

CHAPTER – IV

PUBLIC WORKS DEPARTMENT

4.1 Implementation of road and bridge projects through private sector participation

4.1.1 *Highlights*

In 1996, the Public Works Department introduced the scheme of road development through the private entrepreneurs. Under this scheme of private sector participation (commonly known as Build, Operate and Transfer). The entrepreneur has to meet the entire project cost of financially viable projects and recover the cost through collection of toll at the rate approved by the Government. The Public Works Department identified 244 road and bridge works requiring estimated investment of Rs 11484.17 crore for this scheme. As of May 2001, thirtytwo projects with an investment of Rs 360.26 crore for construction of 268.39 km of roads and 20 bridges were completed and four projects having investment of Rs 224.76 crore were in progress. Some of the salient audit findings are:

The private entrepreneurs were unduly benefited due to adoption of unjustified traffic data, non-consideration of annual increment in traffic, adoption of high rates of interest on the capital invested by them, error in computing the toll income, execution of the work before formal authorisation etc and the road users were taxed more than justified.

In 21 works excess concession periods ranging from 5 months to 9 years than the admissible periods were allowed due to exclusion of interest on toll income. Such excess concession periods led to scope for collection of extra toll of Rs 533.71 crore by the entrepreneurs.

(Paragraph 4.1.6)

Unqualified acceptance of the vehicle census data furnished by the entrepreneurs without comparing with the data available in the divisions resulted in scope for excess collection of toll by Rs 90.12 crore by the entrepreneurs.

(Paragraph 4.1.7.1)

Non-consideration of annual increment in the number of vehicles plying on the roads resulted in undue benefit of Rs 45.18 crore to the entrepreneurs.

(Paragraph 4.1.7.2)

Collection of toll at the rate of Rs 50 instead of permissible rate of Rs 30 per vehicle by an entrepreneur gave him unauthorised benefit of Rs 96.70 crore.

(Paragraph 4.1.7.3)

Computation of interest on investment at the rate of 17 to 30 per cent as against the permissible rate of 13 to 15 per cent had given undue benefit of Rs 172.99 crore to the entrepreneurs in 12 cases.

(Paragraph 4.1.9)

Due to commencement of the work 3 to 7 months ahead of the issue of work order, the entrepreneurs gained undue financial benefit of Rs 33.94 crore.

(Paragraph 4.1.10)

Non-acceptance of the tenders within the validity period resulted in extra burden of Rs 7.21 crore of toll tax to the road users.

(Paragraph 4.1.11)

4.1.2 Introduction

To provide adequate funds for development of the infrastructure, Government in 1989 decided to encourage participation of the private entrepreneurs in infrastructural development and recover the capital invested by the entrepreneurs from the beneficiaries. Such of the projects which are commercially viable and can be financed by the financial institutions and other projects involving maintenance are entrusted to the private entrepreneurs. Public Works Department (PWD) in July 1996 outlined the scheme of the private participation in road development projects. The guidelines envisaged entrusting of the financially viable projects to the private entrepreneurs for construction and maintenance of roads and bridges, widening, strengthening and improvement to the existing roads and construction of rail over bridges, flyovers and tunnels. Under this scheme commonly called as Build, Operate and Transfer (BOT), the entrepreneur was to build the facility (road/bridge etc), operate and maintain it deploying his own capital and collect toll from the

beneficiaries during a specified period called concession period* and transfer the facility to the Government on expiry of the concession period. The entrepreneur can also display advertisements by the roadside, commission petrol pumps, hotels and motels by the road side, develop tree plantation etc and retain the income generated from such permitted activities. The rates of toll are determined and notified by the Government.

4.1.3 Organisational set-up

The Planning Department of the State Government is the nodal agency for planning the scheme of private participation in development efforts of the Government. The scheme (BOT) is implemented by the State Public Works Department and the Maharashtra State Road Development Corporation (MSRDC). The Secretary, PWD is overall in-charge of the department and he is assisted by the Chief Engineers, Superintending Engineers and Executive Engineers.

The estimates for the BOT works were prepared at the divisional level and technically sanctioned by the competent authority. The tenders for the works identified on the basis of financial viability and need for development were invited by the divisions requesting the entrepreneurs to quote their offer *inter alia* indicating the cost of work, details of cash flow and the concession period during which the entrepreneur intends to recover the investment. The department adopted the criteria of the bid containing the least concession period for selecting the entrepreneurs. The proposal for projects/works costing more than Rs 50 crore were placed before the Cabinet for approval and project/works costing less than Rs 50 crore were decided by the PWD in consultation with the Finance Department. For projects pertaining to construction of National Highways, the Ministry of Surface Transport (MOST) was to be consulted.

4.1.4 Audit coverage

During 1991 to 2001, 36 works involving an estimated investment of Rs 585.02 crore were taken up by the department. With a view to assess the implementation of the BOT Scheme, test-check of records relating to 27** works of 16 entrepreneurs in Mantralaya, six Chief Engineers with respective Executive Engineer involving an estimated cost of Rs 357.96 crore was conducted by audit between January 2001 and April 2001. The audit findings are discussed in the following paragraphs.

* The period during which an entrepreneur undertakes construction and collect toll for recoupment of his investment including cost of maintenance, repairs, toll collection expenses, interest on investment and profit is termed as concession period

** Chief Engineer, Amravati-1, Mumbai-6, Special Project, Mumbai-2, Nagpur-4, Nashik-5 and Pune-9

4.1.5 Overall impact of the scheme

The table given below indicates the position of investment on construction of the facilities as committed by the entrepreneurs and the estimated toll likely to be collected by them during the concession periods in respect of the 27 works test-checked.

(Rupees in crore)

Year	No. of works	Estimated cost of work	Estimated toll collection by the entrepreneurs during the concession period
1991-92	1	2.25	3.04
1992-93	1	69.30	499.64
1996-97	2	9.51	18.43
1997-98	7	69.94	291.33
1998-99	8	134.10	818.96
1999-2000	7	36.95	331.36
2000-2001	1	35.91	60.97
Total	27	357.96	2023.73

As against an investment (excluding maintenance, interest on capital and toll collection charges) of Rs 357.96 crore, the entrepreneurs would collect toll of Rs 2023.73 crore during the concession period of about 8 to 16 years. Considering that the estimated toll collection is more than 5 times of the investment, the estimated toll income appears to be unduly high. Government should review and prescribe norms as to what extent the entrepreneurs need to be compensated without unduly taxing the public and compromising the quality of works.

It is, however, noteworthy that the scheme has achieved the objective of private participation in infrastructure development, and the works had been completed without time and cost overrun.

4.1.6 Excess concession period

The bids received for a project are compared on the basis of the concession period and the bid having the lowest concession period is selected. The entrepreneurs compute the concession period on the basis of the expected net cash flow after adjusting the toll collection from the investment and interest thereof. As per the procedure adopted by the Government for working out the cash flow, interest for the whole year on the outstanding investment upto an year and interest for 6 months on the investment made during an year are allowed. Similarly, interest for 6 months on the amount of toll collected in an year is also required to be calculated and adjusted from the investment and interest thereof to arrive at the net cash flow.

Excess concession period resulted in scope for collection of extra toll of Rs 533.71 crore

A test-check of cash flow statements of 21 works revealed that while calculating the net cash flow, the entrepreneurs did not consider the interest on the toll income, though interest payable on the investment was taken into account. Besides this, in two works, interest was worked out on quarterly basis where as in one case it was worked out on monthly basis instead of annual basis. Thus, the exclusion of interest on toll income and calculation of the interest on investment on monthly/quarterly basis instead of annual basis resulted in excess concession periods ranging from 5 months to 9 years than the admissible periods. Such long concession periods gave scope for collection of extra toll of Rs 533.71 crore to the entrepreneurs in the above mentioned 21 works.

The EE, Thane Construction Division accepted and agreed to revise the concession period in respect of two works. Reply from the other EEs was awaited (June 2001). The Government stated (May 2001) that factors such as rate of interest, inflation rates etc did vary as per the prevailing finance conditions in the market and under such circumstances the best possible criteria available for comparing the offers was the lowest concession period. The reply of the Government is not relevant because the audit objection related to deficiencies in computing the concession periods due to which the concession periods were extended. As long as interest is allowed on the investment, it should also be charged on the toll income, while computing the concession period. Failure to enforce this principle already adopted by the Government resulted in excess concession periods and undue financial gain to the bidders in the 21 works referred to above.

4.1.7 Consideration of the traffic data without justification

4.1.7.1 Government, while formulating the BOT scheme (July 1996) did not issue any directions as to how the census of vehicle traffic required for the purpose of computing the concession period was to be determined and where such census should be taken. While inviting the offers, the Divisions advised the tenderers to assess the traffic and scope of the work and accordingly quote their offers.

Vehicle census data of the entrepreneurs was accepted- scope for excess collection of toll by Rs 90.12 crore

Scrutiny of 11 offers accepted in the offices of the EE, NH Division, Dhule and CEs, Mumbai, Nagpur, Nashik and Pune, revealed that the traffic data adopted by the entrepreneurs for the purpose of computing the concession period was much lower than the actual traffic count made by the Divisions. While evaluating the offers, the Divisions did not compare the traffic data available with them and relied solely on the data adopted by the entrepreneurs. For illustration, the traffic data adopted by the entrepreneurs *vis-a-vis* the data available with the department in two Divisions are given below:

4.1.7.1.1 Name of work: Nardana Railway over bridge under the National Highway Division, Dhule.

	Traffic count			Toll income (Rs in lakh)	Difference in toll income (Rs in lakh)
	Car	Bus/Truck	Trailer		
Entrepreneur	441	4775	227	10563.00	2648.42
Department	1634	7064	227	13211.42	

4.1.7.1.2 Name of work: Khambatki Ghat under the National Highway Division, Pune.

	Traffic count			Toll income (Rs in lakh)	Difference in toll income (Rs in lakh)
	Car	Bus/Truck	Trailer		
Entrepreneur	6162	5092	91	9626.61	2285.50
Department	5060	9034	88	11912.11	

Had the data available with the Divisions been considered for evaluating and limiting the offers, the concession period allowed in the 11 cases would have been much less and the road users would not have been taxed for longer period than justified. Thus, unqualified acceptance of the vehicle census of the entrepreneurs without comparing with the data available in the Divisions resulted in excess concession period ranging from 2 to 38 months and provided scope for excess collection of toll by Rs 90.12 crore in the 11 cases.

The EE, NH Division, Dhule, stated (May 2001) that the traffic census conducted by the Department did not include the vehicles using the facility many times in a day and Government vehicles using the facility and hence the Department's traffic count was not realistic. The reply of the EE is not tenable because even after making allowance at the prescribed 15 *per cent* reduction in the traffic data of the Divisions on account of the exempted vehicles and daily/monthly pass holders, the volume of traffic as per the Divisions were much higher than the data adopted by the entrepreneurs.

Government stated (May 2001) that the departmental census of the vehicles were being used to work out the viability of the BOT projects and that there might be variation between the traffic count of the department and the entrepreneurs on account of time gap in the two counts and fluctuating nature of the traffic. The reply is not tenable as audit analysis was based on the census taken by the Divisions and the entrepreneurs in the same year and in no case, the divisions analysed the difference between the two sets of data to justify reasonableness of the data adopted by the entrepreneurs.

4.1.7.2 *Potential increase in traffic not considered*

Annual increment in traffic was ignored resulting in undue benefit of Rs 45.18 crore to the entrepreneur

4.1.7.2.1 The expected toll income during the concession period is computed with reference to the number of vehicles plying on the road and the toll rates notified by the Government. As per Government instructions issued in July 1999 and September 2000, after the actual count of traffic in the base year, the traffic figures for the subsequent years was to be estimated at an incremental rate of 5 *per cent per annum*. However, scrutiny of records in the office of the CE, Public Works Region, Nagpur revealed that while computing the traffic data required for assessing the toll income expected to be collected from the bridges on Nagpur-Baitul Road and Nagpur-Wardha-Yavatamal road, potential increase in volume of traffic in subsequent years was not taken into account by the entrepreneurs. While evaluating the offers, the division failed to note this omission of the entrepreneurs which resulted in undue benefit of toll income of Rs 1.21 crore to the entrepreneurs.

4.1.7.2.2 In two* accepted offers, incremental traffic was not taken into account for computing the toll income for intermittent period of 2 years. This omission resulted in computation of less toll income and increased the concession period leading to undue benefit of Rs 43.97 crore to the two entrepreneurs.

Thus, due to omissions to adopt the prescribed incremental rate of traffic, the entrepreneurs were given undue benefit of Rs 45.18 crore in the above mentioned 4 works. The EEs and CEs of the divisions concerned did not furnish reply to audit.

4.1.7.3 *Non-consideration of the Light Commercial Vehicles and Multi-axle Vehicles for traffic data*

4.1.7.3.1 While computing the toll income from the Khamgaon bypass road, the entrepreneur omitted to consider the toll income realisable from car/jeeps. This omission resulted in increase in the concession period. The Government accepted the offer of the entrepreneur in January 1997 without noticing this omission. However, the Government while issuing the notification specifying the rates of toll collection in February 1998 allowed the entrepreneur to collect the toll on cars/jeeps as well which resulted in undue benefit of Rs 0.46 crore to the entrepreneur during the concession period of 4 years and 293 days.

The CE, Amravati stated (February 2000) that due to the possibility of complete diversion of this type of vehicles from urban link, the income was ignored by the entrepreneur. The reply is an after thought and not tenable since the entrepreneur in his offer had not considered the cars and jeeps for levy of toll and the Government notification enabling him to collect the toll on cars

* (a) Khambatki Ghat – 2 years, and (b) Chinchoti Naka Kaman Pygon – 2 years

and jeeps was unwarranted. This resulted in undue benefit of Rs 0.46 crore to the entrepreneur.

Unjustified collection of toll at Rs 50 per vehicle-scope for increase earning of Rs 96.70 crore

4.1.7.3.2 In the case of construction of a Railway Over Bridge at Kharpada under the jurisdiction of the EE, National Highway Division, Pen, the selected entrepreneur had in September 1997 quoted toll rate of Rs 30 per truck-trailor combinations. Accordingly, the MOST issued (July 1999) the toll notification enabling the entrepreneur to collect the toll at Rs 30 per truck-trailor combinations. On opening of the bridge for traffic, the entrepreneur, however, collected the toll at Rs 50 per truck-trailor combinations. As per the traffic count (December 2000) made by the EE, National Highway Division, Pen, daily traffic of truck-trailor combinations on the bridge was 4814. At this rate, the entrepreneur would earn unauthorised benefit of Rs 96.70 crore during the concession period December 2000 to 2015. The EE confirmed the facts brought out in audit.

4.1.8 *Bids based on incorrect data regarding toll collection*

Acceptance of wrong cash flow calculation-extra benefit of Rs 4.23 crore to the entrepreneur

Scrutiny of records of the EE, Public Works Division No. 2 Nagpur revealed that an entrepreneur calculated the cash flow assuming toll collection of only 100 days *per annum* in respect of a bridge on the Saoner-Chindwara Road, which he built under the scheme. Government failed to detect this under assessment of toll collection and accepted the bid without rectifying the mistake in calculation with reference to the expected toll income of 365 days and this resulted in excess benefit of Rs 4.23 crore to the entrepreneur.

The EE, PWD, Nagpur (August 2001) stated that no records scrutinised by audit revealed that the offer of the entrepreneur was based on 100 days. The EE evidently failed to notice that the schedule showing the estimated yearly toll attached to the financial bid of the entrepreneur had the toll income computed with reference to 100 days only. Thus, acceptance of the offer having evidently incorrect and misleading information resulted in excess benefit of Rs 4.23 crore to the entrepreneur.

As the instances mentioned in paragraphs 4.1.7.2, 4.1.7.3 and 4.1.8 are due to apparent mistakes/omissions in the bids, Government need to examine these cases and rectify the omissions.

4.1.9 *Inadmissible rate of interest*

Acceptance of offers at higher interest rates resulted in undue benefit of Rs 172.99 crore to 12 entrepreneurs

The cash flow computed for the purpose of determining the concession period includes the element of interest on investment. As per the provision mentioned in the bid document for BOT works, the projected cash flow was to be revised with consequent modification to the concession period, in case of changes in the lending interest rates decided by the Reserve Bank of India (RBI). However, it was noticed in 12 offers accepted during 1996-97 to 1998-99 that the Government accepted the offers which had the cash flow computed at

interest rates ranging from 17 to 30 *per cent* as against the RBI's lending interest rate of 13 to 15 *per cent* prevalent at the time of acceptance of the offers. Acceptance of the offers having high interest rates than the prescribed rates for the purpose of computation of the cash flow had given undue benefit of Rs 172.99 crore to the entrepreneurs in the 12 cases.

Government stated (May 2001) that the BOT concept being new in the initial stages, there were no fixed guidelines available regarding rate of interest etc. The reply was not tenable as the condition of levy of interest as per RBI's lending rate of interest was already in existence in the bid document.

4.1.10 Commencement of the work before issue of work order

Though two works were started ahead of issue of work orders, the concession period was not adjusted

The concession period starts from the date of issue of work order. Scrutiny of records of the EE, PW Divisions, Ahmednagar and Dhule revealed that in the two works given in the following table, the entrepreneurs started the work long before issue of the work orders. As per the conditions in the bid document, in case the entrepreneur completes the construction before the stipulated date, the department can allow the entrepreneur to start collection of the toll at an earlier date than the envisaged one. On the same analogy, if an entrepreneur starts the work long before the date of issue of work order, appropriate reduction or advancement of the concession period should be imposed. However, in these two works, though the works were started 3 to 7 months ahead of the issue of work order, the concession period was not adjusted suitably and this resulted in undue financial benefit of Rs 33.94 crore to the entrepreneurs.

Name of work	Date of issue of work order	Actual date of starting of the work	No. of days	Financial benefit (Rs in crore)
Ahmednagar-Karmala Road	05-02-1999	04-07-1998	216	32.99
Dhule Bypass	28-08-1997	14-05-1997	106	0.95
				33.94

When the undue benefit allowed to the entrepreneur in the case of Ahmednagar-Karmala road was pointed out, the CE Nashik stated (May 2001) that during the period prior to the date of issue of work order, the entrepreneur had done work to the tune of Rs 74 lakh which was equivalent to 14 days work and accordingly the concession period was preponed by 14 days. The reply is not tenable because commencement of the work ahead of issue of the work order was irregular and the concession period ought to have been reduced by the duration of work since its commencement to the date of issue of work order and not by the arbitrary period equivalent of the cost of work done prior to the date of issue of work order.

In the case of Dhule bypass road, the EE concerned stated (May 2001) that proportionate reduction in the concession period would be made.

4.1.11 Delay in acceptance of the offers

Delay in finalisation of two cases resulted in extra burden of Rs 7.21 crore to the road users

4.1.11.1 As per the tender condition, the offer of an entrepreneur was to be accepted within a period of 120 days from the date of opening of the tender. It was, however, noticed that for constructing the Rail Over Bridge at Kharpada, the lowest offer of Rs 32.00 crore submitted by an entrepreneur in July 1996 was not accepted by the Government within the scheduled period ie November 1996. The delay was due to non-finalisation of a tripartite agreement among the Government, MOST and the entrepreneur. The CE, Mumbai submitted the offer of the entrepreneur along with the draft tripartite agreement to the Government only in January 1997, after a lapse of 7 months since receipt of the offer. Subsequently, as there was no agreement between the Government and the entrepreneur with regard to a clause in the tripartite agreement relating to responsibility of the entrepreneur towards omissions/actions of his sister company, the entrepreneur withdrew his offer in May 1997. Therefore, the department re-tendered the work in September 1997 and the lowest offer of Rs 33.33 crore quoted by another entrepreneur which was higher than the previous lowest offer by Rs 1.30 crore was accepted by the Government in December 1997. Thus, due to delay by the CE, Mumbai in sending the original proposal to the Government and subsequent delay in Mantralaya in sorting out the issue, the department had to re-tender the work which resulted in extra burden of Rs 1.30 crore to the road users.

4.1.11.2 In response to a tender for construction of the Mumbra bypass road on BOT basis, four tenderers submitted their offers in April 1999. As per the terms, the offer of the selected entrepreneur was to be accepted within 180 days of receipt of the bids. The CE, Special Project Region, Mumbai however, submitted the lowest offer for constructing the said bypass road at a cost of Rs 30 crore to the Government for its approval on 30 July 1999, after a lapse of three and a half months. As the validity period of the offer was to expire in October 1999, Government extended the validity period to 6 November 1999. However, Government could not take decision on the offer even during the extended period of validity as it could not decide whether toll could be collected in the vicinity of another toll centre that existed in the same bypass road. Due to this delay, the entrepreneur withdrew his offer in November 1999. Thereafter, the CE, Special Project Region, Mumbai proposed (January 2000) to the Government to accept the second lowest offer for Rs 35.91 crore and the Government accepted the proposal in May 2000. Earlier in December 1999, the CE had informed the Government that public protest against recovery of toll from two centres in close proximity could not be ruled out and he requested the Government to take decision on the matter at Government level. Scrutiny of records revealed that in May 2000, when Government approved the offer of the second lowest entrepreneur, it simply ignored its earlier doubt about collection of toll in the vicinity of another toll centre.

The delay of three and a half months in the beginning to send the proposal by the CE to the Government for its approval was not justified. Similarly, the delay at the Government level on account of its doubt on collection of toll in the vicinity of another toll centre which the Government had subsequently ignored was also not justified. These avoidable delays resulted in acceptance of a higher offer leading to extra burden of Rs 5.91 crore of toll tax to the road users.

4.1.12 Increase in scope of work after tendering

4.1.12.1 With a view to make the project financially viable, the CE, Nashik, while accepting an offer of Rs 31.51 crore (June 1998) for improvement of the Ahmednagar-Karmala road between 0/0 and 80/0 Kilometres, did not include the work of a proposed new bridge costing Rs 1.09 crore in the scope of the work. Subsequently, the Minister for Public Works instructed (September 1998) the CE to include the bridge work in the scope of the work. However, while complying with the Minister's instruction, the Government also included (September 1998) the works of pot hole repairs and strengthening of the damaged road costing Rs 3.49 crore which were already covered in the original scope. The entrepreneur had to quote his offer taking into account all aspects of the site conditions and accordingly he had quoted the offer in December 1997. Acceptance of his subsequent claim in September 1998 for pot-hole repairs and strengthening of the damaged road was irregular. This irregular addition to the scope of work resulted in undue benefit of Rs 3.49 crore to the entrepreneur in the form of extra toll.

Post tender irregular addition to the scope of work, undue benefit of Rs 11.47 crore to the entrepreneurs

The EE, Nashik replied (May 2001) that the additional item of strengthening of the damaged portion was included as an essential part. He further added that pot-holes on roads were due to heavy rainfall during June 1998 to September 1998 and it became essential to incorporate these items in the additional scope of work. The reply is not tenable as the item of strengthening of the road had already been included in the original offer of the entrepreneur and pot-hole filling etc, if any, after acceptance of the offer in June 1998 was the responsibility of the entrepreneur and was not required to be compensated again.

4.1.12.2 Scrutiny of records of the Executive Engineer (EE), National Highway Division XI, Dhule revealed that before obtaining the technical sanction for construction of a Railway Over Bridge at km 228/800 and strengthening of the road at Km 219 to 228 and 228/800 to 229 in Nardana, the tender for carrying out the work under the BOT scheme was invited (November 1996) by the EE. The lowest offer of an entrepreneur for Rs 31.75 crore with concession period of 14 years and 11 months was recommended (December 1996) by the Government to the MOST for acceptance. In February 1997, MOST accorded the technical sanction suggesting the additional works of four lanning the road passing through Nardana town, proper fanning of junction and providing thermoplastic paint and delineators.

The entrepreneur agreed to execute these additional works free of cost provided he was allowed to collect the toll on completion of the railway overbridge but before carrying out the work of bitumen treatment. Alternatively, he claimed additional Rs 1.71 crore as cost of the additional works and interest of Rs 6.88 crore that would accrue on this additional cost after the original concession period of 14 years and 11 months. The Government accepted the second offer, which led to increase in the concession period by 11 months. Had the Government accepted the first alternative, the entrepreneur could have collected additional toll of Rs 5.95 crore only. Acceptance of the second alternative favoured the entrepreneur to collect toll of Rs 13.93 crore resulting in undue benefit of Rs 7.98 crore to the entrepreneur.

The point made by Government for rejection of the first option was that since the work of bitumen treatment would be started by the entrepreneur after 6 years from the start of the project and by then said road stretch would deteriorate due to heavy traffic for a long time, it might create public unrest against the toll collection. The reasoning is not tenable because the entrepreneur had stated in his offer for the additional items of work that the road was in very good condition and he would carry out the normal maintenance of the road even if the department accepted the first alternative. Moreover in the case of Dhule bypass road under the jurisdiction of the same CE, the Government had allowed collection of toll before completion of the full course of bitumen treatment. Thus, the Government decision to accept the second alternative, which was a costly option, was not rational and this resulted in extra benefit to the entrepreneur.

4.1.13 *Completion certificate*

As per the tender conditions, the entrepreneur was entitled to collect the toll from the date of issue of provisional completion certificate subject to the condition that entrepreneur should obtain the final completion certificate within 60 days of starting the toll collection.

4.1.13.1 Test-check of records of the EE, NH Division, Thane revealed that in respect of Bhiwandi bypass road, the entrepreneur started the toll collection from 12 June 1997. But the completion certificate issued by the Steering Committee on 15 July 1998 mentioned that the work was completed on 30 April 1998. Thus, collection of toll long before obtaining the final completion certificate was irregular and this resulted in undue benefit of Rs 4.47 crore to the entrepreneur during the period 12 June 1997 to 30 April 1998.

The EE, NH Division, Thane stated (March 2001) that the work was completed on 11 June 1997 and no undue benefit to the entrepreneur was extended. The reply was not acceptable because the Steering Committee had certified on 15 July 1998 that the work was completed on 30 April 1998.

Collection of toll long before obtaining final completion certificate by the entrepreneur resulted in undue benefit of Rs 4.47 crore

4.1.13.2 In respect of Dhule bypass road, though the completion certificate was not issued, the CE, PW Region, Nashik proposed to the Government for issue of notification allowing the entrepreneur to collect the toll with effect from 6 March 1998. The proposal was accepted by the Government on the assurance of the entrepreneur that the entire work would be executed by the end of May 1998. However, the completion certificate issued on 26 November 1999 specified that the work was completed on 15 November 1998. Though the work was delayed beyond May 1998, toll collection was allowed from 6 March 1998 to 15 November 1998 which resulted in undue financial benefit of Rs 1.38 crore to the entrepreneur.

The EE, PWD, Dhule stated (March 2001) that the work was completed with first layer of bitumen treatment with riding quality having roughness index 2200 mm/km which is near about the requirement of 2000 mm/km and as the entrepreneur had assured to complete the work by the end of May 1998, permission to collect the toll ahead of issue of completion certificate was granted. The reply of the EE was not tenable as the entrepreneur had not completed the work as promised and continued permission to collect the toll was not proper.

4.1.14 *Other points of interest*

4.1.14.1 *Thane Bhiwandi bypass road*

Scrutiny of records of the CE, PW Region, Mumbai revealed that collection of the toll in respect of two departmentally constructed bridges on the Thane Bhiwandi bypass road entrusted to an entrepreneur at the rate of Rs 42 lakh per month for 30 months was accepted by the Government in August 1995. Against this, the entrepreneur who quoted the second best offer filed a writpetition in the court alleging that in his offer the toll element quoted by him was Rs 55 lakh per month. On this ground, the entrepreneur who was awarded with the work agreed in the court to collect the toll at Rs 51 lakh per month. In view of his undertaking, the court disposed of the case with the direction to him to collect the toll at Rs 51 lakh per month as he was already executing the toll collection. Subsequently in September 1995, construction of the road on the same bridges on BOT basis was entrusted to the same entrepreneur who quoted the toll collection as Rs 42 lakh per month. Acceptance of a rate lower than the one already agreed by the entrepreneur before the Court was irregular. This resulted in undue benefit of Rs 4.86 crore to the entrepreneur during July 1997 to December 2001. On this being pointed out (March 2001) the department did not give any reply.

4.1.14.2 *Conversion of budgeted work into build, operate and transfer*

The EE, Public Works Division, Nandurbar awarded the work of construction of a bridge at Km 84/300 on Surat-Dhule road to a contractor at a cost of Rs 33 lakh in March 1996.

Scrutiny of records of the EE revealed that during 1996-97 to 1997-98, he did not request for funds required for the work as the drawings of the bridge were not finalised. However, the grant of Rs 22 lakh was provided by the Government in March 1999 for payment against the part completed work. But the contractor refused to accept part payment of Rs 22 lakh and instead requested (November 1998) the EE to convert this work as BOT work. Accordingly, his offer under BOT for Rs 94 lakh was accepted by the Government on 4 June 1999 by reckoning the date of concession period from 1 December 1998. Since the work was continuously in progress even prior to December 1998, the concession period should have been considered from the date earlier to December 1998. The entire work was completed at a cost of Rs 49 lakh in September 1999 against which toll of Rs 2.12 crore was collected by the entrepreneur during October 1999 to January 2001. Thus, adoption of inappropriate concession period resulted in undue benefit to the contractor. The EE accepted the audit contention and stated that the offer of the entrepreneur was accepted by the Government.

The observations contained in this review were brought to the notice of the concerned CEs in June 2001 and to the Secretary, Public Works Department in July 2001. No reply has been received (December 2001).

IRRIGATION DEPARTMENT

4.2 Delay and cost escalation in completion of a minor irrigation tank

Inadequate survey led to wrong estimate of the length of the dam which resulted in extra cost of Rs 70.41 lakh and the work was delayed due to delay in acquisition of land.

Government approved (May 1991) the construction of a minor irrigation tank at Marnewadi in Pune district at an estimated cost of Rs 48.56 lakh. The Chief Engineer, Pune accorded technical sanction (April 1993) for Rs 30.62 lakh. The work scheduled to be completed within 10 months from the date of issue of work order was entrusted to two contractors on six different agreements executed between June 1993 and February 1994 at 47.50 to 68.56 *per cent* above the estimated cost of Rs 32.62 lakh. The dam work was stopped during October 1994 to October 1997 due to objection raised by the project affected persons on account of non-consideration of the trees and other structures like well and crematorium that existed in the land for computing the compensation payable to them. The dam work was restarted in November 1997 and completed in June 1998 at a cost of Rs 134.22 lakh.

Audit scrutiny of records (March 1998 and March 2000) of the Executive Engineer, Minor Irrigation Division No I, Pune (EE) revealed that the revised estimate prepared by the EE for Rs 2.03 crore in May 1998 was approved by the Executive Engineer, Krishna Valley Development Corporation, Pune in February 2000. The revision was necessitated due to inadequate survey in the beginning to decide the length of dam and increase in rates during the period of stoppage of work for 31 months. In the original estimate, prepared by the EE and approved (April 1993) by the Chief Engineer, Irrigation Region, Pune, the length of dam was taken as 296 metres on the basis of mere judgement of ground levels, which was subsequently worked out (January 1998) to 473 metres on the basis of actual ground levels. Had correct length of 473 metres been considered at the time of initial estimation, the cost of regulator and head work would have been Rs 59.21 lakh only as against the revised cost of Rs 1.30 crore. Thus, inadequate survey leading to adoption of incorrect length of dam at the initial stage and stoppage of work during the process of land acquisition resulted in extra cost of Rs 70.41 lakh, besides delay in completion of the work.

The EE accepted (February/June 2000) that increase in the cost was partly attributable to inadequate survey and partly to stoppage of work for over 2 years due to objection raised by the project affected persons.

The above matter was referred to the Superintending Engineer, Pune Irrigation Circle, Pune in April 1998 and to the Secretary to the Government in June 2001. No reply has been received (December 2001).

4.3 Unfruitful expenditure on minor irrigation tank

Expenditure on construction of a minor irrigation tank without getting clearance from the Forests Department led to unfruitful expenditure of Rs 61.93 lakh.

Construction of the Sonkund Minor Irrigation Tank to irrigate 546 hectares of land in Bhandara District was approved by the Government (February 1975) at an estimated cost of Rs 21.13 lakh which was revised to Rs 53.35 lakh (February 1984). Out of the total 156.57 hectares of land required for the project, 131.08 hectares constituted the forestland. The work taken up (March 1975) under the Employment Guarantee Scheme was stopped in May 1985, after incurring an expenditure of Rs 16.22 lakh on earthwork and head regulator due to refusal to make available the forestland by the Forests Department. On the ground that the project was included in the District Development Programme, the work was restarted by the Executive Engineer, Minor Irrigation Division, Bhandara (EE) in 1996-97 without obtaining approval of the Forest Department to use the forestland, and further expenditure of Rs 45.71 lakh was incurred mainly on work of structure of the canal during 1996-97 to 1998-99.

Audit scrutiny of records (April 2000) of the EE revealed that as early as in November 1976, the Forest Development Corporation of Maharashtra (FDCM) had directed the EE to stop the work till receipt of Government approval for using the forestland. The proposal for deforestation of the forestland submitted by the Chief Engineer, Irrigation Department, Nagpur Region (CE) in September 1988 was rejected by the Forests Department in January 1989. Moreover, an alternate proposal to convert the minor irrigation tank into forest tank was also rejected by the Deputy Conservator of Forests, Bhandara in October 1990. The Principal Chief Conservator of Forests, Nagpur recommended (May 1997) to the Government to reject the proposal for diversion of the forest land for non-forest use as the teak and bamboo plantations raised by FDCM during 1962 to 1977 and 1984-85 in the said forest land were in excellent condition. Despite being aware of the above facts, the EE proposed the revised estimate for Rs 5.16 crore in February 1998

and in anticipation of approval for the revised estimate, continued to incur the expenditure of Rs 61.93 lakh till 1998-1999, which proved unfruitful.

The EE stated (January 2001) that the Forests (Conservation) Act, 1980 was not in existence at the time of starting the work and expenditure was incurred on the presumption that approval of the Government would be obtained. He further added that the work was included in the District Development Programme and funds were provided by the District Planning Development Committee during 1996-97 to 1998-99.

The plea of the EE is not tenable in view of the fact that the FDCM had directed the EE to stop the work in 1976 itself. In December 1991, the CE had also proposed for writing off the expenditure incurred till then as there was no possibility of getting clearance from the Forests Department for use of the forestland for non-forest purpose. Thus, the injudicious decision to continue the execution of the work without getting clearance from the Forests Department resulted in unfruitful expenditure of Rs 61.93 lakh including Rs 42.20 lakh spent on structure of the canal which do not serve any purpose.

The matter was referred to the Secretary to the Government in May 2001. The Secretary accepted the facts and stated (December 2001) that disciplinary action was being initiated against the concerned Executive Engineer.

PUBLIC WORKS DEPARTMENT

4.4 Manipulation in tender document

Abnormally low quantity of earth work shown in the tender document as compared to the sanctioned estimate resulted in extra expenditure of Rs 1.25 crore and further liability of Rs 7.54 crore due to excess work at higher rates beyond 125 per cent of tendered quantity.

The work of widening of road from two to four lane in km 439/00 to 477/00 of Mumbai – Ahmedabad section of the National Highway No. 8 was approved by the Ministry of Surface Transport (MOST) in April 1993 at an estimated cost of Rs 61.51 crore. The work was entrusted by the Chief Engineer, National Highway (Public Works) Region, Navi Mumbai (CE) to a contractor in October 1997 at a cost of Rs 107.88 crore for completion in 42 months. The estimated cost was revised to Rs 132.67 crore in January 2001.

Audit scrutiny of the records (December 2000) of the Executive Engineer, National Highway Division, Creek Bridge, Mumbai revealed that a quantity of 0.97 lakh cubic metres (cum) of earth work was put to tender as against the sanctioned estimated quantity of 8.67 lakh cum of earth work required for construction of embankment. The actual quantity of earth work executed as of February 2001 was 13.04 lakh cum. Out of this, a quantity of 1.21 lakh cum was paid at the tendered rate of Rs 126.00 per cum and the balance quantity of 11.83 lakh cum being in excess of 125 *per cent* of the tendered quantity (0.97 lakh cum) was paid at the provisional rate of Rs 144.69 per cum involving total payment of Rs 18.51 crore. Had the sanctioned estimated quantity of 8.67 lakh cum been quoted in the tender, the division would have incurred an expenditure of Rs 17.26 crore only as against the actual expenditure of Rs 18.51 crore and the extra expenditure of Rs 1.25 crore could have been avoided. The extra expenditure would increase to Rs 7.54 crore in the event of payment at the revised rate of Rs 210.00 per cum, proposal for which has been recommended by the Chief Engineer and was under the consideration of the MOST.

The Secretary, Public Works Department stated (August 2001) that there was apparently an error in showing a very low quantity of 0.97 lakh cum earth work in the tender. He added that had the estimated quantity of 8.67 lakh cum been notified in the tender, the contractor would have in all probability quoted higher rate in view of the high volume of work requiring modern equipment and more efforts. The contention is hypothetical and does not explain the wide variation in the estimate, tender and actual quantities. Possibility of manipulation and serious malpractice in such “error” cannot be ruled out in view of the huge financial benefits obtained by the contractor as a result of such “error”. The CE stated (March 2001) that the matter was under examination. The Secretary has not stated how such “error” could take place and what action was initiated against the responsible officials for causing such huge excess expenditure to Government and for prevention of such ‘errors’. The matter calls for investigation.

4.5 Extra burden to the State exchequer

Failure to obtain 50 *per cent* share of the cost of work for improvement of roads in Western Coal-field area in advance from Western Coal-field Limited resulted in extra burden of Rs 15.03 crore to the State exchequer.

For improvement of the roads and infrastructures in the coal-field area of the Western Coal-field Limited (WCL) in Chandrapur, Nagpur and Yavatmal districts, the Government accepted in principle (July 1994) to share 50 *per cent* of the cost of road work. The balance 50 *per cent* cost of the roads was to

be borne by the WCL. The Government also instructed the Chief Engineer, Public Works Region, (CE), Amaravati to take such works as deposit contribution work. As per the codal provisions, receipt of the agreed/committed amount from the users is a pre-requisite for execution of deposit work.

Audit scrutiny of records (October 2000) of the Executive Engineer, Public Works Division, Pandharkawada (EE) and information collected (April 2001) from CE, Nagpur revealed that improvement works of roads in coal-field areas of WCL, Chandrapur, Nagpur and Yavatmal districts were executed between 1995-96 and 2000-2001 at a cost of Rs 30.06 crore without obtaining the 50 *per cent* share of the cost from WCL in advance or entering into any agreement for the purpose. The entire expenditure was met out from the regular allotment of fund to the Public Works Divisions. In April 2001 the CE, Nagpur demanded Rs 15.03 crore from WCL towards the 50 *per cent* share of the expenditure of Rs 30.06 crore incurred by the Public Works Divisions. WCL however, refused (May 2001) to honour the claim on the ground that Public Works Department in their booklet "Improvement of Road network around coal-field in Vidarbha" had stated that WCL was not prepared to agree to their share for the works and further stated that in August 1996 they had clearly indicated that the cost of the infrastructure developed around coal-field area for the main arterial roads would not be shared. Thus, execution of the work without obtaining the 50 *per cent* share in advance or without obtaining any understanding from WCL resulted in extra burden of Rs 15.03 crore to the State exchequer.

The EE stated (June 2001) that the matter of recovery of 50 *per cent* of the cost from WCL was referred to the Government.

The above matter was also brought to the notice of the CE, Amravati in April 2001. No response was received. The matter was referred to the Secretary in July 2001 and followed up with reminder in September 2001. No reply has been received (December 2001).

4.6 Idling of a building for 7 years

A building purchased in July 1994 at a cost of Rs 11.37 crore for establishment of 15 courts under the Narcotic Drugs and Psychotropic Substance Act, 1985 in Mumbai remained vacant for 7 years for want of additions and alterations.

With a view to establish 15 courts in Mumbai to expedite the cases under the Narcotic Drugs and Psychotropic Substance Act, 1985, a building with land measuring 2323.97 square metres at Sewree (West) Mumbai was purchased in

July 1994 by the Law and Judiciary Department (LJD) at a cost of Rs 11.37 crore by withdrawing fund from the Contingency Fund of the State. In October 1996, Government sanctioned Rs 1.72 crore for carrying out additions and alterations in the building by the Executive Engineer (EE), Central Public Works Division, Mumbai.

Though the building was purchased for immediate establishment of the courts and Rs 1.72 crore was sanctioned by the Government for its alterations, the works could not be undertaken by the EE till March 2001 due to non finalisation of the estimate prepared by the EE in May 1995 and for want of No Objection Certificate (NOC) from the Municipal Corporation, Mumbai and the Fire Brigade, Mumbai. Further scrutiny of records revealed that though as early as in January 1995, the Chief Architect had pointed out the necessity of the NOC from the Municipal Corporation and Fire Brigade, the LJD approached the authorities only in July 1997. The NOC from the Fire Brigade was received in January 1998 and from the Corporation in November 1998. Thereafter, the plans were forwarded by the EE to LJD in July 2000 and they were finally approved by the Honourable High Court in September 2000. Due to avoidable delay on the part of the LJD and the EE in getting the NOC and plan approved, the LJD could not house the eight courts in the said building and in the meantime the courts started functioning in the existing premises of the city civil court. Thus, the amount of Rs 11.37 crore spent on purchase of the building was blocked for 7 years and the LJD had to pay property tax of Rs 11.15 lakh for the vacant building from October 1994 to September 2000.

The EE stated (September 2001) that the Superintending Engineer, Public Works Circle, Mumbai had accorded (March 2001) the technical sanction and the works were taken up for execution in March 2001. The Secretary, LJD stated (September 2001) that at the present level of pendency of the cases under the Narcotic Drugs and Psychotropic Substance Act, establishment of the remaining 7 courts was not felt necessary and the High Court had proposed to utilise the building by housing the other city civil courts and session courts.

The matter was referred to the Secretary in July 2001 and followed up with reminder in September 2001. No reply has been received (December 2001).

4.7 Avoidable expenditure

Just before execution of works for widening, strengthening and black topping of a road, the Executive Engineer, Public Works Division, Chandrapur spent Rs 69.45 lakh on the work of semi-dense bituminous concrete for the same road.

The Government in May 1995 approved a work of widening, strengthening and black topping (STBT) of the Jam-Warora-Chandrapur road in two sections between kilometres (km) 0/0 to 44/00. The Chief Engineer, Public Works Region, Nagpur accorded the technical sanction in March 1996 for Rs 3.11 crore. Tenders were invited in September 1996 and work orders were issued in July 1997. The scope of the work included renewal of semi dense bituminous concrete (SDBC) with leveling course over the entire width of the road including the widened portion. The contract provided for a defect liability period of 24 months from the date of completion of the work or 24 months from the commencement whichever was early during which the contractor was to rectify the defects if any, at his own cost.

Audit scrutiny of records of the Executive Engineer, Public Works Division No.I, Chandrapur (EE) in December 1999 revealed that while the tenders for the above mentioned work at different stretches of the road were in the process of acceptance (September 1996 to July 1997), two estimates for providing potholes filling and SDBC over the entire length of road were technically sanctioned by the Superintending Engineer, Public Works Circle, Chandrapur (SE) for Rs 91.34 lakh in January 1997. The works were got carried out by the EE in May 1997 at a cost of Rs 97.67 lakh including Rs 69.45 lakh spent on the SDBC. Since the EE and SE were well aware of the inclusion of the SDBC in the estimates of STBT, the execution of the work of SDBC in May 1997 was unwarranted. Further the EE carried out repairs to the damages of the same road during December 1998 to November 1999 at a cost of Rs 11.72 lakh though the work was to be attended by the contractor under the defect liability clause.

The SE justified (December 2000) this on the ground that due to poor riding quality of the road, immediate provision of SDBC was obligatory at the time of STBT renewal. With regards to the expenditure incurred on repairs to damages, the EE stated (November 2000) that after completion of the widening works, geometrical improvement in super elevation on curves was realised and carried out and without this SDBC layer of wearing course might have caused accidents on the curve portions.

The reply of the SE / EE was not tenable as the execution of SDBC just on the eve of carrying out the STBT could have been avoided by keeping the road in motorable condition through potholes filling. The technically sanctioned estimates for repairs indicated the repair to damaged patches and not for the

improvement of curves. Thus, the total expenditure of Rs 81.17 lakh incurred on SDBC and repairs to damages was avoidable.

The matter was referred to the Secretary in July 2001 and followed up with reminder in September 2001. However, no reply has been received (December 2001).

4.8 Undue benefit to a contractor

An Executive Engineer got restored the damages to a road at a cost of Rs 45.31 lakh from the contractor during execution of periodical renewal work though it was to be done by the contractor at his own cost.

The work of periodical renewal including pot holes filling, profile corrections by laying bituminous macadam (BM) and asphalt concreting (AC) at the stretch in Km 468/000 to 470/880 of the Mumbai-Agra road in Kasara Ghat was entrusted to a contractor in April 1997 at a cost of Rs 31.24 lakh. The work was to be completed by June 1997. However, the contractor did not complete the work within the scheduled period and on his request he was allowed extension of time upto October 1999. The agreement provided that all the damages to the road surface in the rainy season during the period of execution and guaranteed maintenance shall be made good by the contractor at his cost and no separate claim on this account would be entertained.

Scrutiny of records (May 1998) of the Executive Engineer, National Highway Division No IX, Nashik (EE) revealed that the work of BM was completed by the contractor in May 1997. The sealing of the road surface with AC over the BM, which was required to be completed by the end of June 1997 was however, not done by the contractor. As a result, the road in the above mentioned stretch was exposed and damaged due to rain during the monsoon of 1997. As the contract was in force at the time of damages, the contractor was liable to make good the damages at his cost as envisaged in the above mentioned contractual provisions. However, the EE did not enforce the contract condition and instead got the damages rectified by the same contractor at an extra cost of Rs 45.31 lakh, treating the rectification as extra work. This irregularity resulted in undue benefit of Rs 45.31 lakh to the contractor.

The Secretary, Public Works Department stated (August 2001) that non completion of the periodical renewal in time was not the only contributor for the damages but the heavy rainfall, heavy traffic intensity, inadequate crust and poor drainage conditions were also responsible for the damages to the road.

The reply was not tenable as the rainfall of 3182 mm observed during 1997 was lower than the average rainfall of 3600 mm observed in the area (Igatpuri taluka). The incompleting work aggravated the problem and other factors were of general nature. The terms of contract clearly stipulated that no separate payment would be made for restoring the damages caused during the rainy seasons and during the construction and guaranteed maintenance period and hence the payment for extra works was not justified.

4.9 Unproductive expenditure on construction of an airstrip

Construction of an airstrip without obtaining clearance from the Director General of Civil Aviation resulted in unproductive expenditure of Rs 26.39 lakh.

As per the guidelines for issue of an aerodrome license prescribed by the Director General of Civil Aviation (DGCA), construction work of an aerodrome can be started only after the proposal is cleared by the Ministry of Defence, Ministry of Environment and Forest, land owner and local authorities including the State Government and after clearance in principle is given by the DGCA. Construction of an airfield within 150 kilometres of an existing airfield is not permitted.

Audit scrutiny of records (July 2000) of the Executive Engineer Public Works Division, Bhokar (EE) revealed that construction of an airstrip at Rajgad in Nanded district was approved by the Divisional Commissioner, Aurangabad in March 1992 at an estimated cost of Rs 24.88 lakh without obtaining the clearance in principle from the DGCA. The construction work taken up in March 1992 under the Employment Guarantee Scheme was stopped from June 1994 after incurring an expenditure of Rs 26.39 lakh for want of technical clearance from the DGCA. The Planning Department of the State Government (February 1999) however, accorded administrative approval for revised amount of Rs 45.17 lakh.

Regarding the reasons for stoppage of the work, the EE stated (November 2000) that construction of an airstrip was taken up to provide employment to rural people under the Employment Guarantee Scheme. He also added that the fact regarding non-permissibility of an airstrip within the vicinity of 150 kilometres of an existing airstrip was not known to the Division.

The Secretary, Public Works Department stated (September 2001) that correspondence was in progress with the DGCA and other authorities for clearance of the project and the work would be executed after getting the clearance from the Civil Aviation Department.

The reply of the Secretary is not tenable as action of the Divisional Commissioner, Aurangabad for starting the work without obtaining clearance of the Ministries of Defence, Environment and Forest and the DGCA was irregular. Moreover, the air distance between the existing airstrip at Nanded and the proposed airstrip at Rajgad is only 110 km and hence the possibility of obtaining technical clearance from the DGCA is remote.

RURAL DEVELOPMENT AND WATER CONSERVATION DEPARTMENT

4.10 Idle investment on KT weir and minor irrigation tank

Commencement of the work of a Kolhapur Type weir and a minor irrigation tank on forest land without ensuring possession of the land resulted in stoppage of work after incurring an expenditure of Rs 45.49 lakh.

According to the Forest (Conservation) Act, 1980 prior approval of the Government of India (GOI) is necessary for using the forest land for non-forest purposes. The GOI had further clarified in March 1982 that diversion of the forest land for non-forestry purposes even in anticipation of approval was not permissible and that request for *ex post facto* approval would not be entertained. As per provisions of the Maharashtra Public Works Manual, no work should be commenced on a land without ensuring its possession. Two instances of commencement of works on forest land without ensuring possession of the required land are discussed below:

(a) Despite being aware of existence of the forest land on both banks of the nalla and the instructions of GOI that request for *ex post facto* approval would not be entertained, the Executive Engineer, Minor Irrigation (Local Sector) Division, Chandrapur (EE) started (April 1991) the work of construction of a Kolhapur Type (KT) weir on forest land at Kemtukum on the presumption that the forest land measuring 4.99 hectares out of the total 8.21 hectares of land in the submergence area of the KT weir belonged to the Revenue Department. On raising objection by the Forest Department, the work was stopped since March 1996 after incurring an expenditure of Rs 15.81 lakh. The proposal seeking permission for using the forest land was finally submitted by the EE to the Chief Conservator of Forests (Central), Ministry of Environment and Forest, Regional Office, Western Region, Bhopal in September 2000. The proposal was still pending (July 2001) with

the latter. Thus, due to execution of the work on the forest land without obtaining prior approval of the GOI, the investment of Rs 15.81 lakh remained unproductive for over five years.

The EE stated (May 2000) that the officials responsible for this negligence were warned by issue of notices in February 2000. He further stated (April 2001) that final proposal had already been sent (September 2000) to the Chief Conservator of Forests (Central), Ministry of Environment and Forests Regional Office, Western Region, Bhopal and the project would be cleared within three months.

(b) The Superintending Engineer, Minor Irrigation (Local Sector), Nashik (SE) accorded technical sanction for the work of construction of a minor irrigation tank at Sajgaon-Mohadi in Jalgaon district in December 1994. The Executive Engineer, Minor Irrigation (Local Sector) Division, Jalgaon (EE) took up the work in December 1994 without ensuring possession of the land required for the purpose. The work was scheduled for completion by August 1997. However, the work was stopped in May 1996 due to an objection raised by the Forest Department that out of 46.49 hectares of the land required for the project 9.16 hectares was in the forest which was declared by the State Government in July 1993 as protected forest. The total expenditure incurred on the work upto March 2001 was Rs 29.68 lakh. Thus, commencement of the work without ensuring possession of the land by the EE resulted in stoppage of the work and idle investment of Rs 29.68 lakh.

The EE stated (February 2000) that the work was commenced on the consideration that alternate revenue land could be interchanged with the forest land and however, the work was subsequently stopped on knowing the difficulties to do so. The Chief Engineer, Minor Irrigation (Local Sector), Pune stated (May 2001) that the field officers had been instructed to be more cautious on land acquisition especially forest land to avoid complications.

The replies of the EEs are not tenable as it was irregular to execute the works in the forest land without ensuring possession of the land. The scope for getting the GOI's approval for using the forest land is remote.

The matter was referred to the Secretary in May/ July 2001. No reply has been received (December 2001).
