased by 34 *per cent* over a period of 2000-05. However, the net surplus reduced by about seven *per cent* and there was also fall in return on capital employed from 21.43 *per cent* to 15.16 *per cent* during this period. The reduction in net surplus and down fall in return on capital employed was due to transfer of share in gross income to the State Government (Rs.267.46 crore) during 2000-05 calculated at 20 *per cent* from 2000-01 and onwards and further increased to 30 *per cent* from 2003-04. It was observed that transfer of the revenue share to the State Government was not specifically provided in the GMB Act, 1981 and was introduced during the year 2000-01 through a resolution passed by the GMB in October 2000.

### 3.3.7 Operations Management

#### 3.3.7.1 Handling of traffic

An analysis of traffic handling during 2000-2005 revealed that though there was overall increase in handling of cargo from 712.13 lakh tonne in 2000-01 to 961.56 lakh tonne in 2004-05, the contribution of jetties handled by the GMB itself ranged only six to seven *per cent* of total cargo handling and 77 to 80 *per cent* of cargo was handled by other captive jetties<sup>43</sup> of which captive jetty of Reliance at Sikka alone handled 70 *per cent* of cargo during the above period. The contribution by private jetties<sup>44</sup>/ports ranged between 13 and 17 *per cent*.

**The contribution of the GMB jetties in cargo handling was dismal**

<sup>43</sup> Captive jetty is used for handling industry based cargo of the jetty holder

<sup>44</sup> Private jetty is used for handling all cargo by the jetty holder

The poor performance of the GMB jetties was mainly due to the fact that direct berthing facilities were available at only three ports (Bhavnagar, Porbandar and Okha) and at other ports the cargo was handled through barges by anchoring ships in stream. At Porbandar Port, which was a direct berthing port, on arrival of ships of Indian Navy, the port authorities was compelled to vacate the jetty for berthing Naval ships. This also adversely affected (2003-05) handling of cargo, as the jetty was occupied by Naval ships for 119 days resulting in cancellation and diversion of vessels to other ports.

### **3.3.7.2 Utilisation of wharf**

**Wharf constructed at a cost of Rs.5.31 crore remained idle**

With a view to increase cargo handling at Rozi Port, Jamnagar, the GMB constructed a 400 metre (mtr.) long wharf at a cost of Rs.8.50 crore in 1996-97, of which only 150 mtr. wharf was allotted. The remaining 250 mtr. wharf was not allotted due to lack of response from users and wharf therefore remained idle since 1996-97. The wharf was not declared as Customs Landing Place as the Customs Department stated (April 2002) that the Jetty was in damaged condition. GMB prepared (April 2002) an estimate of Rs.7.85 lakh for its repairs but the work order was not issued (July 2005). This resulted in idle investment of Rs.5.31 crore on 250 metre wharf at proportionate basis. Non utilisation of wharf resulted in foregoing potential traffic of at least 2.5 lakh tonne<sup>45</sup> per year since 1996-97.

### **3.3.7.3 Utilisation of manpower for the tug**

As per requirement of Mercantile Marine Department, the Master and Engine drivers of the tug should have a required qualification (qualified) for operating a vessel under Mercantile Shipping Act. The other staff like seaman, oilman, topaz, etc. do not require special qualification (unqualified staff). The tugs given on MMO&R<sup>46</sup> contracts had the GMB's unqualified staff (seaman, oilman, electrician, topaz, etc.) on board. However, contracts allotted during the period 2000-2005 provided that all the staff (qualified and unqualified) on board of the tug would be provided by the contractors. Thus, award of MMO&R contracts rendered 52 unqualified staff surplus during this period creating burden on the GMB to pay salary of Rs.21.87 lakh from October 2002 to March 2005 to the idle staff.

When pointed out in audit, the GMB stated (July 2005) that the unqualified staff was not attending work regularly on contracted tugs. Therefore, the decision was taken to enter into contract with entire staff to be provided by the contractors. Thus, failure to utilise the services of the GMB's unqualified staff and payment to contractors for engaging separate employees for this resulted in extra expenditure on payment of wages to the idle staff.

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<sup>45</sup> Minimum cargo handling of 1.5 lakh tonne for 150 mtr. wharf allotted to a private party

<sup>46</sup> Manning, Maintenance, Operation and Repairs

### 3.3.7.4 Repair of Sunken tug

**Expenditure of Rs.57.44 lakh was incurred on repairs of the tug without assessing the condition of its engine**

GMB acquired in 1985 tug "Shetrunji" at a cost of Rs 1.84 crore. In a cyclone (June 1998), the tug partially sank near deep water berth at north side of Porbandar Port. GMB salvaged the tug in July 1998 and it was beached at Asmavati Ghat, after incurring an expenditure of Rs.18 lakh, of which, insurance company paid a claim of Rs.13.50 lakh on its salvaging. Physical condition of the tug was not checked so as to ascertain feasibility of its reinduction for operation.

Subsequently the tug was put to special repairs and after incurring expenditure of Rs.57.44 lakh during July 1999 to March 2003 it was found that the engines of the tug were not sea- worthy and their replacement would be uneconomical. GMB, therefore, decided (February 2003) to prefer the insurance claim and dispose off the tug. The Insurance Company admitted (March 2005) a claim of Rs.29.84 lakh but the claim was not accepted by the GMB as of July 2005. Considering the depreciated cost of the tug of Rs.55.05 lakh<sup>47</sup> as on 31 March 2005 and insurance claim admitted by the insurer, the present cost of tug works out to Rs 87.15 lakh<sup>48</sup>. However, the upset price of the tug was yet to be fixed.

Thus, action of the GMB to repair the tug without ascertaining its condition resulted in unfruitful expenditure of Rs.57.44 lakh. As the upset price is yet to be fixed, realizable value of the tug was uncertain. Besides, the final insurance claim case was also yet to be finalised (July 2005).

### 3.3.7.5 Repair of tug

Tug Vasant, purchased in 1975 and stationed at Mandvi Port, was withdrawn in June 2001 for its special repairs. As there was no traffic at Mandvi Port, the tug was also not required there. However, technical sanction for its repairs was accorded by the Superintending Engineer, Mechanical (August 2003) and work was allotted (March 2004) after delay of about 32 months to a contractor with stipulated completion period of six months. The tug was repaired (February 2005) after incurring expenditure of Rs.51 lakh. Tug was intended (June 2005) to be used for patrolling<sup>49</sup> at other ports, however, due to non availability of staff even this usage of the tug had not materialized (October 2005). Inordinate delay in repairs resulted in non utilisation of tug besides unfruitful expenditure of Rs.51 lakh.

<sup>47</sup> Rs.183.50 lakh (cost)-Rs.128.45 lakh accumulated depreciation (3.5 per cent per annum for 20 years upto 31 March 2005)= Rs.55.05 lakh

<sup>48</sup> Depreciated cost of tug Rs.55.05 lakh plus Rs.75.44 lakh expenditure on salvage and repairs minus Rs.43.34 lakh claim on account of salvage (Rs.13.50 lakh) paid by the insurer and Rs.29.84 lakh insurance claim admitted

<sup>49</sup> For patrolling, launch is used

### 3.3.7.6 Bulk Cargo Handling System

**Installation of Bulk Cargo Handling System and expenditure on its maintenance proved unfruitful**

GMB had installed (March 1999) Mechanical Bulk Cargo Handling System with hourly capacity of 900 MT at New Bedi Port, Jamnagar at a cost of Rs.4.46 crore, to handle agro-based products like soyabean and rapeseed extracts.

A comprehensive contract for MMO&R was allotted to an agency for 12 months from October 2002 at a monthly payment of Rs.7.11 lakh plus handling charges of Rs.17.10 per tonne of cargo handled. For want of cargo, during first six months (October 2002 to March 2003), the system was used for only 20 days to handle 0.23 lakh MT of cargo against minimum of 0.49 lakh MT per month as per agreement (700 MT per hour for 20 days at 3<sup>1/2</sup> hours a day). However, the contract continued as such till May 2003. The contract was then restricted (May 2003) to maintenance at Rs.3.51 lakh per month and finally it was terminated (November 2003). The system remained unutilised since then and the same was being maintained departmentally.

Thus, installation of the system without availability of cargo resulted not only in idle investment of Rs.4.46 crore by the GMB but also led to unfruitful expenditure of Rs.72.23 lakh<sup>50</sup> towards maintenance contract, which was unwarranted in the absence of cargo.

### 3.3.8 Utilisation of dredgers

For carrying out the dredging at minor ports, the GMB had 13 dredgers of different types. As per information furnished (July 2005) by the GMB in respect of nine dredgers, the utilisation of dredgers ranged between 39 *per cent* and 51 *per cent* (2000-05). Out of which utilisation of dredger Sudershan and Bhavnagar-II was only 15 to 16 *per cent*. It was also noticed in audit that out of nine dredgers only seven dredgers were utilized during the period and two dredgers were kept idle. Following major deficiencies were noticed in the dredging activities carried out by the GMB.

#### 3.3.8.1 Unfruitful expenditure on dredging

**Non completion of dredging work led to unfruitful expenditure of Rs.6.20 crore**

At Okha Port, depth of channel was only 5.6 mtr. With a view to accommodate vessels having draft ranging 5.6 to 8 mtr. directly at Sayaji Pier of the Port, survey was conducted departmentally in December 1999 and the GMB decided (August 2001) to carry out extensive dredging. It was decided to dredge an estimated quantity of 5.96 lakh cum. Work was allotted to an Agency (August 2001) at a tendered cost of Rs.6.89 crore.

After dredging of 4.47 lakh cum, work was confronted with rocks and sticky clay at turning circle along side Sayaji Pier and also at other strategical points. The Agency stopped (October 2001) the work as rocks, sticky clay, etc. were not provided for in the agreement. The work was not completed (June 2005). GMB had made payment (September 2001) of Rupees two crore against total cost of Rs.6.20 crore<sup>51</sup> and remaining amount of Rs.4.20 crore has been

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<sup>50</sup> Departmental figure

<sup>51</sup> Includes dredging cost of 4.47 cum. of dredging quantity and mobilisation and demobilisation advance



withheld since October 2001. Thus, due to defective survey by the GMB expenditure incurred on dredging proved unfruitful.

As the silt had again accumulated in the dredged area, the GMB prepared a fresh estimate (May 2005) for 6.91 lakh cum. of dredging including the overburden siltation of 5.72 lakh cum. in the entire water ways. Thus, the work earlier executed could not serve any purpose.

### **3.3.8.2 In-house dredging**

Dredging was carried out by the GMB's dredgers as well as through private contracts. A scrutiny of dredging carried out by private dredgers vis-à-vis the GMB's dredgers revealed that the cost of dredging by private dredgers ranged between Rs.30 and Rs.115 per cum. However, the cost of dredging carried out by the GMB at Okha and Veraval (2000-05) ranged between Rs.276 to Rs.14,980 per cum. The excessive cost of in-house dredging was mainly attributed to lesser quantity of actual dredging which resulted in excessive fixed cost in comparison to variable cost. The fixed cost included cost towards maintenance, pay and allowances, repairing of the dredging machinery and equipment. At Okha Port, quantity to be dredged was not estimated but during 2000-2005, 0.16 lakh cum. dredging was done at an expenditure of Rs.2.39 crore whereas at Veraval Port against estimated dredging quantity of 1.35 lakh cum. only 0.43 lakh cum. was dredged at an expenditure of Rs.1.23 crore.

### **3.3.9 Private sector participation in infrastructure development of Ports**

GMB allowed private parties to construct and operate jetties for handling their captive cargo (Industries related cargo). There were 19 captive jetties working at various GMB ports. For the development of ports through private participation, the Government declared Port Policy in December 1995 and also identified ten green field sites<sup>52</sup> for development as deep water direct berthing ports. The Ports at Pipavav and Mundra were given to private parties on Built Own Operate and Transfer basis in September 1998 and February 2001 respectively. Following points were noticed in audit.

#### **3.3.9.1 Supplementary agreement**

#### **Tardy action taken for supplementary agreement**

For the development of Mundra Port in private participation, the GMB entered into a concession agreement (February 2001) with the Gujarat Adani Port Limited (GAPL). The agreement provided that at the end of agreement period of 30 years (2031), the assets of GAPL be taken back by the GMB at Depreciated Replacement Value (DRV) and GAPL would pay waterfront royalty on cargo handled at Mundra Port at concessional rate. Difference between actual rate of waterfront royalty and concessional waterfront royalty would be allowed to be set off against the capital cost of all contracted assets of GAPL. The concession was to be given till the entire capital cost is fully set off. There was no provision in the agreement that the amount of concession so allowed would be deducted from DRV payable at the end of agreement period (i.e. 30 years).

<sup>52</sup> Dahej, Dholera, Hazira, Maroli, Mithi-Virdi, Mundra, Posithra, Rozi, Simar and Vansi-borsi

It was noticed in audit that when GAPL approached the GMB for obtaining approval for extension of port limit of Mundra Port for accommodating the Single Bouy Mooring (SBM) to be set up by HPCL<sup>53</sup> and others, the Ports and Fisheries Department put (May 2002) the following conditions.

- payment of waterfront royalty at full rate to the GMB on the cargo handled at the SBM to be set up in future i.e. SBMs other than of HPCL.
- deduction of amount of set off being availed as per present agreement by way of royalty concession while calculating DRV payable at the end of the agreement period as per clause 15.2.1.1 of the agreement.

However, no supplementary agreement was entered into (May 2005) due to subsequent opposition by the party (GAPL).

Pending finalization of the issue, the GMB had given concession of Rs.67.24 crore upto March 2005 on payment of waterfront royalty but its deduction from DRV to be paid at the end of agreement period was not yet assured.

### ***3.3.9.2 Indecision on status of jetty***

GMB had granted permission in 1987 to the Gujarat State Fertilizer Company Limited (GSFC) for construction of a jetty at village Sikka (Jamnagar district) for import of raw materials required for Dry Ammonium Phosphate Fertilizer Plant at village Moti-khavdi near Sikka. GMB did not get the agreement executed with GSFC for construction of jetty and had not decided the status of jetty (private jetty or captive jetty) for levy of port dues (March 2005). For a private jetty, GSFC was entitled to handle any cargo at their jetty subject to payment of full wharfage charges and for captive jetty, GSFC could handle only their captive cargo and was also entitled for rebate in wharfage charges for setting off the construction cost of the jetty constructed at Sikka.

**Tardy action in deciding the status of jetty led to blocking of revenue**

GSFC constructed the jetty at a cost of Rs.13.90 crore and cargo handling commenced in May 1987 with anchoring of first ship at jetty. GMB accordingly passed (August 1987) a resolution that as the terms and conditions of recovery, interest, etc. on capital cost of construction of jetty was not finalised, provisional rate of wharfage of Rs.110 per MT for liquid ammonia and liquid phosphoric acid be fixed subject to review after three months. This resolution was approved by the Government (August 1987).

When the Port Officer demanded the charges, GSFC approached the Government with a proposal that as expenditure of Rs.13.90 crore was incurred on construction of jetty, the charges to be levied be appropriated/adjusted against the cost incurred. Government directed (October 1987) the GMB that until the status of jetty was decided, the GMB should not recover the port charges but was to maintain ship wise accounts of charges to be levied for cargo handled by GSFC.

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<sup>53</sup> Hindustan Petroleum Corporation Limited

Audit observed (January 2004) that since commissioning (1987) of the jetty GSFC had handled only captive cargo (for their utilisation at fertilizer plant) and had demanded rebate in wharfage charges, as status of the jetty was of a captive Jetty only. However, the GMB did not take the decision and against wharfage charges of Rs.55.06 crore recoverable from the period of commissioning of jetty (after allowing rebate for setting off the construction cost of jetty of Rs.19.74 crore cost and interest etc. on cost of construction), GMB had recovered only Rs.39.85 crore. Thus, Rs.15.21 crore remained unrecovered.

Since status of jetty was not decided and no agreement executed, recovery of Rs.15.21 crore remained pending. Further, the GMB could not recover supervision charges, scrutiny fee, etc. leviable at the rates applicable at the time of construction of jetty.

GMB stated (April 2004) that the Government had directed (August 2003) the GMB to consider the said jetty as captive jetty and enter into agreement with GSFC. But agreement could not be entered into by the GMB as the issues like deciding the status of jetty, rate of wharfage charges were still not finalized.

Thus, due to indecision on the part of the GMB and the Government levels, agreement with GSFC remained pending and Rs.15.21 crore along with interest remained blocked.

### ***3.3.10 Realisation of Port Revenue***

#### ***3.3.10.1 Irregular transfer of port revenues***

Under the provision of Section 33 of Indian Ports Act, 1908, port dues are recoverable from each ship entering the Port. Government is vested with sovereign rights as owner of the waterfront. Accordingly, port dues in respect of vessels entering any minor Port in Gujarat were recoverable by the GMB.

GMB entered into an agreement with the Gujarat Pipavav Port Limited(GPPL) (September 1998) for development of Pipavav Port. As Pipavav Port was not declared by the State Government as a Port under the Indian Ports Act, 1908, the GMB decided (March 1999) to pass on the full amount of port dues collected by the GMB to GPPL from the ships coming at Pipavav Port.

A captive jetty of L&T Cement Limited under the control of the GMB is situated adjoining to Pipavav Port developed by GPPL. It was noticed in audit that the port dues collected by the GMB for vessels coming at L&T jetty were also transferred to GPPL. This irregular transfer of revenues resulted in loss of Rs.3.27 crore (2000-01 to March 2005) to the GMB.

It was stated that since GPPL is incurring expenditure on maintenance of port channel, the port dues collected by the GMB were transferred to them. Reply was not tenable as the Port developed by GPPL at Pipavav was not declared as a Port under the Indian Ports Act, 1908 and captive jetty of L&T was under control of the GMB.

### 3.3.10.2 Non compliance to statutory provisions

Section 31 of the Indian Ports Act, 1908 stipulates that no vessel of measurement of two hundred tonnes or upwards shall enter, leave or be moved in any port to which this Section has been specially extended without having a pilot or Harbour Master on board. This was to ensure port safety and security and these provisions were made compulsory to Porbandar, Bhavnagar, Okha and Sikka Ports.

It was noticed (June 2005) in audit that vessels coming at Reliance Captive Jetty at Sikka Port were flouting port safety and security, as pilots were provided by Captive Jetty holder themselves instead of the GMB. Port Officer, Bedi Port did not give any reason for allowing the Captive Jetty holders to pilot the vessels.

As per Schedule of Port Charges (July 2003), pilotage charges were recoverable when pilot vessel was not provided by the GMB but pilotage was mandatory. Accordingly, in all, 507 vessels were handled by the Port between July 2003 and March 2004 on which pilotage of Rupees eight crore should have been recovered. Port Officer stated (June 2005) that since no pilotage was provided, question of recovery does not arise. The reply of the Port Officer was not tenable, as allowing pilotage through captive jetty holders not only resulted in violation of statutory requirement of Indian Ports Act, 1908 but also loss of revenue to the extent of Rupees eight crore.

### 3.3.10.3 Short recovery of wharfage

**Incorrect application of rates led to short recovery of dues**

As per agreement (January 2000) for captive jetty with Essar Oil Limited at Magdalla Port, the licensee was entitled to a concession in wharfage rate, for the cargo handled from one GMB Port to any other Port in India at a rate of 15 *per cent* or at the rate as may be applicable from time to time. This concession was provided as per provisions of Schedule of Port Charges (SOPC) and was effective from May 1998. This rebate was withdrawn with effect from 18 July 2003 in revised Schedule of Port Charges. Despite this, the Port Officer, Magdalla worked out wharfage rate after allowing 15 *per cent* rebate on the ground that the same was applicable as per terms of the agreement which resulted in short recovery of wharfage charges to the tune of Rs.3.69 crore on cargo handled (July 2003 to March 2005).

Similarly, at Sikka Port, the rebate was extended to Reliance Port & Terminal Limited on 65.65 lakh MT of petroleum cargo handled (July 2003 to March 2005) which resulted in short recovery of Rs.5.91 crore (Rs.4.73 crore towards set off as jetty rebate and Rs.1.18 crore towards revenue)<sup>54</sup>.

### 3.3.10.4 Wharfage rebate

As per Schedule of Port Charges revised with effect from 18 July 2003 for handling of cargo from one GMB port to another GMB port, the parties were entitled to a rebate of 25 *per cent* in wharfage rate prescribed. Over and above

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<sup>54</sup> Out of total short recovered amount Rs.5.91 crore, 80 *per cent* would have gone towards setting off cost of jetty as jetty rebate and 20 *per cent* against actual short recovery in cash

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this, the agreement entered into (August 1999) by GMB with Reliance Industries Limited (RIL), Hazira for operating a captive jetty it was provided that if liquid cargo was handled at Single Point Mooring (SPM), the wharfage rate would be considered as 50 *per cent* of the wharfage rate prescribed in Schedule of Port Charges.

**Incorrect calculation of rebate on wharfage rate led to short recovery of wharfage charges**

As RIL was handling their product *viz.*, Naptha and Paraxylin from Sikka Port to Hazira Port, they were entitled to a rebate of 25 *per cent* in wharfage charges. Though rebate of 25 *per cent* was required to be worked out on reduced wharfage rate as per agreement (after allowing 50 *per cent* reduction in the wharfage rate), the Port Officer, Magdalla incorrectly applied the rebate of 25 *per cent* on full wharfage rate. This resulted in short recovery of wharfage charges to the tune of Rs.4.07 crore between July 2003 and March 2005 (Rs 3.26 crore as short adjustment of jetty rebate and Rs.0.81 crore towards revenue).

The Port Officer, Magdalla stated (June 2005) that the rebate was given as per terms of agreement and as per Schedule of Port Charges. The reply was not correct as rebate should have been worked out and restricted after reducing wharfage rate by 50 *per cent*.

### **3.3.10.5 Expenditure on operation and maintenance**

A 55-seat capacity passenger launch ML Gomti was purchased by the GMB in 2000-01 at a cost of Rs.1.29 crore. The launch was put to use for plying between Okha and Beyt Dwarka. The launch was given (April 2000) on contract for MMO&R.

A scrutiny of income earned and expenditure statements of the launch, revealed that during 2000-05, as against the total income of Rs.29.04 lakh, the expenditure on maintaining the launch amounted to Rs.1.20 crore. Thus, due to operation of the launch at lower passenger rate compared to actual cost per passenger, the GMB suffered a loss of Rs.90.96 lakh. Meanwhile, the GMB gave licence to about 60 boats for plying between Okha and Beyt Dwarka in addition to the passenger launch also resulting in under utilisation of this launch. Thus, maintenance of passenger launch resulted in huge loss to the GMB.

### **3.3.11 Ship breaking activities**

#### **3.3.11.1 Non payment of dues**

GMB developed and allotted (1994-95) 173 plots at Alang and 15 at Sachana for ship breaking. The plots at Alang were allotted on lease to the highest bidder for a period of ten years.

**Defective terms of agreement resulted in non recovery of Rs.14.87 crore**

As per agreement, the plot holders at Alang were required to handle a minimum of 0.60 lakh Light Displacement Tonnes (LDT) in the first block of six years (1994-2000), 0.30 lakh LDT in the second block of three years (2000-2003) and 0.10 lakh LDT in the last block of one year (2003-04). If minimum LDT was not handled, the parties were required to pay difference of LDT handling charges at Rs.108 per LDT. To cover itself against non-

payment of differential LDT, the GMB did not include into the contract any provision for furnishing of bank guarantee/security.

It was seen in audit that at the end of first block (1999-2000), 23 plot holders did not handle minimum LDT and also failed to pay difference of LDT charges of Rs.9.30 crore. The differential amounts were not recovered as of July 2005. Similarly, on completion of second block (2003-04), three plot holders failed to handle minimum LDT of 0.30 lakh. An amount of Rs.58 lakh, being difference of LDT charges was not yet recovered as of July 2005. For the last block of one year ended (September 2004), 84 parties failed to handle minimum LDT and the difference of minimum handling charges amounting to Rs.4.99 crore was yet to be recovered (July 2005).

Thus, defective terms of agreement resulted in blocking of revenue to the extent of Rs 14.87 crore for which no penal provisions were provided in the agreement.

**Premium on plots allotted amounting to Rs.7.75 crore not recovered**

It was also noticed that as per conditions of agreement, parties were required to pay premium on plots on installment basis. Though the lease period of ten years was over in 2004-05, premium of Rs.7.75 crore from 24 parties remained un-recovered (July 2005).

The deficiency in the contract by not providing for financial safeguards to cover situation of non-payment of lease charges/LDT had led to the situation of accumulation of dues.

### **3.3.12 Monitoring and Control**

#### **3.3.12.1 Incorrect application of orders of the Director General of Shipping**

With a view to control oil pollution, the Director General (DG) of Shipping issued a circular (August 1999) to all Major Ports in India to levy port charges on reduced Gross Reduced Tonnage (GRT) mentioned in the International Tonnage Certificate in respect of oil tankers having segregated ballast tanks.

Though Sikka Port was not a major port and the orders of the DG, Shipping were not yet implemented by the State Government to minor ports, the Port Officer, Bedi Port, Jamnagar (a minor port under the GMB) incorrectly levied berth hire charges on reduced GRT in respect of vessels arrived at Reliance Jetty, Sikka during August 1999 to September 2003 resulting in short recovery of berth hire charges to the tune of Rs.68 lakh. Thus, the incorrect implementation of orders without the knowledge of the GMB/Government resulted in short recovery of berth hire charges.

The Port Officer, Bedi Port, Jamnagar replied (June 2005) that the Reliance had agreed to the short recovery (May 2005), however, payment was yet to be received (June 2005).

#### **3.3.13 Conclusion**

Though overall traffic of the GMB had increased, share of jetties of the GMB in cargo handling was dismal. High cost of in-house dredging was due to non assessment of its requirement and dredging done not being as per estimates besides wasteful expenditure on it. The terms and conditions for construction of captive jetties/private jetties/ship breaking plots were not fixed in advance

besides there were other contractual defects which led to non recovery of dues. Incorrect application of rebates and other dues resulted in short recovery of revenues.

**3.3.14 Recommendation**

- Available port infrastructure should be put to optimal usage.
- The terms and conditions for agreements for construction of captive jetties/private jetties/ship breaking plots should be finalized in advance and agreements should be entered into before implementation.
- Dredging should be carried out after due and proper assessment of estimates.

