

**CHAPTER III  
PERFORMANCE REVIEWS**

**FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS  
DEPARTMENT**

**3.1 Implementation of Acts and Rules relating to Consumer  
Protection**

*Highlights*

- Two additional benches of the State Commission in order to reduce the pendency of cases were not set up.  
*(Paragraph 3.1.9)*
- Out of Rs 3.93 crore sanctioned during 1995-99 to improve the infrastructure of Consumer Disputes Redressal Agencies only Rs 2.16 crore (55 per cent) could be utilised even after 7 years. Internet connectivity had not been provided to the CDRC despite directions of the National Commission in February 2002.  
*(Paragraphs 3.1.16 and 3.1.18)*
- Consumer Disputes Redressal Commission/Forums in the State suffered owing to vacancies of President/Members, inadequate staff. It was also observed that during 2000 to 2004 the disposal of cases in the CDRC and CDRFs ranged from 9 to 42 per cent and 44 to 60 per cent respectively. Delay of more than five months was noticed in the disposal of 30 per cent cases in CDRC and 22 per cent cases in CDRFs.  
*(Paragraphs 3.1.20 to 3.1.27)*
- Under Prevention of Food Adulteration Act, 1954, the collection of samples in 2004-05 was only 28 per cent of the target.  
*(Paragraph 3.1.29)*
- In Legal Metrology Department, there was dearth of inspecting staff which affects the quality of inspection. Recommendation (October 2004) to bring the Legal Metrology Department under the Consumer Affairs Department for better co-ordination had not been implemented.  
*(Paragraph 3.1.30 to 3.1.33)*
- Consumer Protection Councils were not constituted in the State and Districts to protect the interest of consumers.  
*(Paragraph 3.1.38)*
- General awareness about the Consumer Protection Act among consumers was lacking as Consumer Information Centres were not set up in all the Districts. No Consumer Welfare Fund was set up to extend financial support to needy consumers.  
*(Paragraphs 3.1.41 to 3.1.43)*

## **Introduction**

**3.1.1** The Consumer Protection Act, 1986 (CP Act) was enacted by the Parliament in 1986 to provide simple, speedy and inexpensive redressal for consumers' grievances. The CP Act is also intended to protect the consumers against marketing of goods and services injurious to life and property. The CP Act came into force with effect from 1 July 1987 after the Government of India (GOI) framed the Consumer Protection Rules, 1987 (Rules). The Consumer Protection Rules in the State of Kerala came into force on 16 October 1987 and were subsequently modified in June 1998. The CP Act provides for establishment of a separate three tier quasi-judicial consumer dispute redressal machinery at the National, State and District levels called the Consumer Disputes Redressal Agencies (CDRAs). These Agencies are empowered to give relief of specific nature and to award compensation to the consumers. They are commonly known as Consumer Courts and at the district level as district forums. The CP Act was amended in 2002 to discourage adjournments, making provision for the senior most member to preside over the CDRAs in case of absence of the President and empowering courts to punish those not obeying orders of the courts in order to facilitate quicker disposal of complaints. The Rules based on the latest amendments had not been issued as of July 2005.

**3.1.2** The implementation of the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, both of which were enacted in the interest of consumer protection, are monitored by the Legal Metrology Department. The major tasks of the Department are annual verification and sampling of weights, measures, weighing and measuring instruments used in any transaction, industrial production or any other trade, periodical and surprise inspection of trade premises, standardisation of the weights, measures and measuring instruments in the State and detection of malpractices in trading institutions and taking appropriate legal/remedial action against the offenders.

**3.1.3** Besides these Acts and Rules, the Prevention of Food Adulteration (PFA), Act 1954, which deals with prevention of adulteration of food stuff intended for human consumption during the stage of manufacture, storage and sale, is aimed at safeguarding the interest of the consumers. The Bureau of Indian Standards is also meant to protect interest of consumers through its two major activities namely Standards Formulation and Certification Marking.

## **Organisational set up**

**3.1.4** The Secretary, Food, Civil Supplies and Consumer Affairs Department is in charge of the implementation of the Act in the Government. The Director of Civil Supplies is the Head of the Department. The State Consumer Disputes Redressal Commission (CDRC) and 14 District Consumer Disputes Redressal Forums (CDRFs) are the implementing agencies.

**3.1.5** The Controller is the Head of the Department of Legal Metrology. The Secretary, Health and Family Welfare Department is responsible for the implementation of the PFA Act in the State. The Director of Health Services

is the Food Health Authority in the State. The Deputy Director (PFA) in the Directorate of Health Services is the programme officer for the prevention of food adulteration.

### **Audit objectives**

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

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

### **Audit coverage**

**3.1.7** Test check of the records for the period 2000 to 2004 (calendar year) was conducted during May – July 2005 at the Food, Civil Supplies and Consumer Affairs Department of the Government Secretariat, the State Consumer Disputes Redressal Commission (CDRC), four\* selected Consumer Disputes Redressal Forums (CDRFs), two Regional Analytical Laboratories at Thiruvananthapuram and Kozhikode, office of the Director of Civil Supplies, office of the Controller of Legal Metrology and the Deputy Director of Prevention of Food Adulteration, to ascertain how far the whole system of CDRAs and enforcement mechanism was adequate to meet the expectations of the consumers. Four districts (out of 14) being 29 *per cent* were selected – Thiruvananthapuram (Capital district), Thrissur, Ernakulam and Kannur for test-check.

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\* Thiruvananthapuram, Ernakulam, Thrissur, and Kannur

**3.1.8** ORG-MARG, an independent agency, was also engaged for a nationwide survey and study on the subject and to assess the level of awareness among the consumers of the CP Act and their level of satisfaction with reference to the complaints lodged in the redressal forums. The engagement of ORG-MARG for the survey was intimated to the State Government in July 2005. ORG-MARG conducted the survey in four districts viz. Thiruvananthapuram, Alappuzha, Thrissur and Malappuram and in the process contacted 1,985 consumers and 101 complainants, five manufacturers/traders, five service providers, three Non-Governmental Organisations (NGOs) and two laboratories. The period of survey was from mid July to mid August 2005. Their findings are incorporated in this review at appropriate places. Executive summary of the findings is given as Annexure to this review.

### **Inadequacies in creation of the adjudication mechanism in the State Commission**

**3.1.9** Under the CP Act, the CDRF, the CDRC and the National Commission constitute the three tier set up for settling the disputes of consumers. In the District Forum, claims up to Rs 20 lakh are dealt with whereas the State CDRC deals with claims above Rs 20 lakh and up to Rs one crore and appeal cases from lower courts. Claims above Rs 1 crore and appeal cases from the CDRC are decided in the National Commission. CDRFs and the CDRC are the agencies functioning within the State. In Kerala, three CDRFs on zonal basis and the CDRC were set up in February 1990. Separate District Forum for each of the 14 districts was set up in October 1991. Thus, there was a delay of more than two years since the promulgation of the CP Rules in the State in setting up of the CDRC in the State and more than four years in establishing the CDRFs in each district. In view of the heavy pendency of cases, the GOI in May 2004 suggested setting up of two additional benches for CDRC in the State. But, the additional benches had not been set up (August 2005) pending issue of revised Rules of consumer protection based on the amendment to the CP Act in 2002. However, the CDRC had been conducting camp sitting for one week in each month at Ernakulam for the convenience of consumers of northern districts of Kerala to clear the pendency.

**Two additional benches to clear the pending cases were not set up**

**3.1.10** The Legislative intent of providing speedy redressal for consumers' grievances was not fulfilled as additional benches were not set up despite heavy pendency. How the consumers perceive the Government's inaction to increase the capacity of the State Commission and the District Forums to deal with more cases came out in the survey conducted by the ORG-MARG. They reported that almost 62 *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.

### **Policy formulation and absence of uniform procedure**

**3.1.11** Though the State was administering several Acts and Rules aimed at the welfare and protection of consumers, there was no separate documented policy outlining the programme objectives to be achieved through various

schemes. In the absence of a well defined policy, no priority was accorded either for infrastructure development or for creation of adjudication mechanism or for setting up of a monitoring system to suggest remedial measures. No specific schemes were drawn up to involve the NGOs in the activities.

**3.1.12** Rules governing issues of implementation of the CP Act were notified in October 1987. These Rules contained various provisions governing the service conditions of the President and the Members of the State Commission and the District Forums but the rules governing the staff, including their recruitment rules were not framed. As was resolved in the meeting convened (October 1999) by the President of the National Commission, a uniform procedure for processing of complaints from the date of receipt till their final disposal was to be drawn up by the State Commission and the National Commission. Such uniform procedure was not prepared. As a result, divergent practices were followed in filing of the complaints and their processing.

**3.1.13** Though the CP Act provides for a simple registration process where an application can be filed on a plain paper, but the ORG-MARG survey results showed that 23 *per cent* of the complainants used stamp papers to file the cases.

**3.1.14.** The ORG-MARG survey also disclosed that a majority among those aware of the CP Act and redressal agencies did not have appropriate knowledge on the procedures and other details. For instance, 48 *per cent* of them did not know whether lawyers were required; another 20 *per cent* reported that it was required by either or both the parties. There was mixed response on court fee, where 37 *per cent* felt it was not necessary to deposit court fee, another 11 *per cent* reported that on registering cases with redressal agency court fee was also paid; the remaining (52 *per cent*) could not comment on this subject. Only 38 *per cent* were aware of the goods and 30 *per cent* were aware of the services covered under the CP Act.

**3.1.15** The National Commission directed that the amount deposited by persons filing appeal against the judgement of the CDRFs/CDRC should be kept in the nationalised banks in short term deposits. On final judgement, the amount together with interest was to be repaid to the person succeeding in the appeal. However, in all the CDRFs except at Thiruvananthapuram, the amount collected from appellants were deposited in the Treasury as Civil Court Deposits (CCD) for which no interest was payable. The procedure for withdrawal of money from the Treasury often resulted in delays and difficulties in getting the amount due on disposal of appeals. In the CDRF, Thiruvananthapuram, 68 Demand Drafts for Rs 21.69 lakh received as deposits made by appellants during May 2001 to January 2004 were kept in hand up to March 2004 instead of depositing it in the bank, for want of directions from the CDRC and thus had become time barred.

### Adequacy of infrastructure

**Rupees 1.77 crore of infrastructure funds were not spent even after seven years of its release**

**3.1.16** CDRC and the CDRFs at Thiruvananthapuram, Ernakulam and Idukki had their own office buildings. Six\* forums were located in the respective Civil Office Buildings and the remaining five<sup>∞</sup> were functioning in rented buildings. Nine\* out of the 14 CDRFs had reported that the area provided was not sufficient. It was noticed that three<sup>@</sup> CDRFs were situated at places 5 to 9 km away from the District Headquarters making it difficult for the consumers to reach the forum. In order to improve the infrastructure, the GOI sanctioned one-time grant of Rs 1.90 crore to the CDRC during 1995-98. Of this, Rs 1.17 crore only (62 per cent) could be utilised as of August 2005. The State Government also sanctioned Rs 2.03 crore during 1995-99 for acquisition of land and development of infrastructure facilities. Of this, Rs 99 lakh (49 per cent) had been utilised as of August 2005. The expenditure incurred was mainly on items like construction of buildings, residential telephone to the Presidents of redressal agencies, purchase of books, electronic equipment, etc. CDRC attributed the underutilisation of funds to difficulties in acquiring land for construction of own buildings for the CDRFs. The non-utilisation of nearly 45 per cent of the funds even seven years after release showed the lack of commitment of the Government towards providing adequate infrastructure facilities to the consumer forums.

**3.1.17** Absence of infrastructure in terms of proper buildings also makes it more difficult for consumers in general to become aware of the existence and the location of the redressal agency. Results of the ORG-MARG survey revealed that only 26 per cent of the consumers were aware of the existence of any redressal agency and 24 per cent, who were aware of the CP Act, did not know about the location of the consumer forum in their respective districts.

### Office Automation

**3.1.18** No fax machine was available in the CDRC or in any of the CDRFs. Photocopier was not available in the CDRF, Thiruvananthapuram and the one available in the CDRF, Thrissur was not in working condition. The computers supplied to the CDRFs, Thrissur and Wayanad were not in working condition as there was no periodical maintenance. The computers, wherever provided, were also not used for data processing due to non-availability of trained staff. No software suitable for the CDRAs was also developed. Though the National Commission had directed (February 2002) that the CDRC be provided with NICNET connectivity for E-Mail and Internet through Dial up connection before March 2002, no connectivity was provided as of August 2005 despite availability of Rs 72.70 lakh from the grant released by the GOI during 1995-98. As part of the Government initiative "Fostering Quality Consciousness Amongst Consumers", the Department decided (November 2004) to computerize the consumer courts in the State to facilitate speedy

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\* Kollam, Kottayam, Palakkad, Malappuram, Wayanad and Kozhikode

<sup>∞</sup> Pathanamthitta, Alappuzha, Thrissur, Kannur and Kasaragod

<sup>\*</sup> Pathanamthitta, Kottayam, Alappuzha, Idukki, Ernakulam, Thrissur, Malappuram, Wayanad and Kasaragod

<sup>@</sup> Ernakulam, Kasaragod and Kozhikode

settlement of complaints developing necessary IT software and infrastructure. Accordingly, the Government appointed (March 2005) KELTRON® as the Total Solution Provider at a cost of Rs 14.50 lakh. A sum of Rs 3 lakh had also been advanced to KELTRON in March 2005 and against the target of completion of work by June 2005, the work was still in progress as of August 2005.

### ***Laboratory***

**3.1.19** An approved list of laboratories had been notified in the Kerala Consumer Protection Rules. Twenty-four approved laboratories were functioning in the ten districts of the State and in the remaining four districts no approved laboratory was available. The time allowed for settling the cases which required analysis or test is five months from the date of receipt of notice by the opposite party. There was a delay of three years in one case out of 12 cases referred to the laboratories for examination from the CDRF, Ernakulam. In CDRF, Kannur, three<sup>#</sup> cases (out of four) referred (December 2001 and January 2002) for examination to Deputy Director, Agriculture, Fertilizer Quality Control Laboratory, Thiruvananthapuram (Laboratory) were pending as of July 2005. When the Forum took up the matter with the Laboratory, the Deputy Director of the Laboratory reported (September 2004) that the samples had not been received by them. No further correspondence were on record with regard to ascertaining the status of examination of the samples by the Laboratory.

### **Adequacy of staffing and funding for Operations**

#### ***Vacancy position of President and Members***

**3.1.20** The CDRC/CDRF comprised the President and two members of which one of whom should be a woman. Of the three, at least two were to be present for a regular sitting. In the CDRC, the post of one Member was vacant from September 2003. In five<sup>⊗</sup> CDRFs, posts of the President were vacant as of August 2005. In five<sup>♦</sup> CDRFs, posts of the Members were vacant as of August 2005. In the CDRF, Malappuram, which is the most populous district, the posts of both the President and the Member were vacant and the forum was non-functional from January 2004. Government stated (July 2005) that the appointments of the President and Members of the CDRA's could be made only after disposal of the writ petition pending in the Hon'ble High Court of Kerala on the subject. It was observed that even before filing of the petition in 2003, timely appointment of the President/Members was not being made.

**Vacancies of the President/Members in the CDRC/CDRFs were not filled up**

⊗ Kerala State Electronics Development Corporation Limited

# OP 416/01, OP 7/02, OP 12/02

⊗ Thiruvananthapuram (03 June 2003), Alappuzha (11 June 2003), Malappuram (16 October 2003), Kollam (03 May 2005) and Kasargod (24 May 2005)

♦ Wayanad (30 March 2003), Malappuram (29 January 2004), Pathanamthitta (08 March.2004), Thrissur (17 November 2004) and Kottayam (10 November 2004)

### ***Administrative Staff***

#### **Shortage of staff in the CDRC/CDRFs**

**3.1.21** All the administrative staff of the State Commission, except the Court officer who is on deputation from the High Court of Kerala, and the District Forums were on deputation from the Department of Civil Supplies. They were required to work in the CDRC or CDRFs for a minimum period of three years for the smooth functioning of the Consumer Courts. The sanctioned strength of CDRC and 14 CDRFs were 21 and 132 respectively. According to the Report of the Bagla Committee (2000) appointed by the National Commission to assess the requirement of staff in the CDRAs, the staff required at CDRC was fixed as 38 and that of each CDRF at 14. Also for every 250 pending cases two clerks were to be appointed. The request for additional staff sent by the CDRC in August 2004, was not accepted by the Government as of July 2005. It was also observed that even against the sanctioned strength of 132 in forums there were three vacancies as of July 2005.

### ***Insufficiency of funds for postage stamps***

**3.1.22** It was noticed that in the CDRF, Thrissur average allotment for purchase of postage stamps in a year was Rs 30,000 whereas the amount required for sending notices and other documents was more than Rs 1.25 lakh. It was also noticed that the forum was collecting postage stamps from the complainants for sending documents. As no account was maintained of the stamps collected from the complainants, the possibility of misutilisation of funds allotted by the Department for purchase of postage stamps could not be ruled out. Moreover, collection of stamps from the complainants was against the spirit of the CP Act. In the CDRF, Ernakulam, non-availability of funds for purchase of postage stamps caused delay in sending notices and orders of the forum.

### ***Non-uniformity in working hours***

#### **Shortfall in working days in the CDRC/CDRFs during 2003 and 2004**

**3.1.23** As per the CP Rules the working days and the office hours of the CDRC and CDRFs shall be on par with that of the State Government offices. It was, however, seen in audit that there were shortages in the number of sittings. Against the normal working days of 280 and 284 during 2003 and 2004 respectively, the number of days of sitting ranged between 171 and 246. The shortfall was attributed (July 2005) by the CDRFs to hartal, administrative reasons, want of quorum, etc. No sittings were held on Saturdays at the CDRFs, Ernakulam and Kannur. CDRC had not given a clear and uniform direction in this regard. According to the GOI notification (May 2005) the hearing of cases had to be arranged on all working days.

**3.1.24** Continuous vacancies in the interim periods in the posts of the President and Members coupled with absence of adequate staff, non-uniformity in working hours also contributed towards delay in disposal of cases as well as pendency as discussed below.



### Disposal of cases in State Commission and District Forums and analysis of cases filed

**3.1.25** The position regarding receipt and disposal of cases in the CDRC and the 14 District Forums since their inception in February 1990/ October 1991 and their pendency as on 31 December 2004 was under.

	Number of cases (OP* and appeals) received	Number of cases (OP and appeals) disposed of and its percentage	Number of cases pending as on 31 December 2004
CDRC	18,933	15,140 (80)	3,793
District Forums (CDRFs)	1,39,027	1,32,280 (95)	6,747

There was delay of more than five months in 30 and 22 per cent of the cases disposed of by the CDRC and the CDRFs respectively

**3.1.26** An analysis of 15,140 cases disposed of by the CDRC revealed that only 32 per cent of the cases were disposed of within 90 days and the delay in disposal of 30 per cent cases was beyond five months. Similarly, 22 per cent of cases were disposed of by the CDRFs with a delay of more than five months. Also, an analysis of 3,793 cases pending as of 31 December 2004 in the CDRC showed that 50 per cent of the cases were pending for more than two years.

**3.1.27** An analysis of the cases received and disposed of during the last five years revealed that the disposal in the CDRFs ranged from 44 to 60 per cent and that in the CDRC from 9 to 42 per cent as shown below: -

Percentage of disposal of cases in the CDRC/CDRFs was showing declining trend during the last five years

Year	CDRC		CDRFs	
	Current and carried over cases	Disposal (per cent)	Current and carried over cases	Disposal (per cent)
2000	2,771	1,153 (42)	14,699	8,793 (60)
2001	2,987	993 (33)	13,661	7,616 (56)
2002	2,961	545 (18)	12,374	5,499 (44)
2003	3,499	562 (16)	13,373	6,742 (50)
2004	4,171	378 (9)	12,757	6,010 (47)

**3.1.28** Survey conducted by the ORG-MARG revealed that the average time taken to resolve a case was 6.5 months. Whereas in respect of unresolved cases, the average time of pendency was 40 months. Majority of the complaints were against services (53 per cent) such as electricity (27 per cent), other financial services (21 per cent) and insurance services (20 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 had to approach consumer redressal agencies.

### Enforcement Mechanism

#### Prevention of food adulteration

**3.1.29** After examining paragraph 3.1 of the Report of the Comptroller and Auditor General of India (Civil) for the year ended 31 March 2000 on implementation of the PFA Act, the Public Accounts Committee

\* OP: Original Petition

recommended that the functioning of the Government laboratories should be revamped by equipping them with modern instruments for the detection of adulterants. However, it was noticed in audit that several items of equipment like Fluorimeter, FT-IR Spectrometer, Gerber Centrifuge, Abbeys Refractometer, etc., urgently needed for conducting various tests were not available in the laboratories. Though the PAC had also recommended action against short collection of samples, there was no improvement in the collection of samples for want of adequate funds. Against the target of 4,350 per month in 2004-05, the collection of samples was only 28 *per cent*. This was attributed (July 2005) to non-allotment of sufficient funds for petrol, oil and lubricants for the 17 vehicles of the wing during 2000-05 which are required for carrying out the inspections.

### ***Legal Metrology***

**3.1.30** The enforcement of the provisions of the Standards of Weights and Measures Act, 1976, vests with 96 Inspectors. The Department sent proposals (June 2005) to the Government for creation of 60 inspecting staff commensurate with the increase in the number of trading units during the last 10 years; no corresponding increase in the posts had been made (July 2005).

**3.1.31** As per the norms fixed in 1981, an Inspector has to check 25 to 40 weights and measures instruments brought by the traders in a day. Due to the increase in the number of institutions/units, one inspector has to re-examine and stamp at least 70-80 instruments a day and this adversely affects the determination of the precision and accuracy of the instruments. Owing to increased workload, the number of days for surprise check had also been reduced considerably.

**3.1.32** The Department had not fixed any physical target for the Inspectors. However, it was noticed that the focus remained only on inspection of larger units and smaller units were given lower priority. A gold testing laboratory set up (January 2004) at Kochi at a cost of Rs 32.90 lakh was not functioning for want of required staff as of July 2005.

**3.1.33** There was no coordination among the various Departments involved in consumer activities. In the study report on the simplification of the procedure of Legal Metrology Department conducted by the Personnel and Administrative Reforms Department of the State Government in October 2004, it was suggested that rather than earning revenue, protection of the rights and interests of the consumers should be made the real thrust area of the activity of the Department. It was also recommended that the Department should be detached from the Revenue Department and should be brought under Consumer Affairs Department for better functioning of the Department. No action was taken by the Government in this regard (July 2005). There was also no monitoring cell in the Directorate to watch the activities and for follow-up.

### Execution of Judgments under CP Act

**3.1.34** The amount decreed as compensation or fine or penalty was to be paid directly to the decree holders by the opposite party. CDRAs became aware of the non-compliance of the court orders, if any, only if the complainant approached the Commission or Forum for filing Execution Petition (EP). There was no time limit prescribed for filing EP until May 2005 when the GOI issued a notification fixing 30 days as the time limit. When the parties against whom the decree had been passed were not complying with the order, the awarded amounts were realised from the parties through EPs. If the parties fail to remit the awarded amounts even after the EPs were filed, arrest warrants were to be issued against them. Due to lack of co-operation from police authorities, the CDRAs were experiencing great difficulty in execution of warrants.

**3.1.35** It was noticed that 2,682 EPs pending disposal as of December 2004 were not included in the returns filed before the National Commission from the State. The returns thus did not give a comprehensive picture.

**In four CDRFs, 39 per cent of the EP cases were pending settlement**

**3.1.36** During 2000 to 2004 in the four CDRFs test checked, out of 3,442 EP cases filed 1,350 cases (39 per cent) were pending disposal as of July 2005.

**3.1.37** In the ORG-MARG survey also, it came out that of the 18 complainants surveyed eight responded that they had not received compensation though the decree had been passed in their favour. On an average compensation was due for 40 months and for those who had received the compensation the same was received within an average period of eight months.

### Functioning of Consumer Protection Councils

**Consumer Protection Councils were not set up**

**3.1.38** The Consumer Protection Councils were meant for promoting and protecting the rights of consumers by dissemination of information and through consumer education. These were also supposed to ensure that the consumer interests would receive due consideration at the appropriate forums. Though a State Council was set up in June 2002 its tenure ended in June 2005. It had not been reconstituted as of August 2005. Despite passage of more than 3 years, District Councils had not been set up which also had direct linkage to lack of awareness with regard to consumer protection as also skewed profile of complainants with majority belonging to urban areas and well earning groups.

**3.1.39** The ORG-MARG survey revealed that more than half of the complainants resided in urban areas and except two, the rest of the complainants were educated and had an average monthly household income of Rs 6498. This implied that the facilities provided by redressal agencies were availed mostly by residents of urban areas and that too by the middle and upper middle strata of the community.

**3.1.40** Thus, the intention of protecting the interests of consumers and strengthening the consumer movement at the grass root level through the functioning of the State and the Districts Consumer Protection Councils was only partially fulfilled.

## **Awareness and Empowerment of Consumers**

### ***Consumer Welfare Fund (CWF)***

**Consumer Welfare Fund was not set up**

**3.1.41** GOI asked (September 2003) the State Government to set up a State Consumer Welfare Fund (CWF) to strengthen the voluntary efforts for promoting consumer movement and offered (February 2004) a seed money of Rs 15 lakh. Government had not set up CWF as of July 2005. As a result subsequent grant of Rs 95 lakh (Rs 25 lakh to CDRC and Rs 5 lakh each to 14 CDRFs) allocated by the GOI could not be availed of.

### ***District Consumer Information Centres***

**Except in Thiruvananthapuram, Consumer Information Centres were not set up in districts**

**3.1.42** Under the Central Consumer Welfare Fund there was a separate scheme of establishment of District Consumer Information Centre (DCIC) to promote and protect the welfare of the consumers, generating consumer awareness and strengthening consumer movement. However, only one DCIC was set up in January 2003 in Thiruvananthapuram with the GOI assistance by the Centre for India Consumer Protection and Research – an NGO. The main objectives of the Centre was to extend information support to needy consumers, consumer education, rights protection, complaint handling, etc. A sum of Rs 2.5 lakh was released (August 2002) to the Centre as the first instalment. The proposal for releasing the second instalment of Rs 1.5 lakh was pending with the District Collector/Government as of July 2005.

### ***Generation of consumer awareness***

**3.1.43** The success of the consumer movement depends upon the level of awareness among the masses about their rights. In Kerala, a Consumer Affairs Wing was set up under the Food and Civil Supplies Department at the Government level only in April 2003 with a skeleton staff headed by a Joint Secretary. The activities such as celebration of World Consumer Rights Day, National Consumer Day, giving away annual awards to NGOs, arranging seminars, etc., conducted by the Government were confined only around the State/District Headquarters and, therefore, consumer awareness did not permeate to the grass root level.

**3.1.44** There was no separate Media Policy for the dissemination of information relating to rights of consumers, filing of complaints and procedure for adjudication. No survey to assess the awareness among the people had been conducted (July 2005). The Department stated that one survey had been planned for the year 2006 under Modernising Government Programme.

**3.1.45** GOI formulated (June 2004) a scheme to form consumer clubs in schools to impart consumer education to the school children and offered an assistance of Rs 10 lakh. Government stated (August 2005) that proposals received for the scheme were under finalisation. State Government also failed to avail of the assistance from the GOI for extending legal aid to the under-privileged.

**3.1.46** The CP Act envisages formation and functioning of the Consumer Clubs/ NGOs for information dissemination on consumer rights and the CP

Act. Findings of the ORG-MARG survey revealed that only 0.2 *per cent* of the respondents reported to have learnt about the CP Act from the NGOs.

**3.1.47** The ORG-MARG survey revealed that though the CP Act is envisaged to benefit all the consumers in urban and rural areas only 3 *per cent* of the rural population had heard about it. The analysis further showed that among those consumers who were aware of the CP Act, most belonged to the educated lot (44 *per cent*), self employed (59 *per cent*), employed with the Government (71 *per cent*), private organisation (63 *per cent*), students (58 *per cent*) and retired persons (76 *per cent*). Majority of respondents who were aware of consumer rights had come to know about it from electronic media (76 *per cent*) and print media (71 *per cent*).

### **Role of Non-Governmental Organisations (NGOs)**

**3.1.48** The Audit team also surveyed 59 NGOs, from the list of NGOs maintained by the Director of Civil Supplies (5 in person and 54 through correspondence) to know their views on the consumer redressal agencies and their functioning to improve the system. Of the 31 responses received, 26 NGOs expressed dissatisfaction with the functioning of the redressal agencies. The major difficulties pointed out by them were introduction of fee for filing complaints, undue delay in settling cases, involvement of advocates, vacancy of Presidents and Members, shortage of administrative staff. Suggestions made by the NGOs to improve the system were mainly to withdraw the fee introduced for filing appeals, take effective steps to fill the vacancies of the President and Members and other ministerial staff, provide police support for executing decrees and hold sittings on all the Government working days.

### **Monitoring Mechanism**

**3.1.49** GOI, while considering the request of various States for the grant of one time financial assistance, issued (July 1995) instructions to clear the pendency of cases and fixed norms for the daily disposal of 10 cases which did not include adjourned cases. In case laid down norms of disposal were not achieved, some penalty for inefficiency was ordered to be devised. Further, a daily achievement report was required to be submitted to the National Commission for monitoring.

**3.1.50** National Commission directed (May 2004) that complaints lodged by widows and senior citizens should be settled on priority basis and disposed of preferably within six months. But there was no mechanism in the CDRC and the CDRF, Alappuzha to watch such complaints. In the four districts test checked, out of 1,367 cases filed by widows and senior citizens during May to December 2004 only 504 cases were disposed of within six months.

**3.1.51** There was no system of monitoring of complaints and appeals filed and disposed of either at the Government level or at the CDRC level. The CDRFs sent periodical progress reports to the CDRC and the CDRC sent a compiled report to the Government and the National Commission.

## Conclusions

**3.1.52** The legislative intent of Parliament to empower the consumer and to provide him quick redressal had only been partially achieved in the State. This was mainly due to administrative deficiencies and delays in disposing of cases. The disposal rate during 2000-2004 ranged from 9 to 42 *per cent* in the CDRC and 44 to 60 *per cent* in the CDRFs. Delay in filling up of vacancies of the President and the Members in the District Forums and the State Commission and providing infrastructure facilities was noticed. Non-formation of Consumer Protection Councils in districts and delay in reconstitution of the State Council hampered the activities of empowerment and awareness generation among the consumers. Implementation of the Weights and Measures Act and the PFA Act also suffered from deficiencies like shortage of staff, inadequacy of funds, etc.

**3.1.53** The ORG-MARG survey result revealed that on the whole the stakeholders and the complainants perceive the redressal mechanism as simple and reasonable but not very speedy.

### 3.1.54 Recommendations

- \* A monitoring mechanism or a system of internal control may be put in place to deal with the delay in disposal of cases, implementation of uniform procedure in districts and set up additional benches, courts, etc.
- \* Vacancies of Presidents and Members of the Consumer Dispute Redressal Agencies and Forums may be filled up immediately so as to ensure their proper functioning.
- \* Receipt of compensation by the complainants within a reasonable period of time, has to be ensured.
- \* Infrastructure facilities like buildings, communication equipment, etc., may be provided to all the consumer courts.
- \* Measures to promote/generate consumer awareness may be taken up by setting up Consumer Protection Councils, District Information Centres, etc.
- \* Sufficient funds for equipping laboratories with modern equipment and necessary inspecting staff for the Legal Metrology Department may be provided for enforcement of the provisions of PFA Act and Standards of Weights and Measures Act.

**3.1.55** These points were referred to the Government in September 2005; reply had not been received (September 2005).

## Annexure

### Executive Summary of ORG-MARG findings

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 Kerala a total of 1985 consumers spread across urban and rural areas were contacted. Besides 101 complainants, 10 manufacturers/service providers, 3 NGOs and 2 laboratories were interviewed. The survey was conducted during mid July to mid August 2005.

#### FINDINGS OF THE SURVEY

- ❖ Overall 84 *per cent* of the Consumers at large gave importance to knowing the Consumer Protection Act (CPA) but 33 *per cent* not aware of consumer rights and 57 *per cent* still unaware of Consumer Protection Act.
- ❖ The act is envisaged to benefit all the consumers in urban and rural areas but only 3 *per cent* of the rural population has heard about it.
- ❖ In response to whether the Government is making any effort in safeguarding the consumer rights, only 38 *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 76 and 71 *per cent* respectively and only 0.2 *per cent* learnt about CPA from the NGOs.
- ❖ Majority of the aware Consumers at large (33 *per cent*) have come to know about the act only in the last 2-3 whereas the act has been in existence for past 19 years.
- ❖ Overall, only 26 *per cent* were reported to be aware of the existence of any redressal agency. Awareness on this among those aware of rights and CPA was obviously higher.
- ❖ Around 76 *per cent* aware of CPA knew about the location of the redressal agency in their respective district.
- ❖ More than half of the complainants resided in urban areas and except two rest of the complainants were educated and earned a monthly house hold income of Rs 6,498/- . 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 (53 *per cent*) such as electricity (27 *per cent*) other financial services (21 *per cent*) and insurance services (20 *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, majority of complainants (85 *per cent*) came to know about the redressal agencies through Print media and 69 per through electronic media. NGOs not a popular source of awareness (<6 *per cent*).
- ❖ Twenty-three *per cent* of the complainants used stamp paper to file the case and in majority of cases (95 *per cent*) the lawyers/agents advised them to do so.
- ❖ Around 41 *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 5.9 days were spent for registering a case and 28 days were taken for serving the notice, first hearing was held after 25 days.
- ❖ On an average 2.2 hearings were required to resolve the case. Around 51 *per cent* of cases were still unresolved even after 3 hearings and most of these cases were against sellers of consumer durables (39 *per cent*)
- ❖ To resolve a case on an average 6.5 months were spent. In case of unresolved cases the same were pending for past 40 average months.
- ❖ There were 44 *per cent* where the decree was passed and compensation was yet to be received. On an average the compensation was due for 40 months. For those received compensation the same was received within an average period of 8 months.
- ❖ On an average the complainant had to spent Rs 2038/- to resolve the case of which large proportion (average amount of Rs 1237/-) comprised of the advocates fee.
- ❖ 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 are involved in spate of activities such as consumer education, advocacy, organising seminars/camps, etc. They are also facilitating the consumers in filing cases and act as agents.
- ❖ Overall all the stakeholders and the complainants perceive the redressal as simple and reasonable but not very speedy.



<b>LOCAL SELF GOVERNMENT DEPARTMENT</b>
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<b>3.2 Attappady Wasteland Comprehensive Environmental Conservation Project</b>
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**Highlights**

➤ **Funds provided for implementing the Project were not fully utilised. Only 30 per cent of the project cost could be spent by March 2005.**

*(Paragraphs 3.2.9 to 3.2.13)*

➤ **Provision for cost escalation, interest during project period, international consultancy, etc., were added to the original project cost thereby increasing cost of project by 141 per cent.**

*(Paragraphs 3.2.14 and 3.2.15)*

➤ **There were multiple consultancy services. Performance of consultants engaged was not effective.**

*(Paragraphs 3.2.18 to 3.2.21)*

➤ **Even though the project area was reduced to less than half, achievement was only 30 per cent of the reduced area at the end of the extended project period.**

*(Paragraphs 3.2.22 to 3.2.25)*

➤ **Widespread human intervention as well as activities detrimental to environment were noticed in the project area.**

*(Paragraphs 3.2.28 to 3.2.30)*

➤ **Studies/research on environment provided for under the Project were not taken up.**

*(Paragraphs 3.2.31 to 3.2.32)*

➤ **Poverty alleviation/income generation activities were not effective.**

*(Paragraphs 3.2.33 to 3.2.35)*

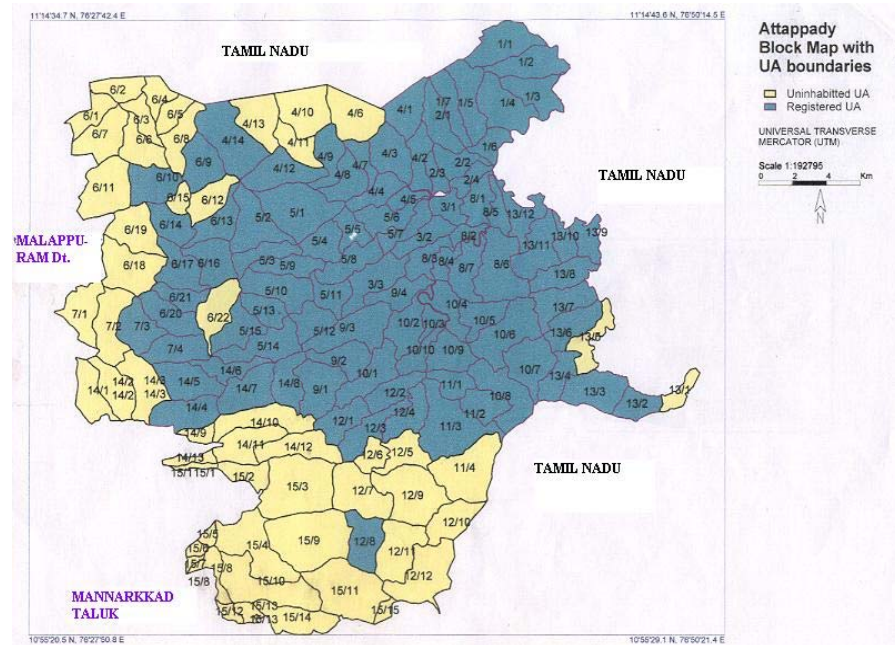
➤ **Large savings prompted move to restructure the Project, venturing into areas where other Departments/Local bodies were already active.**

*(Paragraphs 3.2.36 to 3.2.46)*

**Introduction**

**3.2.1** Attappady Block, in the north-eastern corner of Palakkad District, which forms part of the Nilgiri Biosphere Reserve, was well known for its natural wealth and tribal clans. The area witnessed massive influx of settlers from both Tamil Nadu and other parts of Kerala during the post independence years which unsettled the fragile ecological balance of the area. The tribals

who once dominated the area with 90 per cent (1951) of the population had now been reduced to a minority with 42 per cent (2001).



**3.2.2** Organised destruction of forest, unscientific land use and uncontrolled grazing resulted in extensive soil erosion thereby making Attappady the block with the highest proportion of wasteland in Kerala. This situation led to the realisation that poverty and environmental degradation are intricately interlinked. With a view to restoring the degraded wastelands and ensuring better livelihood for the dwindling tribal population, the Attappady Wasteland Comprehensive Environmental Conservation Project (Project) was started in 1996.

#### **Project objective**

**3.2.3** The objective of the Project was ecological restoration of the degraded wasteland in Attappady and development of replicable models of participative eco-restoration so as to prevent further degradation and promote sustainable method of livelihood for the people, in harmony with the resource base. The Project involved restoring 507 sq. km. of wasteland spread over 15 sub watersheds or Development Units to be completed in a phased manner within seven years from 1996-97.

#### **Organisational set up**

**3.2.4** The Attappady Hills Area Development Society (AHADS) registered in 1995 under the Charitable Societies Registration Act, 1860 is the Project Implementing Agency (PIA). A High Power Committee under the Chairmanship of the Chief Minister approves the Annual Action Plans, Budget and the Accounts. The administration and management of the Society was vested with the Governing Body headed by the Principal Secretary to the Government, Local Self Government Department (Rural). A Project Director, assisted by five Deputy Directors, administers the Society.

**3.2.5** Attappady is drained by rivers Bhavani (three sub basins) and Siruvani (two sub basins). These five watersheds were divided into 15 sub-watersheds, called Development Units (DUs), as these constituted the primary units of development area. These 15 DUs were further divided into 146 micro watersheds. At micro watershed level, User Associations (UAs) were formed to enable the participation of inhabitants in the execution of Project work. At each tribal hamlet, Ooru Vikasana Samithi (OVS) was in charge of Project activities concerning the respective hamlet. Joint Forest Management Committees (JFMCs) managed the forest reserves to rejuvenate the degraded forestland.



#### ***Audit objective***

**3.2.6** A review of the Project was taken up to assess whether:

- the Project funds were efficiently and effectively utilised;
- the decision to restructure the Project in 2001 and to include additional socio-economic programmes was justifiable;
- there was justification for diversion to other areas; and
- the Project was effective in the social and economic upliftment of the weaker sections.

#### ***Audit coverage***

**3.2.7** Records of the AHADS, selected User Associations (UAs), Ooru Vikasana Samithis (OVS) and Joint Forest Management Committees (JFMCs) covering the period 2000-01 to 2004-05 were test checked during March – June 2005 with a view to critically examining the performance in the implementation of project activities.

### Audit methodology

**3.2.8** The methodology adopted in audit for assessing whether there was visible improvement in the environmental conditions consisted in

- data collection/evidence gathering from the AHADS files on various activities;
- scrutiny and check of records of the AHADS, selected UAs, OVSs and JFMCs and visit to the field units; and
- study of Assessment /Evaluation Reports, Annual Accounts etc.

Norms fixed by the Government/funding agency, Project implementation schedule as given in the loan agreement and the AHADS policies, programmes, directives, guidelines, etc., were utilised for the purpose of arriving at the audit criteria.

### Financial management

#### Funding

**3.2.9** The Project involved a loan component of Rs 176.90 crore to be funded by the Japan Bank for International Co-operation (JBIC) and Rs 42.40 crore to be spent by the State Government. As per the agreement, the original implementation period of the Project was from 1996-97 to 2002-03. It, however, continued up to 2004-05 and no assistance was available after March 2005. Japanese Government has, however, agreed (March 2005) to extend the Project period up to 2007-08. The State share of Rs 42.40 crore covered general administration expenses, taxes and duties, purchase of land, etc. The entire requirement for the Project was to be first met by the State Government and reimbursement for works done under the loan component obtained subsequently through the Government of India.

**3.2.10** The funds were drawn by the Commissioner for Rural Development and made available to the AHADS by means of Demand Drafts. Details of budget provision, funds released and expenditure incurred thereagainst were as follows:

Period	Budget allotment	Funds drawn by Rural Development Department and made available to AHADS	Expenditure <sup>Ω</sup>	Reimbursement claim			
				Preferred	Received	Disallowed	Under process
Up to 1999-2000	74.23	4.80	2.99	1.80	1.80	--	
2000-01	15.00	5.00	3.58	1.65	1.65	--	
2001-02	17.43	6.33	7.49	5.65	5.65	--	
2002-03	33.00	20.00	10.47	8.41	8.29	0.12	
2003-04	23.00	10.00	13.63	10.76	10.76	--	
2004-05	75.00	15.00	18.91	16.63	10.13	--	6.50
<b>Total</b>	<b>237.66</b>	<b>61.13</b>	<b>57.07</b>	<b>44.90*</b>	<b>38.28</b>	<b>0.12</b>	<b>6.50</b>

<sup>Ω</sup> Does not include Rs 8.62 crore representing payments in foreign currency made in the year.

\* Out of Rs 42.40 crore to be met by the State Government, Rs 12.17 crore were spent upto 2004-05.

**3.2.11** It would be seen that the funds aggregating Rs 237.66 crore provided for the Project up to March 2005 had remained largely under-utilised.

#### *Financial Target/achievement*

**3.2.12** The expenditure incurred under various components of the Project as on 31 March 2005 was as follows.

**Funds provided for implementing the Project not fully utilised. Only 30 per cent of the financial target could be achieved**

<i>(Rupees in crore)</i>			
Component	Target	Expenditure	Percentage
<b>I. Expenditure from loan</b>			
Category A (Conservation/Development Activities)	137.99	39.80	29
Category B (Survey/Monitoring)	7.45	4.44	60
Category C/D (International Consultancies Rs 7.48 crore and interest Rs 16.47 crore)	23.95	9.28	39
Category E (Physical Contingency)	7.51	Nil	--
<b>Total</b>	<b>176.90</b>	<b>53.52</b>	<b>30</b>
<b>II. Expenditure to be met by State Government (Not part of loan)</b>			
(Indirect Expenses/Taxes/Administration)	42.40	12.17	29
<b>Grant Total</b>	<b>219.30</b>	<b>65.69<sup>#</sup></b>	<b>30</b>

**3.2.13** It would be seen that only 30 per cent of the total Project cost of Rs 219.30 crore could be spent by the AHADS. The utilisation under environment related components which were the most important part of the Project was only 29 per cent.

#### *Unjustifiable enhancement of Project cost*

**Estimation of the Project cost was without reliable and adequate field data resulting in inflated provision for project components**

**3.2.14** The Project prepared (July 1993) by the Centre for Water Resources Development and Management (CWRDM) for the Rural Development Department of the Government of Kerala envisaged an outlay of Rs 91.05 crore. This was submitted to the Government of India for assistance from Overseas Economic Co-operative Fund (later renamed Japan Bank for International Co-operation - JBIC) in July 1993. An agreement was signed (January 1996) with JBIC for implementation of the Project at a cost of 6338 million yen (Rs 219.30 crore) of which the loan component was Rs 176.90 crore. Thus the original cost of Rs 91.05 crore estimated by the Rural Development Department was enhanced to Rs 219.30 crore on account of reasons discussed below.

**3.2.15** Project costing Rs 91.05 crore proposed by the Rural Development Department was for the development of the entire Attappady Block and suggested taking up of the Project with budgetary support and in phases giving priority to DUs where the problems were severe. In the revised Project report, the expenditure on environmental component, infrastructure and contingencies was estimated to be Rs 112.82 crore against Rs 91.05 crore originally envisaged. Apart from this, cost escalation charges (Rs 40.13 crore), interest

<sup>#</sup> Include Rs 8.62 crore representing payments in foreign currency.

during construction (Rs 16.47 crore) and international consultancy charges (Rs 7.48 crore) were also included thereby enhancing the Project cost by 141 *per cent*. The administrative overheads estimated at Rs 42.40 crore was to be met by the State Government. The slow utilisation of funds and inability to achieve the targeted schedule of implementation, however, indicated inadequate appreciation of the correct magnitude of the Project and the capacity of the Project to absorb Rs 219.30 crore within the stipulated time frame.

### ***Collection of betterment levy***

**3.2.16** The loan from the Japanese Bank, released through the Government of India, was to be repaid by the State Government with interest. As this would lead to resources drain, the Government ordered in November 1996 that a betterment levy be collected from the private land owners who were above poverty line and whose land derived benefits from the Project activities.

**3.2.17** AHADS had invested (March 2005) Rs 13.64 crore on conservation activities in private wasteland, apart from proportionate cost on related activities. The issue had been discussed in various committees but a decision on betterment levy remained elusive though it was ordered to impose the same as far back as in November 1996. AHADS had also not yet identified the private landowners from whom the levy was to be collected.

### ***Infructuous expenditure on consultancy services***

**3.2.18** Though the Project proposals envisaged implementation through participatory approach, works of technical nature were outsourced through consultancy services. Apart from the International consultant, AHADS engaged 14 more consultants for survey (three) and construction activities (eleven). Scrutiny revealed the following:

**Appointment of international consultant was much belated**

**3.2.19** The Loan Agreement, which became effective from 26 March 1996, stipulated that only consultants appointed with the prior approval of JBIC could offer consultancy services. M/s Nippon Koei Company, Tokyo was appointed consultant on 15 July 1999 with the approval of JBIC. Their guidelines on Project implementation only had validity. AHADS, however, appointed two different agencies during the intervening period between the loan agreement (March 1996) and appointment of international consultants (July 1999) and one agency after the international consultancy came into the picture to suggest action plan for Project implementation.

**3.2.20** The CWRDM was appointed a consultant in August 1996 for detailed survey and designing the work of the Project. Their report received in April 1999 was deficient in areas like strategy for planning location specific activities, implementation procedure, monitoring and evaluation. An amount of Rs 67.73 lakh was paid to CWRDM as consultancy charges. The Central Soil and Water Conservation Research and Training Institute, Ooty, was entrusted with the work of preparation of micro plan for DUs 4,10 and 13 in November 2001, well after the international consultants came into the picture (July 1999). Their Report prepared at a cost of Rs 44.94 lakh had not been put

to use. The Integrated Rural Technology Centre, Mundoor, was entrusted (June 1998) with the preparation of study report of the development activities carried out in Attappady and giving technical advice for preparing action programme on the Developmental Units. Their report submitted in March 1999 (payment made Rs 6.30 lakh) also served no purpose. In addition, Kerala Forest Research Institute, Peechi, appointed in September 1998 neither submitted any report nor refunded the advance of Rs 0.25 lakh. The proposals of these agencies had no validity as only M/s Nippon Koei Co. could offer implementing guidelines. Engagement of these consultant agencies amounted to infructuous expenditure of Rs 1.22 crore.

**3.2.21** In spite of the involvement of so many consultants the progress of various components of the Project was tardy despite availability of funds.

### **Project implementation**

**3.2.22** The Project had five\* main components financed by the JBIC with loan assistance with specific allocation for each component/sub component. The loan agreement executed in January 1996 for funding the Project became effective from 26 March 1996. The original implementation period of seven years from 1996-97 was agreed to be extended up to 2007-08.

### ***Physical achievement***

**Even though the Project area was reduced to less than half of that originally envisaged only 30 per cent of the reduced area could be covered**

**3.2.23** As per the Project the total area for restoration was 507 sq. km. against which the achievement was only 74.13 sq.km. (15 per cent). A survey conducted by the AHADS in 2003-04, however, revealed that the area available for restoration was 245.03 sq.km. against 507 sq.km originally projected and the achievement was only 30 per cent of the revised area at the end of March 2005. Failure to assess the exact area of operation at the commencement of the Project indicated inadequate planning and resulted in excess estimation of Project cost.

**3.2.24** As the area of operation had come down by more than 50 per cent, a second restructuring seemed to be imperative to assess the further requirement of funds with the approval of the Government and the lending agency. This had not been attempted (June 2005).

**3.2.25** Though the Project was to be completed by 2002-03, the international consultant, as stipulated under the loan agreement, was appointed only in July 1999 and the action plan was prepared by the consultant in December 1999. The implementation of the Project actually commenced in April 2000, after a period of four years of the Project was already over. Only experimental implementation was attempted in 2000-01 in one DU. Full scale implementation commenced only in 2002-03, the year in which the Project

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\* Construction and procurement of equipment and materials; Consulting services for detailed survey, detailed designing and evaluation; International consultancy services; Interest during construction; and Contingencies

was expected to be completed. The abnormal delay was mainly due to the following:

- A full time Project Director assumed charge in August 1996, ten months after the formation of the AHADS. Since then nine Project Directors had been in charge; hence continuity was not ensured.
- Detailed survey and design of the work of the Project was entrusted to CWRDM in August 1996. The eco-restoration programmes submitted by them in April 1999 were found to be insufficient for implementation at the micro watershed level.
- Identification of the exact area of operation and the quantum of work to be carried out was done after the expiry of the original Project period.

#### ***Non-implementation of the scheme in three DUs***

**3.2.26** The DU – wise eco-stabilisation plan worked out by CWRDM in DU 6 and DU 7 suggested implementation of programme worth Rs 4.59 crore and Rs 1.62 crore respectively. But no activity other than construction of road costing Rs 1.31 lakh had been carried out at these two DUs. AHADS's contention that the hamlets in these two DUs lie in a difficult area and accessibility was poor is not tenable as the AHADS was formed for the very purpose of eco-stabilisation work, overcoming these difficulties. Government assured (August 2005) that developmental activities in these DUs, would be intensified.

**3.2.27** Similarly, in DU 15 out of the total area of 74.82 sq.km, 32.30 sq.km were degraded. The Project proposals included land development and agronomic activities costing Rs 5.48 crore in DU 15. However, no expenditure had been incurred on any activity in this DU (March 2005). No justification for exclusion of DU 15 from the scope of the Project was also available on records. Government had also not been informed of the exclusion of the DU from the scheme. Government, however, agreed (August 2005) to initiate developmental activities in DU 15.

#### **Activities detrimental to environment**

##### ***Human intervention in the core zone of the biosphere***

**Works were carried out in an area forming part of core zone of Nilgiri Biosphere where human intervention is prohibited**

**3.2.28** Attappady Block forms part of the Nilgiri Biosphere Reserve which has been divided into three different zones by the Department of Environment, Government of India based on UNEP – UNESCO criteria for biospherical zonation. The core zone contains significantly diverse flora and fauna including centre of endemism and genetic richness and represented the least disturbed region existing more or less in its natural state. No human intervention was permissible in the core zone. AHADS, however, undertook developmental activities in DU 11 and DU 12 falling under the core zone even though the original study report prepared by the CWRDM and the loan agreement did not provide for any activities in these DUs. Access Roads, house construction, excavation for pit charge, plantation, soil conservation, civil engineering, water resources, agronomy and forestry were carried out at a



cost of Rs 90.81 lakh as of March 2005 in the core zone. When pointed out by Audit, the Government agreed (August 2005) that further developmental activities in the core zone of the biosphere reserve would be undertaken only on getting clearance from the Government of India.

### ***Quarrying activities around Attappady***

**Illegal quarrying activity damaging the environment was visible near AHADS headquarters**

**3.2.29** Unscientific development often causes immense damage to the environment of a fragile ecosystem. Land slides and rock falls involve the failure of earth materials under shear stress. The initiation or triggering of the process could, therefore, be thought of in terms of the factors which contribute to increase shear stress. Blasting carried out to clear the mountain for getting granite building stones is one such triggering activity. Illegal quarrying was visible near the AHADS headquarters office (on the northern side – opposite to the canteen building).



*Illegal quarrying in the prohibited area*

Quarrying in private lands needs a permit from the Department of Mining and Geology. The Revenue and the Forest authorities grant permit for quarrying in lands under their jurisdiction. No action was taken against the environment damaging activities by the AHADS. Government, however, assured (August 2005) remedial action in consultation with the concerned Administrative Department.

### ***Widespread banana cultivation at higher elevation***

**Cultivation of banana which require water in plenty were widespread in the Project area**

**3.2.30** It was seen that banana plantation was widespread on the slope of the hills in the Project area. Banana, requiring watering all through its period of growth of 10 months, is a crop suitable for cultivation in the valley. Moreover water requirement of banana i.e. 40 litre/day/plant\* is the highest among crops next only to rice. As the project area had only scarce water resources, cultivation of crops requiring high quantities of water would cause damage to

\* Source: study paper on banana cultivation in watershed based agriculture – Centre for Development Studies, Thiruvananthapuram – 2004.

the top soil and have an undesirable environmental impact. Details of banana cultivation in the Project area were not available with the AHADS though its agricultural wing had conducted many watershed-based surveys. When pointed out in Audit, the Government assured (August 2005) that banana would be cultivated as per the land capability classification only.

### **Activities envisaged but not taken up**

#### ***Study and Research on Environment***

**3.2.31** The components added to the Project in August 2001 as part of restructuring included:

❖ ***Centre for bio-diversity and sustainable development (Rs 70 lakh):*** The scope of activity was to cover the entire Western Ghats. The centre was to be equipped to undertake studies, conduct training programme and provide consultancies in watershed based conservation and sustainable development. The centre was to eventually take over the infrastructure and other facilities created by the AHADS.

❖ ***Bio-diversity studies and Applied Research (Rs 60 lakh):*** Southern Western Ghats, which includes Attappady, is one of the 18 globally recognised bio-diversity hot spots. The study envisaged to make an inventory of the bio-diversity of the area, measure the size of bio-diversity, monitor the spatial and temporal changes taking place to assess the economically valuable species, study of ecological process and develop a regime for the sustainable management of the bio-diversity of the area.

**Studies/research on environment provided under the Project were not taken up**

**3.2.32** No steps were taken to implement these two environmental programmes conceived as early as in August 2001. Government, however, assured (August 2005) that the study would commence during the fiscal year 2005-06.

#### ***Poverty alleviation - impact of income generation activities***

**Poverty alleviation/income generation activities were not effective**

**3.2.33** A broomstick-manufacturing unit, the first of the income generating activities was started in Vellakulam hamlet during 2000-01. The Project was to generate environmentally sound employment to about 100 tribal men/women for a period of 8 months in a year and the marketing was through the AHADS. Though the raw materials, viz., phoenix grass was locally available and tribals were traditionally adept in the art of broomstick manufacturing, the Project was wound up due to bottlenecks in marketing.

**3.2.34** A versatile Dhal mill to procure and process Attappady red grams was started in 2001-02. Two pulse mills with a processing capacity of 300 kg/day were procured from CFTRI, Mysore, one free of cost under UNDP and the other at a subsidised cost of Rs 1.50 lakh. Two women's teams with three members in each were formed at Nakkupathi and Padavayal. The Regional Agro Industrial Development Co-operative of Kerala (RADICO) was in charge of marketing. Only 40 MT of dhal was produced of which RAIDCO marketed 31 MT and returned 9 MT as sub-standard. The Dhal mill ceased functioning after a year of operation (2001-02) after investing Rs 2.25 lakh on

the Project. The Project failed because of non-participation of the members; the problem was absenteeism.

**3.2.35** Since the second restructuring in August 2001, 122 Income Generating Activity (IGA) groups were formed. Each comprised 13 to 15 members. The training imparted, at a cost of Rs 4 lakh, to some of the IGA groups in areas like chip making and marketing, tailoring and embroidery, medicinal plants cultivation and tissue culture did not fructify into production and income generating activities.

### **Activities not originally contemplated but taken up**

#### ***Restructuring of the Project***

**3.2.36** As explained in Paragraph 3.2.15, the Project cost was enhanced based on incorrect assessment. In August 2001, it was assessed that the funds might not be fully expended by 31 March 2005, the last date of disbursement, and that there would be a saving of about Rs 37.92 crore. As a result, additional socio-economic activities were incorporated and the Project activities restructured, retaining the Project cost at the original level of Rs 219.30 crore

**3.2.37** The main objective of the Project was ecological restoration of degraded wasteland in Attappady and development of replicable models of participatory eco-restoration, and promote livelihood of the local people. The Project consisted of eco-restoration and poverty alleviation, which were the original components. Restructuring of the Project due to availability of surplus funds in the loan component necessitated taking up of social and economic activities also as part of the Project. These activities in any case were within the competence of the respective State Government Departments and therefore inclusion of these activities on the ground of availability of funds was injudicious.

**For utilising anticipated surplus fund the AHADS took up activities on housing, power project, construction of bridge, etc., which were not the sphere of its activities and areas where other departments were active**

#### ***Housing Project***

**3.2.38** The Total Hamlet Development Programme (THDP), commenced in 2002-03 envisaged construction of 722 new houses and repair of 134 existing dwelling units at an outlay of Rs 11.32 crore. By the end of 2004-05, 48 new houses had been constructed and construction of 272 units was in progress, involving an expenditure of Rs 2.97 crore.

**3.2.39** The construction of the above houses were executed with the assistance of 9 NGOs in respect of 14 colonies (cost of houses:Rs.8.32 crore) for the execution of which services of consultants/facilitators were also engaged and by the AHADS through their own engineering wing in respect of 5 colonies (cost of houses : Rs 3 crore). The consultants/facilitators were entitled to receive 2.5 per cent of the estimated cost as architectural charges (plan and design) and 5 per cent towards supervision. It was observed that the AHADS already had a full-fledged engineering wing which had been competently executing the construction work including the construction of houses. Thus the

appointment of consultants/facilitators was injudicious and had resulted in avoidable payment of Rs 62 lakh\* towards their charges.

**3.2.40** AHADS was aware, as was evident from the Restructuring Proposals (August 2001) that Integrated Tribal Development Project, Attappady (ITDP) had constructed 2,746 housing units and another 900 units by the local bodies. Work was in progress in respect of 217 units financed by the Block Panchayats. These were the designated agencies to provide dwelling units to the tribals in the area. Thus, there seemed to be no justification for the AHADS to expand its area of operation with borrowed funds, into the housing sector except to utilise the anticipated surplus Project funds.

#### ***Hydro Power Project***

**3.2.41** The deviation from the main objective also included a proposal for two MW hydel project at a cost of Rs 8.13 crore at Karuvari, six kms away from Mukkali, the gateway to the Silent Valley National Reserve Forest. Such schemes were to be undertaken by the State Electricity Board, created for this specific purpose. An amount of Rs 60,000 had been paid (October 2002) as the first instalment of the Project Report preparation to M/s Energy Management Centre, Thiruvananthapuram.

#### ***Construction of bridge***

**3.2.42** It was also observed that the AHADS was funding the construction of a bridge across the river Bhavani at a cost of Rs 3.17 crore, though such works were to be undertaken by the State PWD (Bridges), with budgetary resources. The construction activities to be completed by December 2004 were at a standstill (June 2005) due to encroachment of the land forming the access road though an expenditure of Rs 1.13 crore had been incurred as of March 2005. Government was to fund only to the extent of Rs 1.85 crore towards construction of bridge and the balance funding to the extent of Rs 1.32 crore was to be sourced by the AHADS.

#### ***Outlay towards scholarship***

**3.2.43** The AHADS proposed to provide financial assistance (Rs 18 lakh) to SC/ST students, as scholarship. This was a duty specifically assigned to the Directorate of SC/ST Welfare Department.

#### ***Construction of hospital and drinking water infrastructure***

**3.2.44** The AHADS proposed construction of a 40-bedded hospital at Community Health Centre (CHC), Agali, a dispensary and consulting room at Kavundikkal and two residential buildings for Medical Officers at Mundampara and Pettikkal involving Rs 53.55 lakh. As a super specialty hospital was nearing completion under the Centrally sponsored Attappady Health Project in the area the investment of borrowed funds by the AHADS in the health sector in this manner lacked justification. AHADS paid Rs 0.68

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\* Consultancy charges at 7.5 per cent on Rs 8.32 crore

lakh as consultancy charges under this item. Requirement of additional para medical staff and doctors have also not been fixed up before commencement of the work.

**3.2.45** Similarly, the AHADS made proposals in 2001 for drinking water supply and environmental hygiene and sanitation at a cost of Rs 1.22 crore. The State Government had been implementing the World Bank assisted Kerala Rural Water Supply and Environmental Sanitation Project (Jalanidhi) aimed at the development of sustainable water supply and environmental sanitation system appropriate to rural Kerala. All the three Panchayats of Attappady area had been included in the Jalanidhi Project. Moreover, the Local Self Government Institutions were being provided budgetary support for implementing drinking water supply schemes. An expenditure of Rs 0.84 lakh was incurred on such schemes as of March 2005.

**3.2.46** There was no justification for the AHADS to expand its area of operation except to utilise the anticipated surplus project funds into other areas such as housing, power, public works, health, water supply, etc., where the respective Departments of State Government are active.

### **Internal Audit**

**There was no effective internal audit system**

**3.2.47** Since funds for the Project were spent by a large number of associations of beneficiaries who had little knowledge of maintenance of accounts or managerial experience, it was necessary to have an effective Internal Control mechanism supported by competent persons. AHADS did not have an independent Internal Audit Wing. Field audit as well as central scrutiny of the accounts of 282 local action groups (UAs 93, OVSs 160 and JFMC 29) were not undertaken due to shortage of manpower in the UA cell in the AHADS. Only current claims were checked by the UA Cell. The absence of internal audit contributed to the deficiencies in accounts and maintenance of account records of the people's organisations as illustrated below:

#### ***Maintenance of Accounts***

**Maintenance of accounts by UAs/OVSs was poor**

**3.2.48** Scrutiny of accounts (March – June 2005) of selected UAs/OVSs revealed deficiencies like payment for work not done, shortage of cash balance<sup>@</sup>, lack of entry in cash book, etc. The maintenance of account records was poor and hence loss or misutilisation, etc., of public funds could not be ruled out.

#### ***Misappropriation of funds***

**3.2.49** Misappropriation of funds involving Rs 5.10 lakh was noticed during 2002-03 by the AHADS in five UAs. The fact of misappropriation of public funds was neither reported to the authorities nor action initiated to register cases against the erring officials of the UAs or to recover the amount.

<sup>@</sup> Shortage of cash – Boothivazhy UA – Rs 20,254; Cholakkadu UA- Rs 13,408; Mele Kallumala- Rs 7,605; Nakkupathy UA – Rs 358; Nakkupathy JFMC – Rs 3,525

## **Conclusions**

**3.2.50** The Project was conceived without proper study of micro-watershed level needs. The cost estimate of the Project was also unrealistic and did not relate to the actual area of operation. The funds requirement was not reassessed based on the reduction in the area of operation for eco-stabilisation. The availability of excess funds resulted in diversification into areas where other departments of the Government were active. The developmental activities were on in areas where human intervention was prohibited. There was no effective implementation of schemes in two DUs and unjustifiable exclusion of one DU from the Project scope was noticed in audit.

### **3.2.51 Recommendations**

- \* Optimum utilisation of borrowed funds and better fiscal and debt management should be ensured by giving priority to environmental restoration components, within a specific time frame.
- \* Clearance from the Government of India is to be obtained for unavoidable activities in the Core Zone of the Biosphere Reserve.
- \* Activities detrimental to environment in the area may be prevented by the AHADS in consultation with the controlling departments.
- \* The need for involving the AHADS in activities assigned to other designated State agencies functioning with budgetary support needs to be reviewed.
- \* An effective Internal Audit Wing may be set up in the organisation.

### **Response of the Department**

**3.2.52** The review was discussed with the Principal Secretary to the Government in-charge of AHADS on 9 August 2005. The Project Director and other officers of the AHADS were present during the discussion. The Audit findings and the recommendations were accepted.

**3.2.53** These points were referred to the Government in August 2005; reply had not been received (September 2005).

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**KERALA PUBLIC SERVICE COMMISSION**
**3.3 Recruitment Application Processing System in Kerala Public Service Commission (REACT)**
**Highlights**

- **Investment of Rs 66.94 lakh on IT assets in Phase II became redundant.**  
(Paragraph 3.3.12)
- **Software relating to Phase III of computerisation costing Rs 21.60 lakh was still under development since January 2004 resulting in idling of hardware costing Rs 47.57 lakh.**  
(Paragraphs 3.3.8 and 3.3.16)
- **There was a delay of six years in starting Optical Mark Reader valuation due to lack of proper IT strategy.**  
(Paragraph 3.3.18)
- **Underutilisation of Optical Mark Reader machines was noticed.**  
(Paragraphs 3.3.19 to 3.3.21)
- **The present system of valuation of answer sheets was vulnerable to risk of loss of data and data integrity.**  
(Paragraph 3.3.25)

**Introduction**

**3.3.1** The Kerala Public Service Commission (KPSC) is a body constituted under Article 315 of the Constitution of India to conduct examinations for appointment to various services of the State Government and advise the Government on matters relating to methods of recruitment and all disciplinary matters affecting the Government servants, among other things. The Commission also discharges functions relating to services and posts in the Government owned companies, corporations, local bodies and certain co-operative institutions in the State.

**Organisational set up**

**3.3.2** The Commission consisting of a Chairman and 14\* members has its Head office at Thiruvananthapuram, three Regional Offices<sup>Ω</sup> and 14 District Offices. The administrative functions of the offices of the Commission are under the charge of the Secretary assisted by Additional Secretaries, Joint Secretaries, Deputy Secretaries and other supporting staff.

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\* Number of members increased to 19 in 2005

<sup>Ω</sup> Kollam, Ernakulam and Kozhikode

### **Introduction of computerisation in KPSC**

**3.3.3** In order to clear the huge backlog of work, minimise delay in processing of applications and publish rank-list immediately after the examinations, the Commission resorted to computerisation by implementing the Recruitment Application Processing System (REACT) in March 2001.

**3.3.4** Though the Commission initiated steps for limited computerisation of recruitment process in February 1993, it was in April 2000, based on the recommendations of the Technical Committee, that CMC Limited was short-listed and a work order was issued (June 2000) to develop application software with system study, beta testing, software implementation, training and source code.

**3.3.5** The Software (REACT) was developed in Unix platform using the RDBMS package Oracle, with Visual Basic as its front-end.

**3.3.6** While Phase I had two parts, the first part of development of the software covered the pre-examination process at a cost of Rs 1.75 lakh, the second part covered the post examination process (up to generation of rank list) at a cost of Rs 2.50 lakh.

**3.3.7** Phase II of computerisation relating to replication of software to facilitate district level processing of applications cost Rs one lakh.

**3.3.8** Phase III of computerisation covered automation of the functions of Recruitment, Examination and Advice Sections and networking of Head Office, Regional Offices and District Offices. The software was to be developed by CMC Limited at an estimated cost of Rs 21.60 lakh and the same was under development since January 2004 and as of May 2005, nine modules had been developed and were at testing stage.

**3.3.9** The Commission had incurred an expenditure of Rs 5.36 crore as of March 2005 on computerisation (including Rs 2.45 crore on procurement of hardware and software, Rs 0.46 crore on printing Optical Mark Reader (OMR) answer sheets and Rs 2.45 crore on printing application forms).

#### ***Audit objectives***

**3.3.10** IT audit of REACT was conducted to assess the achievement of objectives of computerisation as well as to assess the adequacy of IT controls to ensure confidentiality, integrity and availability of data, programmes and systems.

#### ***Audit coverage***

**3.3.11** The IT audit conducted during July-October 2004 covered the Headquarters office, the Regional Office at Kollam and the District offices at Kollam and Thiruvananthapuram for the period from April 2000 to March 2004. As the Commission did not furnish the data relating to application

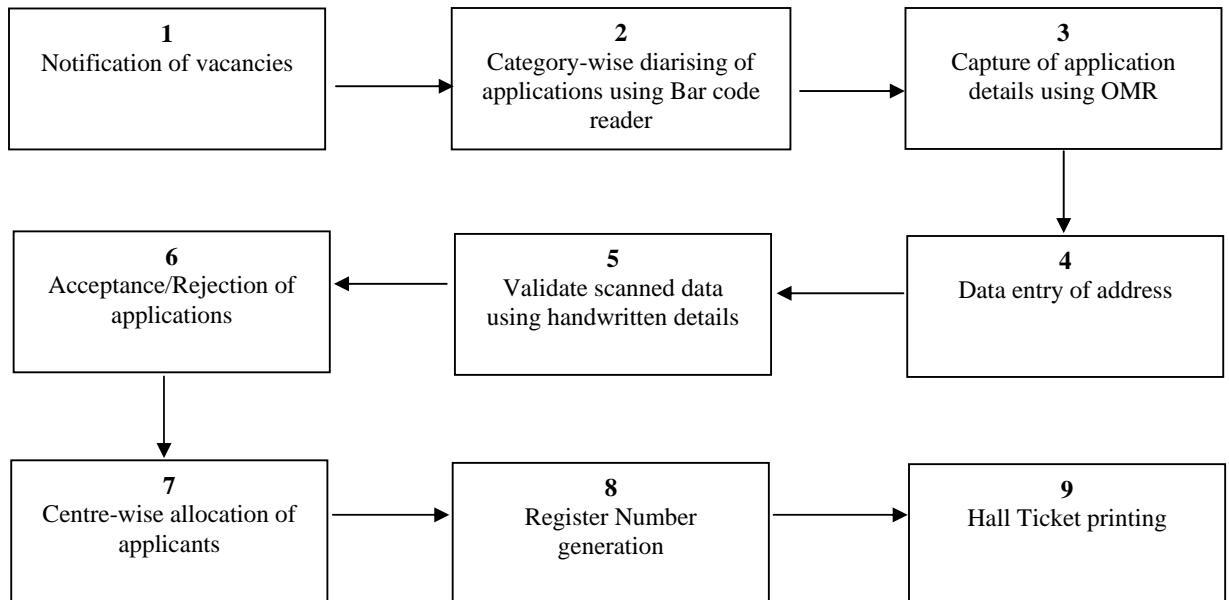


processing for audit scrutiny, citing confidentiality reasons, the data could not be analysed to assess its integrity and accuracy.

## System Development

### *Partial utilisation of REACT Phase I-Part I*

**3.3.12** The first part of software development covered the pre-examination process as under:



But REACT Phase I Part I was not used, as intended, on the ground that the candidates who were not well versed in OMR application would commit a lot of mistakes and this would lead to rejection of a substantial number of applications during scanning. Instead, the Commission resorted to data entry of applications, which was not justified, for the following reasons:

**REACT was developed for application processing through OMR but manual data entry was used**

- According to System Requirement Specification and User Manual, the software was developed to capture application particulars through OMR application processing. The data entry module was also provided for entering the particulars pertaining to old pending applications and applications rejected by the OMR machine. However, the Commission went ahead with data entry process of all applications. There was no record as to how many applications were scanned, the percentage of rejection, etc., before deciding that the OMR scanning was not possible.

**Manual data entry resulted in additional expenditure towards hardware**

- The decision to resort to manual data entry of applications in the second phase of computerisation resulted in unnecessary expenditure of Rs 66.94 lakh towards purchase and installation of hardware and software at District and Regional Offices for data entry under Phase II.

**Delay in data entry led to postponement of examination.**

- Importantly non-utilisation of the OMR scanner, forcing manual data entry of application data had resulted in the postponement of the examination scheduled in June 2004 by 2 months. Hence, the very objective of computerisation could not be achieved.
- By resorting to District level processing of applications at 17 locations without proper feasibility study, instead of having a centralised database, the Commission was exposing the system to risk for its integrity and security of data as well as scalability.

**3.3.13** The Commission stated (September 2005) that when 81,789 applications of a particular post were scanned as a test case about 22 per cent had to be rejected due to defective filling up of applications and the Commission felt this as an injustice to the applicants. This was not tenable as there was no record of scanning of 81,789 applications either in the OMR log book or in the AMU stock register.

**3.3.14** As regards centralised database, the Commission stated (August 2005) that District Offices were functioning for attending to recruitment activities of posts earmarked for district-wise selections. It was further stated that the centralised database would require leased line facility which would lead to access to data by hackers/outsideers. But the reply was also not tenable as the Commission was contemplating Web-based application for which centralised database is a must. Moreover, it was observed that District Offices resort to transfer of data through internet and that too in non-encrypted format.

#### ***Non-utilisation of REACT Phase I-Part II***

**REACT Part II was not at all put to use**

**3.3.15** Though answer sheets were being scanned using OMR from February 2001 onwards, REACT Phase I-Part II covering the post-examination process was not at all put to use to generate shortlist of candidates and the rank list. Instead, an application developed in-house was used to generate the short list from the database created by OMR system. The Commission stated (September 2005) that preparation of rank list was the most important and sensitive part of recruitment procedure. This exercise took more time than expected and hence the delay in finalising and putting the programme into use. The delay in using the software after testing and acceptance was not justified as the objective of computerisation was not achieved despite making a large investment.

#### ***Delay in development of software (Phase III) by CMC Limited***

**Idling of hardware costing Rs 47.57 lakh**

**3.3.16** According to the proposal of CMC Limited (October 2003) which was accepted (January 2004), CMC was to fully develop the software for office automation (Phase III) within 6 months. Though more than a year has elapsed, the development was still at the System Requirement Specification (SRS) stage. As a result, the hardware costing Rs 47.57 lakh procured during March 2004 was idling for more than a year.

**3.3.17** The Commission stated (September 2005) that the delay in development of software was due to the change in the scope of the Project by adding more and more modules to the System Requirement Specification (SRS) and

the hardware purchased was never kept idle but was utilised for checking and testing of the software. The reply is not acceptable because the scope of the project was to be finalised at the User Requirement Stage. Further, the argument that the hardware was utilised for testing and was never kept idle was not tenable as the hardware was purchased more than a year ahead of the development of software.

### **OMR Valuation of answer sheets**

#### ***Delay in procurement of OMR***

**Delay of six years in procuring and utilising OMR**

**3.3.18** Based on Government's sanction (August 1995) for the limited computerisation, it was decided to introduce OMR type answer sheets, to conduct various examinations. However, the first OMR procured (1997) could not be used and hence returned (May 1998) to the vendor. Another OMR procured (November 1999) was used to scan OMR answer sheets only from 2001, thus resulting in a delay of 6 years in procuring and using OMR.

**The Commission did not have a clear IT strategy**

**3.3.19** Moreover, the Commission did not utilize the OMR machines for application processing, thus necessitating Phase II at District and Regional offices. Thus, substantial delay in OMR valuation and non-utilisation of the software to scan the applications indicated the lack of a clear IT strategy.

#### ***Underutilisation of OMR machines***

**3.3.20** Out of 1096 posts for which examinations were conducted during 2001-04, OMR answer sheets were used only for 114 posts (10 *per cent*). The Secretary stated (August 2005) that selection to certain posts could not be conducted by objective type examination. It was further stated that the number of posts for which objective type examination was conducted was immaterial as 80 *per cent* of the candidates had appeared for OMR type tests.

**3.3.21** While procuring the OMR machines, it was expected that the OMR machines could scan 5000 sheets per hour (i.e. 30,000 sheets a day of 6 hours utilisation). However, a scrutiny of the logbook revealed that OMRs were used to scan only 3000 sheets a day. Between February 2001 and July 2004, only 96 lakh sheets (48 lakh each of Part A and Part B) were scanned and no application form was scanned. The Commission stated (September 2005) that scanning of answer sheets involved different stages and hence it would not be possible to scan 30,000 answer sheets even with twenty-four hours working. The reply is not acceptable as scanning speed of the machine was 5000 answer sheets per hour as per the User Manual and the maximum output per day was computed reckoning the number of working hours as six per day keeping in view the time needed for the different stages. Evidently the failure to scan OMR applications mainly contributed to underutilisation of OMR.

#### ***Failure to mitigate risks in OMR scanning of answer sheets***

**3.3.22** OMR answer sheet is designed in two parts- Registration Number coding sheet (Part A) and Answer sheet Part (B), with common barcode number which can be deciphered only by using a barcode reader. After the examination, these parts are so separated that half the barcode appears in each part.

**3.3.23** Valuation of OMR based answer sheet involves five stages-*viz.*,

- valuation of answer sheet Part B using OMR,
- generation of mark range of candidates and onward transmission to the Commission for appropriate decision regarding cut off mark,
- decoding of Register Number part (A) containing identification details of candidates,
- decoding of mark data (correlating Part A and Part B using barcode) and
- printing of marklist.

**3.3.24** As per instructions (September 2002) governing the OMR scanning of answer sheets, the answer sheets (Part B) are packed in bundles of 500. After noting the number of each bundle these are to be transferred to Deputy Secretary (Examination) for scanning. After completing the scanning of answer sheets of all candidates, the mark range is generated and submitted to the Commission. The System Analyst is to maintain a Log Register showing bundle-wise scanning of scripts and the sealed floppy/CD containing mark data is to be kept under safe custody. Thereafter, the Register Number i.e Part A is to be scanned, decoded and correlated with the already scanned Part B. The short list is to be generated only after clearance by the Commission. CD/floppy containing the mark data and the identification details is handed over for safe custody to the officer designated.

**3.3.25** A scrutiny of the logbook revealed the following deficiencies:

- The sequence of first scanning Part B containing the answers, then providing the marks range to the Commission to decide the cut off marks, and then only scanning Part A containing identifying details of the candidates to generate the shortlist is very vital to maintain confidentiality and to eliminate any kind of tampering. However, instances were noticed in Audit whereby this sequence was not strictly adhered to by the Commission. Audit noticed that in the examination for the post of Manager, Khadi Gramodyoga Bhavan held on 31 October 2001, 12,151 Part B answer sheets were scanned during April 2002. Then in June 2002, 12,377 Part A registration coding sheets were scanned. Later 13 more answer sheets were scanned during December 2002. Reconciliation in audit revealed that there exists a discrepancy between the number of Part A registration coding sheets that was scanned and number of Part B answering sheets that were scanned.

**Scanned data susceptible to modification**

- Scanned data was susceptible to modification, using Edit facility in dBase, without any audit trail. Moreover, there was no system of file comparison to detect variations in file size and field values.

**Absence of prescribed procedure for valuation of answer sheets with duplicate barcode number**

- Test check showed that there were 123 corrections in barcode and six corrections in Register Numbers on account of duplication (between February 2000 and November 2001). Any mismatch of Part A and Part B at this stage would result in ineligible persons being selected or eligible persons not getting selected. There was no documentation to

**Risk of loss of data relating to marks**

show how the Commission ensured that the new barcode number allotted for Part A was the same for the corresponding Part B

- Of the 395079 answer sheets scanned between February and November 2001, 3024 answer sheets were rejected. There was no documented procedures regarding method of valuation of rejected cases and treatment of such cases to ensure uniformity in valuation
- At the stages of determining the mark range and short-listing of the candidates, the data was copied to a CD/floppy and the data in the hard disk was deleted later. There was no mechanism to ensure that the data/shortlist was finally deleted from the hard disk. Moreover, keeping backups in easily corruptible media like floppies and fragile media like CDs poses a risk to recovery of data when needed without scanning the answer sheets again.

**3.3.26** The Commission stated (September 2005) that there was no risk for the System as there were specific instructions for each and every minute item of work. The reply is silent on controls adopted for reconciliation of number of Part A and B answersheets scanned and to avoid mismatch of barcode numbers in the event of duplication.

**General IT Controls*****Absence of Business Continuity Plan Controls*****Loss of data due to absence of backup policy**

**3.3.27** As part of business continuity plans, the organisation mirrors the database pertaining to the application forms in REACT into the second hard disk, inside the same system, instead of mirroring it in an off-site location or backing it up in any media for storing it off-site. The adopted procedure was faulty, as was evident from the experience in the District Office, Kollam where both the mirrored copy and hard disk were corrupted, resulting in loss of data during May 2004. Despite this, the organisation was yet to change the existing system of backing up the data.

**3.3.28** In response to an audit query (February 2005), the Secretary stated (May 2005) that CD writers had since been installed in District and Regional offices for backup. The reply is not tenable as no off-site backup was contemplated.

***Absence of Physical and Logical Access Controls***

**3.3.29** Effective functioning of server requires that it is kept in a cool, dust free environment, with physical access restrictions. However, it was seen that no such provision exists in District Office, Thiruvananthapuram, where the server containing the application data and the nodes were kept in a hall near the entrance, without any access restrictions. The Commission stated (September 2005) that the execution of civil and electrical works took more time and hence the computers were placed in an open space. Subsequently, they had been relocated to safe and dust free locations.

**3.3.30** The organisation did not have a password policy, though logical access controls were provided at application level. The Secretary stated (May 2005) that necessary guidelines had since been given to the staff during training and that access controls were being enforced. A Password Policy was needed for effective control in a system claimed to be of utmost confidentiality by the Commission.

### **Conclusions**

**3.3.31** The KPSC lacked a clear IT strategy for implementation of Information Technology in its operations which resulted in spending huge amounts without getting the full intended benefits. The process of scanning on which depend the results and the fate of candidates, is not made completely immune from avoidable human intervention. As per the details furnished (August 2005) by the Secretary, the pendency of application had been brought down from 83.50 lakh (1999-2000) to 37.32 lakh (2003-04). As there was substantial increase in the number of applications disposed of during 2002-03 (35.71 lakh) and 2003-04 (36.52 lakh) due to the OMR processing of answer sheets, it is evident that the pendency can be brought down further through effective utilisation of REACT and scanning of applications in OMR format.

### **3.3.32 Recommendations**

- ★ Incomplete maintenance of log book relating to scanning of answer sheets is a risk area which should be immediately rectified.
- ★ Proper IT strategy may be framed covering organisational aspects and use of IT assets in order to have better monitoring of the IT processes and proper utilisation of automated solution like REACT.
- ★ IT Security Policy including physical and logical access control may be devised, documented and implemented.
- ★ The Commission may evolve an effective backup policy after doing a risk analysis.

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**HEALTH AND FAMILY WELFARE DEPARTMENT**
**3.4 Diagnostic services in Government Medical Colleges**
**Introduction**

**3.4.1** Diagnosis of disease is the foremost issue in patient care. It is scientifically done through clinical and radiology investigation using diagnostic tools such as X-ray machines, CT<sup>^</sup> scanner, Ultrasound Scanner, EEG<sup>#</sup>, ECG<sup>ψ</sup>, Endoscopes, etc. Diagnostic services help doctors in making early and accurate diagnosis of the diseases and charting out the treatment plan.

**3.4.2** There are five<sup>∞</sup> Government Medical Colleges (MCs) in the State. The hospitals attached to these MCs are meant for imparting practical training to medical students and also for extending facilities for treatment to patients in various specialities. Patients in need of advanced clinical investigations are referred to the MCs and their attached hospitals. The diagnostic services offered by the MCs and attached hospitals are mainly availed of by poor and lower middle class people. Hence any deficiency in these diagnostic services would result in denial of quality health care services to the weaker sections of the society.

***Audit objectives***

**3.4.3** The objectives of the review were to assess

- Whether adequate funds were provided for diagnostic services based on needs and the funds provided were effectively utilised.
- Whether any system to ascertain the cost of service being provided was in existence and if not how the user charges were being collected.
- Whether all the service laboratories were established as per Indian Medical Council (IMC) Regulations and whether all the labs were functioning ensuring the quality of investigations and bio-safety/radiation safety measures.
- Whether the clinical labs and radiology services were suitably equipped to conduct all essential special investigations, whether equipment were efficiently maintained and whether adequate manpower was provided.

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<sup>^</sup> Computerised Tomography

<sup>#</sup> Electro Encephalogram

<sup>ψ</sup> Electro Cardiogram

<sup>∞</sup> Alappuzha, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur

### *Audit coverage*

**3.4.4** A review of diagnostic services in three MCs (Thiruvananthapuram, Kozhikode and Alappuzha) was conducted during February – June 2005 covering the period 2002-03 to 2004-05. The clinical lab\* services under the Departments of Pathology, Microbiology, Biochemistry and Radiology services<sup>§</sup> under the Department of Radio diagnosis were examined in audit. Diagnostic service facilities available in the remaining two MCs (Kottayam and Thrissur) were assessed from replies to Questionnaires issued by audit. Significant audit findings are discussed in the succeeding paragraphs.

### **Financial management**

**3.4.5** There was no separate budget provision for diagnostic services in the Medical Colleges. The expenses for the same were being met from the budget provisions for each of the Medical Colleges and hospitals and as such the expenditure incurred for diagnostic services or the salary of staff deployed for the same could not be ascertained in audit.

### *User Charge*

**In MCs, Thiruvananthapuram and Kozhikode, there were no system to identify the poor patients eligible for free service**

**3.4.6** The cost of diagnostic investigations could not be worked out by audit for want of various inputs required for calculating the cost. The rates charged by private agencies were, however, two to three times more than that charged by the Government. The rates of user charges for clinical investigation and radiology services except CT scan in the Government Medical Institutions were last revised in 1994. As per the Government orders, genuinely poor patients up to a maximum of 30 *per cent* of all the patients visiting the Government Medical Institutions would be entitled to free treatment. Government stipulated (March 2002) that the patient should be Below Poverty Line (BPL) or should be having income below Rs 1,500 per month for being eligible for free service. No system was in place in the MC, Thiruvananthapuram and the MC, Kozhikode to identify poor patients eligible for free service. Any patient declaring his income as below Rs 1,500 per month was given free service. Test check of lab records revealed that more than 90 *per cent* of the patients were declaring their income as below Rs 1,500. In the MCH, Alappuzha there was a system for identifying BPL patients by insisting on BPL card or certificate from revenue authorities.

**3.4.7** In the absence of a uniform procedure to identify the target group of poor patients, there was no reasonable assurance that the benefits were reaching the intended group.

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\* **Pathology lab** – Diseases are identified by examination of blood and other body fluids, conducts biopsy test for cancer detection;

**Microbiology lab** – Microorganisms like bacteria/virus are identified by culturing and drugs determined by sensitivity tests.;

**Biochemistry lab**- Chemical composition of blood, urine etc., are analysed for glucose, urea, sodium, potassium, etc., to find out the morbidity;

<sup>§</sup> **Radiology service**: Diagnostic tools such as CT Scanner, ultrasound scanner, X-ray machines, etc., are employed for diagnosis.



***Quality control***

**3.4.8** The Department had not developed any standard protocols for investigations and equipment as of July 2005. In the absence of Manual, there was no mechanism to enforce uniformity of procedure or to ensure accountability and quality of services.

***Lack of Manual of Procedure and absence of Lab accreditation***

**3.4.9** The Department had not prepared any Manual of Procedure for regulating clinical lab/radiology services as of July 2005. Such a Manual covering all aspects of Diagnostic Services such as tests conducted, procedure followed, equipment used, records to be maintained in the lab, report delivery, turn around time, rates for investigation, quality control measures, etc., is a must for efficient running of the service. Lab accreditation is a procedure by which an authoritative body gives formal recognition of technical competence for specific tests/measurements based on third party assessment and following international standards. Government of India has authorised the National Accreditation Board for testing and calibration labs (NABL) as the sole accreditation body for testing and calibration of labs. NABL provides lab accreditation services to labs that are performing test/calibration in accordance with ISO/IEC 17025: 1999. None of the clinical labs in the MCs in the State had made any attempt to get accreditation of NABL. The Department stated (July 2005) that accreditation of labs with NABL could not be thought of as the clinical labs were not fully equipped to conduct all the essential/special investigations and for want of requisite quality of investigation.

**The Department had not prepared any Manual of Procedure for regulating clinical/ radiology services**

**None of the clinical labs in the MCs in the State had made attempt to get accreditation by NABL**

**3.4.10** Internal audit and management review are essential pre-requisite for applying for accreditation of labs by NABL. There was no system in the MCs to subject all the labs to periodic internal audit to assess the adequacy, efficiency and effectiveness of the diagnostic services and to identify areas requiring improvement.

***Lack of Bio-safety/Radio-safety measures******Bio-safety***

**3.4.11** There was no Bio-safety cabinet in Microbiology Departments in the MCs, Alappuzha and Kozhikode. The Bio-safety cabinet in the MC, Thiruvananthapuram was not put to use for want of gas connection. In the absence of Bio-safety cabinet, the technicians and other staff working in the lab ran the risk of exposure to highly infectious organisms.

***Radiation safety***

**3.4.12** Radiology services use radiation producing imaging tools like X-Ray machines and CT Scanner for diagnosis. Radiation, having a cell damaging effect with potential genetic consequences, has to be used with absolute discretion. In order to minimise radiation hazards, mandatory regulations are enforced through regulatory bodies set up at National/State level. The Directorate of Radiation Safety (DRS), the State level regulatory agency set up

**Requirement of Bio-safety/Radiation safety had not been fully met in the test checked MCs**

by the Government under the Department of Health and Family Welfare to oversee the use of X-Rays and other radiation producing equipment reported that basic requirements of radiation safety had not been implemented in SAT Hospital under the MC, Thiruvananthapuram. The requirements of radiation safety had been only partially met in the MC, Alappuzha and the MC, Kottayam. The staff of Radiology Department were to be provided with personal badges to be worn by them for monitoring the dose of radiation received by them and for taking precautionary measures. It was observed in audit that these badges were issued to the staff of Radiology service of the MC, Thiruvananthapuram only from February 2005 onwards.

### ***Quality assurance in Radiology service***

**3.4.13** There was no system in vogue in any of the test checked MCs to subject the X-Ray and CT installations to quality assurance tests by the Director of Radiation Safety (DRS) at least once in a year/after every major repair so as to ensure proper/safe working of the imaging system in accordance with Atomic Energy Regulatory Guidelines. It was reported by the DRS that no major attempts were made to do quality assurance tests in the MCs. The Department of Radiodiagnosis in the MCs, Thiruvananthapuram, Alappuzha and Kozhikode were not provided with quality control kits and Radiation Survey Meter for undertaking quality control measures. In the absence of these, the quality of radiology service could not be ensured.

### **Service Delivery Management**

#### ***Deficiencies in infrastructure facilities***

**3.4.14** Every MC requires adequate lab infrastructural facilities for providing quality health care. Audit noticed the following deficiencies in the infrastructure relating to clinical lab services and radiology services.

#### ***Lack of essential/modern equipment***

**Several modern automated equipment yielding faster and accurate results were not available in the MCs**

**3.4.15** IMC Regulations stipulate that an MC should have a well equipped and updated clinical lab. Use of modern automated equipment would yield faster and accurate results with less manpower and could cater to more patients. It was noticed in audit that several modern equipment like automatic blood cell counter, automated culture system, auto-analyser, mammography unit, etc., were not available in the MCs, the details of which are given in **Appendix XXIV**.

#### ***Idling equipment***

**3.4.16** Most of the modern equipment require dust free/air conditioned environment for the proper functioning/optimum performance. However, the labs in none of the MCs have such facility. In the Microbiology Department of the MC, Thiruvananthapuram, 'Microscopes fluorescent and dark ground' for identification of fluorescent stained bacteria and virus was not working as no dust-free/AC room was available. In the Biochemistry Department of the MC, Thiruvananthapuram equipment for conducting Polymerase Chain Reaction for DNA testing was also idling due to non-electrification of

equipment room. Test check by audit revealed that some of the costly equipment became defective and were not functioning for several years as detailed in **Appendix XXV**.

**3.4.17** No effective action was taken to get the equipment repaired. As log book for equipment were not maintained, full information regarding their value, date of purchase, actual date from which idling, action taken for repair, details of Annual Maintenance Contract (AMC), if any taken, etc., were not available. When these lapses were pointed out in audit, the Department stated that due to delay in payment of bills, major companies producing quality equipment were not responding to tenders/quotation for supplies and acceptance of lowest tender as stipulated in the Store Purchase Rules often compromised on the quality of machine being purchased.

**3.4.18** Special X-ray investigations like Barium meal test were not conducted in MC, Alappuzha due to shortage of X-ray machines. Only two out of four machines were in working condition and the one machine in use was installed in 1986. For special X-ray investigation, there was a waiting period of over one month in MC, Kozhikode.

**Three equipment (cost: Rs 18.57 lakh) went out of order**

**3.4.19** Three equipment viz., Automatic Blood Cell Counter (cost: Rs 4.57 lakh), ABG analyser (cost : Rs 5 lakh) and Auto-analyser RA.100 (cost : Rs 9 lakh) procured in the MC, Alappuzha went out of order during the guarantee period. No action was taken against the suppliers.

**X-ray machines in the three MCs were not having AMC**

**3.4.20** Annual Maintenance Contract (AMC) is absolutely essential for proper maintenance and upkeep of equipment at reasonable cost and for getting uninterrupted service. It was observed that all the X-ray machines in the MC, Alappuzha, two machines each in the MC Thiruvananthapuram and Kozhikode were not having AMC. The Head of Radio Diagnosis Department, MC Thiruvananthapuram stated (March 2005) that lack of AMC and delay in payment to companies often caused problems in getting machines repaired in time.

### **Clinical lab services**

#### ***Lack of Centralised clinical lab/separate service labs***

**Several labs under each department were functioning at various locations in the Colleges/Hospitals**

**3.4.21** As per IMC stipulations, a MC should have a well equipped and updated Centralised lab with common collection centre. None of the colleges had a Centralised lab. It was found that labs under various departments were functioning at different locations in the colleges/hospitals. In the case of the MC, Alappuzha, the MCH was 10 km away from the College resulting in scattered lab facilities. Neither a Centralised lab was provided nor proper location chart of the various labs available in the college/hospital campus was displayed. Proposals sent in September 2004/February 2005 for establishing Centralised labs in the MC, Kottayam (Rs 6.50 crore) and the MC, Thiruvananthapuram (Rs 5.00 crore) respectively were pending sanction with the Government.

Separate service labs have not been established under Microbiology Department of two MCs

**3.4.22** As per IMC stipulations, MCs should have separate service labs for Virology, Parasitology and Immunology under Microbiology Department. These labs had not been established in the MCs, Thiruvananthapuram and Alappuzha (July 2005). In the absence of these labs, specialised investigations under these disciplines were not being conducted.

***Lack of space for service labs***

**3.4.23** According to IMC Regulations each service lab should have an area of 25 square metres. However, it was found that three service labs, viz., Histopathology, Cytopathology and Haematology of the Pathology Department of the MC Alappuzha did not have the required area and were accommodated in a single room in the hospital.

**3.4.24** Special investigations are sometimes necessary for proper diagnosis of disease and starting treatment. Details of some essential/special investigations not conducted in clinical labs in the MCs are given in **Appendix XXVI**.

**3.4.25** Though the equipment for conducting PCR<sup>®</sup> test was purchased (January 2005) in the Biochemistry Department of the MC, Thiruvananthapuram, it was not put to use due to non-electrification of equipment room. Blood Gas Analysis was not conducted in Biochemistry Department of the MC, Thiruvananthapuram as the equipment went out of order (August 2004) and not got repaired as of August 2005.

***Radiological services***

**3.4.26** Radiology uses radiations and sound waves to create images to show how effectively the body and its internal organs and structures are functioning. Diagnostic radiology uses external radiation to produce the images for medical diagnostic purposes. Diagnostic radiology techniques include use of X-rays, Computerised Tomography (CT) scan devices, Ultrasonographic devices, Magnetic Resonance Imaging (MRI) scanner devices and radio frequency electromagnetic radiation and are generally non-invasive. The following deficiencies were noticed in delivery of these services.

***Computerised Tomography Scan Service***

**3.4.27** CT scan service was not available in the MCs, Alappuzha and Kottayam. In the MCH, Alappuzha patients were utilising the CT scan service available with the Alappuzha District Cancer Care Society where the rates were higher. In the MC, Kozhikode there was a waiting period of two weeks for non-emergency scanning. In the MC, Thrissur, the CT scanner was not functioning from February 2004. Though the scanner generated an annual income of Rs 26 lakh, sanction for its repair at an estimated cost of Rs 24 lakh had not been issued (July 2005). In the MC, Thiruvananthapuram only one CT

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<sup>®</sup> Polymerase Chain Reaction test for early detection of HIV, TB, etc.

scanner was available. Out of about 100 cases requiring CT scanning a day, nearly 70 approached the Department and only 40 cases were attended.

### ***Manpower***

**3.4.28** The present strength of technical staff of the labs and radiology services was sanctioned more than 20 years back. Several<sup>∞</sup> posts of teachers/technical staff were lying vacant. As the quantum of work load had not been fixed for the technical staff, no need based assessment of manpower requirement was made, taking into consideration the yearly increase in the number of patients. In the MC Kozhikode, IMC did not give recognition for PG courses (MD and DMRD) in Radiodiagnosis for want of staff as stipulated in the Regulations.

### ***Conclusions***

**3.4.29** The diagnostic facilities in the Government MCs were found to be deficient mainly due to lack of modern equipment, defective equipment, shortage of manpower, absence of quality control measures, etc. Collection of user charge from those capable of paying was not effective due to absence of proper system for identifying such persons. No revision of rates had been made since 1994.

### ***3.4.30 Recommendations***

- ◆ Funds actually required for running diagnostic services in the MCs may be assessed and provided by the Government under distinct sub heads in the budget for proper monitoring and control.
- ◆ Manual of Procedures for regulating clinical labs/radiology services may be prepared and adequate quality control measures put in place in association with accredited labs.
- ◆ Rates of user charges fixed 11 years back need revision. An effective system may be evolved to recover user charges from those who could afford to pay.

### ***Response of Government***

**3.4.31** The report was discussed with the Secretary to Government, Health and Family Welfare Department on 3 August 2005. The Secretary admitted that deficiencies existed in the diagnostic services as pointed out by audit. He agreed to implement the recommendations to the extent possible.

**3.4.32** These points were referred to the Government in August 2005; reply has not been received (September 2005).

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<sup>∞</sup> Doctors : 14, Technicians : 10, Scientific Officers : 3 and Lab Assistants : 13