

CHAPTER-III

PERFORMANCE REVIEWS

This chapter presents three Performance Reviews covering the National Highways in Punjab, Implementation of Acts and Rules relating to Consumer Protection and Cash Settlement Suspense Account and Material Purchase Settlement Suspense Account.

3.1. National Highways in Punjab

**PUBLIC WORKS
DEPARTMENT
(BUILDINGS AND
ROADS BRANCH)**

Highlights

- *Out of Rs 333.91 crore allocated by the GOI, the Department failed to utilise Rs 54.76 crore during April 2000 to September 2004.*

(Paragraph 3.1.5 & 3.1.6)

- *Out of claims totalling Rs 67.41 crore preferred by the Department for reimbursement during 2000-2004, a sum of Rs 8.63 crore was withheld by GOI on account of excess over estimates or irregular expenditure and an amount of Rs 1.77 crore was disallowed, being inadmissible expenditure, causing loss to the State Government.*

(Paragraph 3.1.7)

- *Upgradation of three NHs at a cost of Rs 119.57 crore by the State Government with its own funds resulted in extra burden on the State exchequer since this was not reimbursed by MORT&H.*

(Paragraph 3.1.8)

- *Non-construction of railway level crossing simultaneously with the construction of a bye pass, rendered expenditure of Rs 7.76 crore wasteful since the bye pass could not be used.*

(Paragraph 3.1.12)

- *Change in scope after awarding the works due to defective survey resulted in cost over run of Rs. 2.49 crore coupled with time over run of 96 months and 53 months in the construction of Gurdaspur bye pass and bridge over Sirsa Nadi respectively.*

(Paragraph 3.1.13 and 3.1.14)

- *Litigation by the Department against the advice tendered by the Ministry of Law, Justice & CA delayed construction of an ROB by 66 months; failure to recalculate the concession period afresh on the basis of traffic of 2003 resulted in extension of undue financial benefit to the agency.*

(Paragraph 3.1.17)

- *Delay in execution of work entailed an extra liability of Rs 84 lakh as payment to be made to the BSNL towards shifting of their facilities.*

(Paragraph 3.1.20)

Introduction

3.1.1. The National Highways (NH) Act, 1956 as amended from time to time empowers Government of India (GOI) to declare certain highways as National Highways. The National Highways Rules, 1957, were framed for the implementation of the NH Act, 1956. NHs are important roads conforming to the latest road safety norms between state capitals, industrial towns, places of tourist attraction and other places of historical and religious importance, etc.

There are 13¹ NHs and two² bye passes with a total length of 1739.15 km in Punjab as shown in figure I. Of this, 287.87 km of two NHs (NH-1: 174.90 km & NH-IA: 112.97 km) have been transferred (December 2001) to the National Highways Authority of India³ (NHAI), 26.73 km fall within Municipal Committee (MC) limits, 5.12 km in the union territory of Chandigarh and the balance of 1419.43 km was with the Public Works Department (Buildings & Roads Branch).

The Chief Engineer (CE) National Highways, Punjab PWD (B&R), Patiala is in overall charge of the construction and maintenance of NHs and is assisted by five Superintending Engineers (SE). The SE at the headquarters is assisted by one Executive Engineer. In the field, 13 Central Works Divisions each headed by an Executive Engineer under the supervision of four SEs execute the works. A Regional Office of the Ministry of Road Transport and Highways (MORT&H) located at Chandigarh monitors the execution of NH works. A Regional Pay and Accounts Officer (RPAO) of the Ministry, also

¹ 1, 1A, 10, 15, 20, 21, 22, 64, 64-A, 70, 71, 72 & 95.

² Abohar: 15.953 km & Gurdaspur: 8.290 km.

³ NHAI was constituted by an Act of Parliament namely the NHAI Act, 1988. It is responsible for the development, maintenance and management of NHs entrusted to it. The NHAI became functional in February 1995.

stationed at Chandigarh, looks after the payments as well as reimbursement of expenditure on construction and maintenance of NHs. The implementation structure is given in figure II.

Up to 31 March 2001, the State Government was to initially incur expenditure on construction and maintenance of NHs and get it reimbursed from MORT&H. With effect from 1 April 2001, the system was changed to Direct Payment Procedure (DPP) by MORT&H for NH works on special repairs, periodical renewals and Improvement of Riding Quality Programme (IRQP) under major heads 5054-Original Works (OW) and 3054-Maintenance and Repair (M&R). For ordinary repairs and flood damage repairs under major head 3054-M&R, the previous system of re-imburement was continuing.

Scope of Audit

3.1.2. Records of the CE, RO, RPAO and Executive Engineers holding charge of four NHs⁴ and one bye pass out of 13 NHs covering the period from 2000-01 to 2004-05 were reviewed in audit during the period October 2004 to June 2005 to scrutinise the execution of works pertaining to development, maintenance and improvement of riding quality of NHs as required to be done periodically as per specifications issued by MORT&H.

Audit Objectives

3.1.3. The objective of audit during the review was mainly to assess:

- Whether the funds received from GOI were utilised in an economical and efficient manner and for the intended purposes;
- Whether the bills for maintenance and ordinary repairs etc. were duly preferred and reimbursement received;
- Whether proper planning was done to optimise the use of available resources by taking up developmental works on priority;
- Whether proper survey was done to avoid subsequent changes in scope of work;
- Whether works were executed in a planned and coordinated manner;
- Whether there was any post tender developments leading to extra payments;
- Whether the departmental rules and instructions issued from time to time were observed;
- Whether works were completed as per schedule conforming to specifications so as to avoid extra payment;
- Whether proper monitoring system for implementation including quality control of various works existed.

⁴ Four NHs consisting of 894.73 km detail of which is as under:
(NH-1: 279.420 km of which 174.90 km were transferred to NHAI in December 2001, NH-15: 360.870 km, NH-64: 209.500 km, NH-95: 211.55 and Gurdaspur bye-pass: 8.290 km).

Audit findings

3.1.4. The records in the offices of the RO and the RPAO as well as CE and the Executive Engineers were test-checked. The findings are given below:

Financial performance

3.1.5. As per the NH Act, 1956 it is the responsibility of GOI to develop and maintain all the NHs. The funds for externally aided schemes and other schemes are also provided through GOI. The details of funds allocated and utilised by the Department during the period 2000-2005 were as follows:

(Rupees in crore)

Year	Funds allocated by GOI	Funds utilised by the Department ⁵	Short utilisation	Percentage of short utilisation
5054-Original Works				
2000-2001	53.65	38.17	15.48	28.85
2001-2002	64.13	58.66	5.47	8.53
2002-2003	51.76	47.08	4.68	9.04
2003-2004	51.00	50.99	0.01	0.02
2004-2005 (upto 9/04)	23.39	22.50	0.89	3.81
Total	243.93	217.40	26.53	
3054 - Maintenance Works				
2000-2001	20.88	15.40	5.48	26.25
2001-2002	24.08	15.97	8.11	33.68
2002-2003	17.61	9.28	8.33	47.30
2003-2004	20.09	18.80	1.29	6.42
2004-2005 (upto 9/04)	7.32	2.30	5.02	68.58
Total	89.98	61.75	28.23	
Grand Total	333.91	279.15	54.76	

Short utilisation of funds

State Government under utilised the funds of Rs 54.76 crore sanctioned by GOI and spent Rs 119.57 crore from PIDB funds on assets belonging to the GOI

3.1.6. While on the one hand the State Government under utilised GOI funds to the extent of Rs. 54.76 crore during 2000-05, the Department spent an amount of Rs. 119.57 crore on NHs from the Punjab Infrastructure Development Board (PIDB) funds that was not reimbursed by MORT&H, as mentioned in paragraph 3.1.8 of this review.

Non-reimbursement of expenditure

Out of reimbursement of Rs 67.41 crore claimed by State PWD, Rs 8.63 crore were withheld and Rs 1.77 crore were disallowed by GOI

3.1.7. Out of the total reimbursement of Rs 67.41 crore claimed by the State Government during 2000-2004, Rs 57.01 crore were reimbursed, Rs 8.63 crore were withheld and Rs 1.77 crore were disallowed by MORT&H under the head 5054 – Original Works and 3054-Maintenance Works, as shown in the following table:

⁵ Funds utilised included agency charges and expenditure of previous years, claimed in subsequent financial years.

(Rupees in crore)

Year	Reimbursement claimed by State Govt.	Amount reimbursed	Amount withheld	Amount disallowed
5054-Original Works				
2000-2001	26.94	25.47	1.47	0.00
2001-2002 ⁶	4.21	(-)0.01	3.86	0.36
Total	31.15	25.46	5.33	0.36
3054- Maintenance Works				
2000-2001	16.01	15.39	0.44	0.18
2001-2002	8.05	5.30	2.29	0.46
2002-2003	5.68	4.91	0.18	0.59
2003-2004	6.52	5.95	0.39	0.18
Total	36.26	31.55	3.30	1.41
Grand Total	67.41	57.01	8.63	1.77

MORT&H withheld Rs 8.63 crore on account of expenditure which was either in excess of sanctioned estimates or was not supported by proper documents. The amount of Rs 1.77 crore was disallowed as expenditure on non-permissible items such as firewood, stationery, storage charges, etc.

Non-adherence to rules, instructions and provisions of estimates by the Department caused loss to State by way of non-reimbursement of expenditure by GOI.

The Department should execute the works only as per approved estimates and expenditure on non-permissible items should not be incurred.

Unnecessary burden on State Exchequer

3.1.8. As per procedure prescribed, NHs to be constructed or re-carpeted or repaired are included in the annual plan to be submitted to MORT&H for their approval, after which funds are allotted by GOI.

Failure to obtain administrative approval and financial sanction of MORT&H deprived the State of reimbursement of Rs 119.57 crore spent on three NHs by the State Government

An expenditure of Rs 119.57 crore was incurred on upgradation of NHs out of PIDB⁷ funds by State Government on NH-21 (Rs 9.15 crore), NH-64 (Rs 68.91 crore) and NH-95 (Rs 41.51 crore) during the period 2000-2005. MORT&H while according the technical approval to the proposal of the State Government for the upgradation and strengthening of NHs stated that notwithstanding the technical approval there exists no commitment to reimburse the cost and if the State Government is desirous of going ahead with the project they may do so with their own funds at their own risk and cost. As such these works were only technically approved but there was no commitment by GOI to reimburse their cost. Department also did not obtain the administrative approval and the financial sanction of GOI before proceeding with the construction work. As a result, expenditure of Rs 119.57 crore was incurred on assets that did not belong to the State Government. It

⁶ From 1.4.2001 direct payment system came into operation. Amounts pertaining to 2001-02 related to reimbursement for works done in previous years.

⁷ PIDB was constituted to provide for the partnership of private sector and public sector in the development, operation and maintenance of infrastructure facilities in Punjab State.

also resulted in loss of Rs 10.76 crore that was to be received as agency charges.

Thus, failure to obtain administrative approval and financial sanction of MORT&H deprived the State government of the reimbursement of Rs 119.57 crore and non-realisation of agency charges of Rs 10.76 crore.

Not taking over stretches of NHs falling within municipal committee (MC) areas

Not taking over stretches of NHs falling within MC limits not only caused loss to State Government on their maintenance and development but also meant loss of agency charges payable on the NH works

3.1.9. Section 2(i) of the NH Act, 1956 as amended in 1997 provides that parts of NHs situated within the MC areas formed part of the NH network. State Governments were accordingly requested (June 1997) by GOI (MORT&H) to take over the existing urban links immediately and treat the same as part of the NHs for future development and maintenance of the same.

During audit it was noticed (November 2004) that 26.730 km of NHs, still with the MCs, were not taken over by the Department. These stretches were being maintained by MCs by incurring expenditure out of State funds whereas this was required to be done with funds from GOI. Upto April 2005, expenditure of Rs 40.35 lakh (Amritsar : Rs 40.35 lakh during 2003-05, Ludhiana & Jalandhar: information awaited) was incurred on such stretches of NH. No reply was furnished (August 2005) by the Department to explain the reason for spending State Governments funds for the purpose.

The orders of GOI should be complied with properly so as to avoid loss to State on account of expenditure on NHs out of State funds.

Non-renewal of licence deed

3.1.10. As per MORT&H instructions of August 2000, the licence deed for use of NH land for approach road to the retail outlet of oil companies is valid for three years and is to be renewed thereafter. Executive Engineers were required to maintain a record of retail outlets in a prescribed format so as to take up the case four months before the lapse of the licence deed. Further, as per instructions of MORT&H of 17 October 2003, the oil company or the owner is required to enter into an agreement with MORT&H and there would be an one time fee of Rs one lakh in consideration of the agreement with a validity period of 15 years.

The scrutiny of records of Executive Engineers disclosed (November 2004 to June 2005) that:

- For 74 retail outlets, the Executive Engineers did not know the date of the expiry of the last licence deed, as the relevant records were not available with them.
- In 84 cases, licence deeds were not renewed between September 1991 and March 2004 from MORT&H though those in existence had expired between September 1991 and February 2004. This involved loss of revenue of Rs 84 lakh.

- In 16 cases, licence deeds were renewed for a period of three to 10 years by charging renewal fee between Rs 90 and Rs 250 per annum instead of fee of Rs one lakh for 15 years.

No specific reply has been received (December 2005).

Thus, non-maintenance of prescribed record and failure of the Department to renew the licence deeds allowed the retail outlets to run without renewal leading to non-compliance of instructions of MORT&H and loss of revenue of Rs. 84 lakh to GOI.

The Department needs to comply with the instructions issued from time to time by MORT&H.

Planning and Management of Works

3.1.11. Planning mainly covers proper survey & estimation with reference to time and cost, prioritisation, convergence with other agencies working on NHs, proper allotment and utilisation of funds, etc. so as to complete the work within the scheduled time and the estimated cost. The following points were noticed with reference to planning for NH works.

Improper planning

3.1.12. In view of heavy traffic on NH-15, a proposal to construct a bye pass around Gurdaspur city was approved by MORT&H in May 1992 at a cost of Rs 4.13 crore. The estimate included Rs six lakh, being the cost of construction of a railway level crossing to provide connectivity on both sides of the railway track as demanded by Railways. The work was awarded in November 1993 with a time limit of 12 months. After awarding the work the scope increased due to change in levels of the road and the bye pass was completed in November 2002 at an increased cost of Rs. 7.76 crore without the construction of railway level crossing. The construction of the railway level crossing, however, remained under correspondence between the Department and the Railway authorities till September 2003 when the Railway authorities agreed to provide level crossing at a capital cost of Rs. 52.77 lakh and annual maintenance charges on year to year basis. Accordingly, a sum of Rs 45.66 lakh was paid (February 2004) to the Railways for the construction of the level crossing. Completion of the level crossing was, however, awaited (November 2004). Thus, the bye pass completed in November 2002 at a cost of Rs. 7.76 crore could not be opened to public for lack of connectivity due to non-construction of level crossing as the bottleneck on the bye pass remained. The purpose of construction of bye pass to allow uninterrupted traffic flow and diversion of heavy traffic to ease out the congestion in Gurdaspur city was also not achieved.

Non-construction of Railway Level crossing simultaneously with the construction of bye pass, resulted in ungainful expenditure of Rs 7.76 crore, incurred on completion of bye pass

The matter to construct railway level crossing should have been taken up with Railway Authorities simultaneously with construction of bye pass so as to minimise the delay in providing infrastructural facilities to the public and to fulfil the intended purpose.

Defective survey resulting in time and cost overrun

Change in scope of work after awarding the work not only resulted in time overrun by 96 months but also cost overrun of Rs 2.06 crore on the construction of Gurdaspur bye pass

3.1.13. MORT&H approved (May 1992) the construction of Gurdaspur bye pass at cost of Rs 4.13 crore. After the work was awarded in November 1993 (with a time limit of 12 months), the RO during his site visit in April 1994 noticed that the natural surface level (NSL) of the proposed bye pass was below the high flood level (HFL), and proposed raising of the sub-grade. This indicated that the survey conducted by the Department had been defective. Accordingly, against the original estimate of Rs 4.13 crore, a revised estimate of Rs 7.78 crore was prepared and got approved from MORT&H in October 1997. The work was completed in November 2002 at a cost of Rs 7.76 crore against the original date of completion of November 1994. Thus, delay in completion of work due to defective survey resulted in cost overrun by Rs 2.06 crore due to rise in prices as calculated by the Department and time overrun by 96 months.

Incomplete survey for construction of bridge over Sirsa Nadi caused delay of 53 months and resulted in payment of escalation amounting to Rs 43.43 lakh

3.1.14. The work of construction of a two-lane bridge across the *Sirsa Nadi* at km 56 of NH-21, sanctioned (January 1998) by MORT&H at a cost of Rs 8.52 crore was awarded (June 1998) to the Rapid Construction Company, New Delhi at a tendered cost of Rs 6.73 crore, to be completed within 12 months reckoned from 2 June 1998. It was observed in audit that the survey work which was the basis for design and drawings was defective. As a result, after the award of contract there were changes made in the levels of the wells, increase in depth of the slabs, etc. leading to enhancement of cost of work to Rs. 7.52 crore. To accommodate the revised design, drawings were issued at various stages belatedly and the contractor sought extension of time, which was also granted from time to time. Due to the above, an extra amount of escalation of Rs. 43.43 lakh⁸ had to be paid and the work was completed in November 2003 with a delay of 53 months at a cost of Rs. 7.80 crore.

Defective survey necessitating change in design after awarding the work increased the scope of work and delayed the work by 53 months in completion causing extra payment of Rs. 43.43 lakh on account of price escalation besides non-availability of infrastructural facilities by more than four and half years.

Design and Specifications

Excess expenditure on crust

Execution of work in excess of the norms resulted in excess expenditure of Rs 12.62 lakh

3.1.15. According to the Indian Road Congress specifications (IRC) 37, the design of the crust of flexible pavement is based on the California Bearing Ratio (CBR) value of the subgrade and the number of commercial vehicles per day exceeding three tonnes laden weight plying for the designed life of the road. It has been observed in audit that even after considering the maximum traffic density of 4500 commercial vehicles or above per day that is provided in the design chart appended to IRC 37, the crust for 4.5 per cent CBR value would be 575 mm.

⁸ Out of total cost overrun of Rs. 1.07 crore (7.80 – 6.73) Rs. 43.43 lakh were paid on account of price escalation and Rs. 63.57 lakh were spent on increased scope of work.

Scrutiny of records in respect of construction of Gurdaspur bye pass revealed (December 2004) that a crust of 625 mm was laid for the CBR value of the sub grade as 4.5 per cent, as per tested value at site, without conducting any traffic census, which was in excess by 50 mm. This crust thickness of 575 mm was the maximum for the CBR value of 4.5 per cent since in the absence of the survey maximum number of vehicles plying per day of 4500 number as given in the chart were taken into consideration. Thus, this was a case of over-designing even when maximum possible vehicles were considered. To lay the crust in excess of the prescribed norm by 50 mm, extra expenditure of Rs 12.62 lakh was incurred.

Designing needs to be based on field data collected such as traffic intensity survey and results thereof should be applied to ensure economic design and for providing services of the adequate quality.

Change in design after awarding of the work

3.1.16. Designing should be based on adequate field data and tests, so as to avoid subsequent changes in work causing of time and cost overrun.

Change in design resulted in escalation in the cost of bitumen by Rs 28.50 lakh and liability of Rs 13.95 lakh on account of escalation payable to the contractor besides leaving the stretch of 5.90 km un-carpeted and delay in work by 26 months

The work of strengthening NH-IA (Jalandhar – Pathankot Road) km 75.00 to 84.90 was approved by MORT&H in November 1997 and awarded to an agency in July 1999 for Rs 2.64 crore. On the request of CE (April 2000), MORT&H allowed some changes in the design, thereby increasing the cost of work. It was observed in audit that after the award of the work, changes in design were necessitated due to defective testing carried out earlier. As a result, no work could commence till the revised design was technically sanctioned by MORT&H. Accordingly, the agency was permitted to start the work in July 2000 with revised scope. The agency completed it in May 2002 restricting the scope of work to the value of the agreement and declined to execute the additional work. As a result, a stretch of 5.90 km remained uncarpeted as of October 2004.

Thus permitting the agency to commence the work one year after its allotment resulted in escalation in cost to the extent of Rs. 42.45 lakh (Rs. 28.50 lakh on bitumen paid in excess by the Department and liability of Rs. 13.95 lakh payable to the agency on other construction material) besides a stretch of 5.90 km remaining uncarpeted despite a time overrun of 26 months.

The prescribed norms and codal provisions should be scrupulously followed while preparing estimates in order to avoid subsequent changes leading to overruns of time and cost.

Execution of works

Undue benefit to a contractor owing to continuance of litigation

3.1.17. For construction of Railway overbridge (ROB) at level crossing No. 32-B at Kurali NH-21 at km 26.428 on Build, Operate & Transfer (BOT) basis with toll rights, a notice was issued to attract prospective bidders in December 1997. In a pre bid conference held on 20 January 1998 at New Delhi, between the representatives of MORT&H, the Department and all the entrepreneurs, clause 3.36 of the draft notice inviting tenders (NIT) which envisaged the

Pursuing the case by the Department against the advice of Ministry of Law, Justice and CA and failure to recalculate the concession period afresh on the basis of traffic census of 2003 not only delayed the infrastructural facility of ROB by 66 months but also extended undue financial benefit of Rs 35.61 crore to the agency at the cost of public

entrepreneur's guarantee against pre-mature closure of project, was deleted by consensus. As per the terms of the NIT, the party that would construct, operate and transfer the ROB to the Department earliest would be the successful bidder. On opening the bids on 1 May 1998, Pearls Build Well Infrastructures Limited, New Delhi (agency) was found to be the successful bidder with concession period of eight years and eight months (including construction period of two years). The cost of construction of ROB was estimated at Rs. 18.81 crore. Against the advice of the Ministry of Law, Justice and CA (Ministry of Law) of September 1998 that sub-clause 3.36 may be deleted, specially because clause 11 provided for these eventualities, MORT&H directed (February 1999) CE to retain clause 3.36 against which the agency went (1999) to Hon'ble High Court, New Delhi, which decided (January 2000) the case against the Government. Against this decision, the Punjab Government filed (2002) a special leave petition (SLP) in the Hon'ble Supreme Court. The SLP was dismissed (August 2002) by the Hon'ble Supreme Court.

It was further noticed that while arriving at concession period to enable the agency to recover their investment and returns thereon, the traffic census of 1998 was taken as base and traffic for subsequent years was arrived at by assessing the growth rate of 7.5 per cent per annum. As the volume of traffic was to grow with passage of time, any delay in the start of the work would be advantageous to the successful bidder as it would mean more income for him. The work was actually awarded in November 2003, to be started in February 2004 and completed in February 2006. By the time the work was started, the volume of traffic had gone up much higher compared to 1998 when the tender had been opened. With the traffic volume of 2003 (calculated on the basis of the growth rate of 7.5 per cent per annum) as the base and allowing the same concession period of eight years eight months as in the accepted tender, the anticipated difference between income from toll tax and the expenditure on construction worked out to Rs. 35.61 crore more than that computed at the time of award of the work. For making this calculation, the cost of construction was also adjusted with reference to the rise in price index from April 1998 to February 2004. Even allowing for the fact that such rough and ready calculation could be far from accurate, it is clear that if the traffic census of 2003 had been adopted to arrive at the concession period afresh, the extra benefit of the order of Rs 35.61 crore would not have been available to the agency.

Though there was delay of five and half years in commencement of the work, the reasons for not inviting fresh tenders or not refixing the concession period was not clear. The delay in construction was also attributable to the decision of the Department to pursue litigation in this case in disregard of the advice of the Ministry of Law.

Undue facilitation to agency due to post tender developments

As per provisions of the agreements executed for IRQP works, regulation of traffic & other arrangements during the period of construction were to be made by the agencies as per specification of MORT&H and nothing extra was payable on this account. Further, agencies before tendering, were advised to

visit the sites and acquaint themselves about site conditions. However, provisions of contract agreement were not brought to the notice of MORT&H while recommending the cases for sanction to post tender developments.

Unjustified recommendations of the Punjab PWD and sanction of MORT&H to the post tender developments without verifying the facts resulted in extra expenditure of Rs 32.89 lakh

3.1.18. The work of IRQP in km 144-163 on NH-64 with the provision of primer coat with bituminous emulsion (slow setting) was awarded (11 March 2004) with 13 May 2004 as the date of start of work. But even before the start of work, on the agency's plea (made on 12 May 2004) that regulation of traffic during execution was not possible as the traffic intensity was very high, a proposal for change in the specifications from primer coat to one coat surface dressing was sanctioned by MORT&H. The changed specification involved a rate of Rs. 22.90 per sqm instead of Rs 8.50 per sqm for the earlier specifications and involved an additional cost of Rs 19.88 lakh for an area of 138037.20 sqm. The specification was changed though there was provision of two-metre wide brick soling on either side of the road for smooth flow of traffic during construction. Incidentally, a similar work on km 126-136 on the same road, was successfully completed (June 2004) with the provision of primer coat by another agency without any problem of regulation of traffic despite the fact that traffic intensity was more (30076 PCUs) than the work for which the specification was changed (24175 PCUs). On this being pointed out (April 2005), the Executive Engineer stated that reply would be furnished later on which was still awaited (December 2005).

3.1.19. Similarly, the work of IRQP in km 76-92 on NH 64 was awarded (December 2003) with the provision of primer coat with bituminous emulsion (slow setting) which was also changed to one coat surface dressing on the same plea of the agency and sanctioned by MORT&H, at the rate of Rs 21.95 against Rs 10.50 per sqm for the earlier specification entailing an additional expenditure of Rs 13.01 lakh for an area of 113660 sqm. The Executive Engineer stated that reply would be furnished later on which was still awaited (December 2005).

Thus, unjustified recommendations of the Department and sanction of MORT&H to post tender developments without verifying the facts resulted in extra expenditure of Rs 32.89 lakh (Rs 19.88 lakh + Rs 13.01 lakh). The Department also failed to invoke the relevant clause of agreement to penalise the defaulting agencies for their inability to regulate the traffic as per the terms and conditions of the agreement.

Avoidable liability

Non-getting the work of shifting of telephone poles done in 1998, when the Department of Telecommunication agreed to do it free of cost, resulted in avoidable liability of Rs 84 lakh

3.1.20. An estimate for removal of trees and shifting of utilities (electric and telecom) for the construction of ROB at railway level crossing No. 32-B on NH-21 at km 26.428, was administratively approved (March 1998) by MORT&H for Rs 47.67 lakh and was technically sanctioned by CE in March 1998.

Scrutiny (November 2004) of the records of Central Works Circle, Chandigarh, however, revealed that the work had not been started on the ground that there was a court case between the contractor and the Department. The stand of the Department did not hold good because the court case was

with another contractor in respect of a different work. As this was a separate contract, there was no hindrance to the execution of the work of shifting of utilities. Further, in the original estimate the Department of Telecommunication had agreed to carry out the shifting free of cost. With the lapse of time, the operation of the Department of Telecommunication was transferred to a newly created company viz. Bharat Sanchar Nigam Limited (BSNL). The revised estimate (March 2004) included a provision of Rs 84 lakh for payment to BSNL for shifting of their utilities. Had the work been started as originally scheduled, this expenditure of Rs 84 lakh could have been saved. Reply of the Department was still awaited (December 2005).

Not shifting the telephone poles in 1998, when the Department of Telecommunication had agreed to do it free of cost, resulted in avoidable liability of Rs 84 lakh.

Loss of agency charges

3.1.21. As per instructions issued by MORT&H from time to time, agency charges at the rate of nine *per cent* are payable to the Department on the amount of work done on NHs, to meet the expenditure on salary & TA/DA of supervisory staff, office expenses, etc.

Scrutiny of records revealed that the work of construction of new two lane bridge over *Sirsa Nadi* at KM 56 on NH-21 was sanctioned (January 1998) by MORT&H for Rs 12.20 crore to be completed in 36 months. The estimate included agency charges @ nine *per cent*. The work was delayed by 54 months and was completed in November 2003 against the stipulated date of completion of May 1999. MORT&H disallowed (July 2002) agency charges for the remaining period of contract on the grounds that (i) the Department did not follow their instructions, (ii) disregarded the terms of the sanction of MORT&H. Accordingly, the cost of the project was restricted to Rs 11.63 crore by MORT&H. After July 2002, further works amounting to Rs 1.28 crore were executed by the Department through the contractual agency and paid for by the RPAO, MORT&H but after deduction of agency charges amounting to Rs 11.50 lakh.

Failure to follow the provisions of estimates approved by MORT&H while entering into a contract and instructions, resulted in loss of Rs 11.50 lakh on account of non-receipt of agency charges.

The Department needs to adhere to the provisions approved/sanctioned by MORT&H while entering into contract.

Quality Assurance System

Loss due to acceptance of sub-standard work

3.1.22. As per prescribed procedure, before execution of road work in any bituminous layer, job mix formula (JMF) is required to be got devised by the Research Laboratory or any other authorised agency as per conditions of the contract, by drawing samples from the material brought at site by the contractor so as to attain density of required strength. The JMF is unique in

every case depending upon the quality of the material used for the work. As per the terms of NIT, the JMF was to be derived on the basis of density prescribed in the NIT and if there were to be variation as per the approved JMF the prices were to be adjusted accordingly. Thus, the contractor was to be paid only after execution of work as per approved JMF.

It was observed in audit that the work of providing and laying 25 mm thick asphaltic concrete (AC) in km 252.25 to 275.525 of NH-1 was awarded (January 1997) to a contractor at Rs 2,030 per cum to achieve density of 2.10 kg/cum⁹ with five *per cent* binder. The Research Laboratory gave (March 1997) JMF with a density of 2.33 kg/cum. The work of laying 4641.33 cum of AC was executed and accepted by the Executive Engineer. The contractor raised (May 1997) additional claim of Rs 10.32 lakh, being the difference between the density of 2.10 and 2.33 kg/cum, which was declined (June 1997) by the Executive Engineer on the advice of SE. Aggrieved, the agency went for arbitration. The arbitrator, in his award allowed (August 2000) Rs 5.07 lakh being the difference between density of 2.10 kg/cc and 2.213 kg/cc (density actually achieved at site) with simple interest of 10 *per cent* from 13 January 1998 (the date of reference). The Department did not appeal against the award of the arbitration despite the fact that testing during arbitration revealed that the work was sub standard and was not as per the JMF that had been approved. While sanctioning funds Government ordered (March 2004) that the amount be recovered from the defaulting officer within three months, for not pursuing the case against the award of arbitrator but the same had not been recovered so far. The payment to the agency was made in May 2004. The Department also failed to levy penalty for sub-standard work done by the agency.

Thus, failure of the Department not to file the case against decision of the arbitrator resulted in excess payment of Rs 8.22 lakh and failure to levy penalty for substandard work done by contractor caused a loss to Government.

The Department needs to accept only works executed strictly conforming to the specifications before making payments and take prompt action to levy penalty wherever leviable.

Undue favour to the agencies

3.1.23. As per clause 31(b) of the agreement executed between the Contractor and the Department, a quality control consultant (QCC) was required to be engaged by the agency for works valuing Rs two crore or more, after getting the approval from the SE concerned. In case the contractor failed to do so, the Engineer in charge was to employ an independent QCC at the cost of the contractor and a deduction at a rate of 1.5 *per cent* of the total cost of the work awarded was to be made from the bills of the contractor.

Two works were executed (September 2002 and March 2004) by two agencies at a cost of Rs 4.73 crore (Rs 2.53 crore and Rs 2.20 crore) but both agencies did not appoint any QCC. Consequently, recovery @ 1.5 *per cent* was required

⁹ Density of 2.10 kg/cum was in the NIT for inviting rates only. The quoted rates were subject to adjustment as per density of the approved JMF.

to be made in both cases, whereas only in the latter case (work with value of Rs 2.20 crore) recovery @ 0.5 per cent was made, resulting in undue favour to the agencies by short recovery of Rs six lakh. However, no QCC was appointed even by the Department in both cases. In the absence of this inaction, it was not understood as to how the quality of work was ensured by the Department.

Thus, failure on the part of the Department/ MORT&H to deduct charges @ 1.5 per cent in the event of non-appointment of QCC by the agency, led to undue benefit to the agency amounting to Rs six lakh besides compromising with the quality of work due to non-adherence to the clause of contract agreement.

The Department needs to follow the clauses of contract agreement in right earnest so as to ensure quality of work and avoid undue favours.

Conclusion

3.1.24. The review highlights administrative failure of the State Government in the areas of planning, coordination and monitoring of works as also technical failures of the Department in execution of construction and maintenance works.

The Government failed to fully utilise the funds released by Government of India. Instead, it spent its own resources on construction of NHs which are not assets belonging to the State. The State could have utilised such funds on construction and maintenance of its own assets.

Instances of sub-standard technical supervision and unsatisfactory financial management are highlighted in the review. These are non-adherence to rules, instructions and provisions of estimates and failure to obtain administrative approval and financial sanction of estimates or revised estimates; non-execution of works as per estimates and improper planning, including incomplete/improper survey necessitating change in design and resulting in subsequent increase in scope of works as well as cost and time overrun. Not taking over stretches of NH falling within municipal limits caused loss to Government. The injudicious recommendation of the Department for change in design and scope of work and sanction thereof resulted in extra expenditure. The lapses not only delayed the execution of works but also resulted in loss to Government, non-receipt of reimbursement of expenditure from GOI and avoidable expenditure on works besides deferring the benefits likely to accrue from the works.

Non-adherence to the advice of Ministry of Law not only delayed the construction of an ROB considerably but also extended undue financial benefit to the contractor by way of substantially higher income from toll fees.

Recommendations

- Efforts may be made to ensure economy in expenditure on approved works by closer monitoring and adherence to approved specifications and only on permissible items.

- The areas of survey, planning and estimation need to be given more attention to avoid changes in scope of work or specifications in an advanced stage of execution.
- Clauses of the contract agreement and instructions issued by MORT&H need to be followed in letter and spirit and smooth coordination with other concerned Government Departments ensured to manage the execution of works effectively in an economical and efficient manner.
- Quality of works should be checked during execution effectively so as to avoid acceptance of defective or sub-standard works.

The above points were reported to Government in July 2005; reply has not been received (December 2005).

3.2. Implementation of the Acts and Rules relating to Consumer Protection

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

Highlights

- *Infrastructure such as buildings and staff necessary for effective functioning of consumer courts was inadequate.*
(Paragraphs 3.2.10, 3.2.11 & 3.2.21)
- *Consumer Protection Councils were not set up.*
(Paragraph 3.2.20)
- *Recruitment rules not framed. Suitability of staff for manning posts in the Consumer Courts was not systematically assessed.*
(Paragraph 3.2.22)
- *Funds provided for working of forums were inadequate.*
(Paragraph 3.2.23)
- *Consumer awareness scheme was not in place.*
(Paragraph 3.2.25 & 3.2.26)
- *The number of pending cases was rising as monitoring and evaluation system not in place.*
(Paragraph 3.2.27 & 3.2.28)

Introduction

3.2.1. The Consumer Protection Act, 1986 (Act) was enacted by the Parliament in 1986 to provide simple, speedy and inexpensive redressal for consumers' grievances. The provisions of this Act give the consumer an additional remedy besides those that may be available under other existing laws. The Act came into effect from 1987 after the Government of India (GOI) framed the Consumer Protection Rules, 1987. The Act, applicable to all goods and services, covers all sectors – whether private, public and cooperative and provides for the establishment of a three-tier quasi-judicial consumer dispute

redressal machinery at the national, state and district levels. These forums are also referred to as consumer courts. The courts are empowered to give relief of specific nature and award compensation to consumers. The Act was amended in 2002 to discourage adjournments, making provision for the senior most member to preside over the forum in case of absence or vacancy of the President and empowering courts to punish those not obeying orders of the courts in order to facilitate quicker disposal of complaints.

Scope of audit

3.2.2. The records of the offices of the Principal Secretary to the Government of Punjab (Food, Civil Supplies and Consumer Affairs Department), the State Commission and four district forums (Amritsar, Hoshiarpur, Jalandhar and Patiala) for the period 2000-01 to 2004-05, were test checked in Audit during the period from April to July 2005. M/s ORG-MARG was commissioned, under intimation (June 2005) to the State Commission, to survey and assess the awareness of the consumers and other stake-holders like manufacturers / service providers, non-government organisations (NGOs) and appropriate laboratories and also to assess the impact of implementation of the Act on them. This survey was conducted between mid-July and mid-August, 2005, covering four districts (Amritsar, Ludhiana, Moga and Patiala) and 1471 consumers, spread across urban and rural areas. In addition, 270 complainants, 10 manufacturers / service providers, two NGOs and two laboratories were also interviewed. Of the sample of four districts selected by Audit and the ORG-MARG, two (Amritsar and Patiala) were common. The findings of the survey are contained in the Executive Summary (**Annexure A** at page 62) to this review. The results of review are contained in the succeeding paragraphs.

Audit Objectives

3.2.3. The main objectives of the review were to assess:

- The extent to which the adjudication mechanism has been created as prescribed in the Act;
- Whether any documented policy for achieving intended objectives and strengthening of infrastructure exists;
- Whether rules governing the implementation of the Act have been formulated and notified and adequate mechanism for administering various Acts for consumer protection exists;
- Whether the infrastructure created for disposal of the complaints met the requirement of the consumers and fulfilled the purpose of the enactment of the Act;
- Whether Consumer Protection Councils were notified and functioning;
- Whether a uniform plan for staffing and operation had been prescribed and was being followed for the district forums and the State Commission;
- Whether various steps and initiatives including schemes by Government of India/State Government had succeeded in creating necessary 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 methodology

3.2.4. All documents at the Government level as well as the State Commission and its lower formations relating to the implementation of the Act and the Rules were studied. The budget and the expenditure incurred were examined. Information on requirement and availability of infrastructure was collected. Physical targets and achievements were also studied at the level of State Commission and the four district forums, selected on random basis. The survey conducted by the consultant was based on structured questionnaire and interviews with consumers at large, complainants and other stakeholders.

Organisational set-up

3.2.5. The Government in the Food, Civil Supplies and Consumer Affairs Department is responsible for establishment of the State Commission and the district forums, their smooth functioning, grant of budget and sanctioning of posts. The district forums are functioning under the administrative control of the State Commission with headquarters at Chandigarh. The latter is under the control of the National Consumer Disputes Redressal Commission (National Commission), New Delhi, for implementation of the Act and Rules. The State Commission and the district forums consist of one President and two Members each, besides ministerial staff.

Inadequacies in creation of the adjudication mechanism in State Commission

Additional benches of State Commission not set-up

3.2.6. In view of the increasing number of pending cases, the State Commission requested (April 1999) the State Government for providing three additional benches followed by a number of reminders between July 2003 and February 2004. However, the State Government while not accepting the proposal pointed out (March 2004) that the pendency was due to the disposal of cases being less than the prescribed norms. They also pleaded their inability in the matter due to the financial crunch in the State. The State Commission, on the basis of the recommendations (May 2004) of the Parliamentary Standing Committee, again took up the matter (May 2004 and June 2004) with the State Government and the GOI respectively. But this did not evoke any tangible response so far (June 2005), resulting in increase in pendency of appeals from 1768 (January 1999) to 4001 (December 2004). On this being pointed out (June 2005) in Audit, the State Commission stated (June 2005) that the matter was under consideration of the Government.

Proposal for second district forums not approved

3.2.7. In July and August 2002, the State Commission requested the State Government for setting up a second district forum in Amritsar and Ludhiana districts respectively for timely disposal of cases. The proposal was rejected in September 2003 and May 2004 by the State Government on the plea of

financial crunch in the State. As a result, the pending cases rose from 205 to 877 in Amritsar and 620 to 1260 in Ludhiana during the period January 2000-December 2004.

The on-going financial crunch is frustrating the legislative intent of providing speedy redressal of consumers' grievances as neither additional benches nor more district forums are being set up, the growing pendency notwithstanding.

How the consumers perceive 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 89 *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.

State Government should provide sufficient funds for creation of additional benches for the State Commission and district forums to provide timely and expeditious redressal to the consumers' grievances.

Formulation of policy and notification of rules

High level of ignorance among consumers about available legal remedies

3.2.8. The Government did not make any specific provision for various infrastructure development works for consumer grievances redressal and adjudication of disputes. Various other agencies like district administration, Municipal bodies and NGOs were also not involved in any such process. No programme/schemes involving such agencies was either formulated or was under implementation.

Rules governing issues of implementation of the Act were notified in November 1987. These rules contained various provisions governing the service conditions of president/members of the State Commission and the district forums but 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/National Commission. Such uniform procedure was not prepared. As a result, divergent practices were followed in filing of the complaints and their processing. In response to audit query, it was stated (September 2005) by the Registrar of the State Commission that complaints were filed and disposed of in the State Commission and the district forums in terms of the provisions contained in rules/regulations framed on the subject. Audit, however, noticed that regulations were framed belatedly in May 2005.

Results of the ORG MARG survey revealed that 69 *per cent* of the complainants had filed their cases using stamp papers although the Act provides for a simple registration process with an application filed on plain paper. Further, 47 *per cent* of the consumers surveyed reported that lawyers are required by both the parties which was not necessary as per the provisions of the Act. Such wrong procedures and wrong and incorrect ideas of

consumers can be attributed to the failure to prescribe and disseminate clear rules and guidelines for the public.

State Government need to frame a policy declaring the objectives to be achieved through the consumer welfare programmes with a uniform procedure for processing of complaints.

Adequacy of infrastructure

Absence of permanent buildings for the State commission and district forums

Inadequate infrastructure hampering efficient discharge of duties and responsibilities

3.2.9. On the request of the State Commission, the Estate Officer U.T. Chandigarh allotted (May 1998) them a plot of land costing Rs 85.18 lakh. A sum of Rs 1.16 crore, inclusive of interest and other incidental charges, was paid by the State Commission in instalments during the period June 1999 to May 2003. Thereafter, funds were not provided for construction of building although the same were sought by the State Commission from the State Government every year. The State Commission is actually housed in two small rented buildings for which the annual rent is Rs 4.65 lakh. The rented building was stated by the State Commission (June 2005) to be insufficient for library, record keeping and providing necessary amenities to the consumers.

The district forum, Amritsar, also purchased (January 1999) a plot of land from the Improvement Trust, Amritsar for Rs 8.35 lakh for construction of the forum's office building. Funds required for construction of building in this case were also not provided by the State Government so far (June 2005) though these were requisitioned from time to time. The Improvement Trust, Amritsar had since issued (February 2005) a show cause notice for resumption of the plot as no office building had been constructed within the stipulated period i.e. up to February 2002. The district forum is housed in a rented building and paying rent @ Rs 1.28 lakh per annum. This building was also stated by the District Forum, Amritsar (June 2005) to be insufficient for the proper working of the district forum.

Inability of the State Government to provide basic infrastructure of building is not only proving to be an impediment to the functioning of the adjudication machinery but funds amounting to Rs 1.16 crore and Rs 8.35 lakh also have remained blocked since May 1998 and January 1999, for office buildings at Chandigarh and Amritsar respectively. Absence of a proper building also makes it more difficult for consumers in general to become aware of the existence and the location of the redressal agency.

Results of the ORG MARG survey revealed that only 11 *per cent* of the consumers were aware of the existence of any redressal agency and even out of those who were aware of the Consumer Protection Act, 35 *per cent* were not aware of the location of the consumer forum in their respective districts.

Inadequacy of office equipment

3.2.10. For smooth functioning of the district forums, availability of office equipment viz., fax machines, photocopiers, space for storage of records and

library, computers, etc., is necessary and these have to be in proper working order.

It was seen that (i) in the district forum, Jalandhar, the lone photocopier was lying idle since July 2004 as it could not be repaired due to shortage of funds; consequently, there were delays in the issue of notices; (ii) there was no space for library in the district forums at Hoshiarpur and Jalandhar; (iii) the district forums at Amritsar, Hoshiarpur and Jalandhar had no space for record rooms; and (iv) none of the four district forums were equipped with computers. Inadequacy of office equipment hampered efficient functioning of the district forums.

The State Government should provide basic infrastructure like buildings and office equipment for the smooth functioning of the adjudication machinery for ensuring better consumer confidence.

Enforcement mechanism
Consumer Protection Act

**Tedious
procedure for
enforcement of
award of
compensation by
State
Commission /
district forums**

3.2.11. As per Section 25(3) of the Act, where any amount is due from any person under an order made by a district forum or the State Commission, the person entitled to the amount may make an application to the district forum or the State Commission as the case may be, and such district forum or the State Commission, as the case may be, may issue a certificate for the said amount to the Collector of the district and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.

During test check at the district forum, Patiala it was seen that 44 certificates were issued to the Collector during 2003-05. As per latest position of 35 cases (out of 44) intimated (June 2005) by the Collector to Audit, recovery only in two cases was made up to June 2005. The Collector returned 27 cases stating that the recovery could not be effected due to locked premises (4); incomplete addresses (3); appointment of liquidator by the Hon'ble High Court (13); death of the opposite party (1); amount not mentioned in the certificates (3). No reason was given for three cases. The non-recovery of the decretal amount only highlighted how difficult the enforcement of the forum's order could be in some cases.

3.2.12. Apart from the Consumer Protection Act, there are other laws in force that, properly implemented, result in protecting and furthering the interests of consumers and fair trade. While reviewing the implementation of the Consumer Protection Act in Punjab a test check was also conducted in the selected districts to see if the implementation of the Prevention of Food Adulteration Act, 1954 and the Standards of Weights & Measures (Enforcement) Act, 1985 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 were carried out efficiently and effectively.

Prevention of Food Adulteration Act, 1954***Licensing – Issue and renewals***

No record of licence issued and no coordination between issuing and enforcement authorities

3.2.13. In terms of the Prevention of Food Adulteration Act, manufacture, sale, stocking, distribution or exhibition for sale of any article of food including prepared food or ready to serve food etc. require a licence to be issued by the concerned local authority or any officer authorised by it. The licence is required to be renewed each year.

Test check of local authorities of Amritsar, Jalandhar, Hoshiarpur and Patiala revealed that the number of licences issued was not available in Hoshiarpur and Jalandhar whereas the records relating to renewal of licences were not maintained at Amritsar and Patiala. In the absence of proper records, there was no assurance if those required to obtain licence had actually done so. Further, there was no coordination between the licensing authorities and the local health authorities (LHA) involving exchange of information pertaining to licensed units to enforce the provisions of the Act against offenders.

Food samples

Shortfall in collection/processing of samples

3.2.14. Under the provisions of the Act, the Government Food Inspector (GFI) is empowered to (i) take samples of any article of food; (ii) send such samples for analysis to the public analyst; and (iii) prohibit the sale of any article of food, in the interest of public health, with the prior approval of the LHA. The State Government prescribed from time to time the number of samples to be seized in each district.

Based on these norms, the position of seizing of samples in four¹⁰ districts during 2000-2004 was as follows:

Year	Samples to be drawn	Samples actually drawn	Shortfall/Percent
2000	5640	1300	4340 (77)
2001	5640	880	4760 (84)
2002	1740	1129	611 (35)
2003	1740	880	863 (50)
2004	1740	1396	365 (21)

The drawal of samples was grossly inadequate during 2000 and 2001. The district-wise targets as well as of entire State were revised/ reduced during 2002 from 18360 samples per annum to 4860 samples per annum on the plea that due to formation of new districts the area of the respective districts had been reduced. The plea taken by the Department was not acceptable because the number of districts remained the same. However, even the revised/ reduced target (1740) in the four districts test checked was not achieved and the shortfall during 2002-04 ranged between 21 and 50 *per cent*. The LHAs of Hoshiarpur, Jalandhar and Patiala attributed (August 2005) the shortfall in seizing samples due to shortage of staff and lack of financial resources. The LHA Amritsar, however, attributed (August 2005) the shortfall mainly to GFIs remaining busy in watching the quality of food prepared for visiting VIPs. The reply shows inability of the Department to comply with the provisions of the

¹⁰ Amritsar, Hoshiarpur, Jalandhar and Patiala.

Act and betrays a lack of sensitivity to the consumers' right to get wholesome, unadulterated and infection-free foodstuff.

Delay in launching prosecution of offenders of adulterated samples

Delay in launching of prosecution against those booked for adulteration

3.2.15. Under section 13(2) of the Act, prosecution is required to be launched by the GFI immediately on receipt of report of adulterated samples from public analyst.

Scrutiny of records of samples found adulterated and prosecutions launched during 2000-2004 in four test checked districts disclosed that out of 781 samples found adulterated, prosecution was launched in 605 cases up to December 2004. Of the remaining 176 cases as on December 2004, the prosecution in 135 cases was launched between January and July 2005 and prosecution in the remaining 41 cases (Jalandhar: 18 and Hoshiarpur: 23) was still (August 2005) to be launched.

A review of court cases launched in respect of adulterated samples and decided by the court during 2000-2004 in respect of the four test checked districts revealed that, while prosecution were launched in 605 cases, 123 cases were decided. Of these 123 cases, only in 53 cases (43 *per cent*) the offenders were convicted.

Standards of Weights and Measures (Enforcement) Act, 1985 and Standards of Weights and Measures (Packaged Commodities) Rules, 1977

Shortage of inspectors

3.2.16. As per rule 15 of the Punjab Standards of Weights and Measures (W & M) (Enforcement) Rules, 1993, weights and measures to be used in any transaction or for industrial production or for protection shall be verified or re-verified, as the case may be, by the Inspector (Weights and Measures). As Inspectors play a key role in enforcement, they should be posted in adequate strength.

During audit in office of the Controller, Legal Metrology Punjab it was seen that there was a huge shortage in the cadre of Inspectors as detailed as follows:-

Year	Number of posts sanctioned	Men in position	Shortfall (Percent)
2000-01	44	31	13 (30)
2001-02	44	26	18 (41)
2002-03	44	25	19 (43)
2003-04	44	22	22 (50)
2004-05	44	21	23 (52)

Shortage of Inspectors increased throughout the period 2000-01 to 2004-05 from 30 to 52 *per cent*. It was further seen in audit that in 2001, the Controller, Weights and Measures, Punjab assessed its requirement of 100 Inspectors for the State on the basis of a report prepared by Directorate of Weights and Measures, Ministry of Industry and Civil Supplies, Government

of India in 1977, which assumed that an Inspector attends to about 1500 establishments every year. The sanctioned strength is, thus, woefully short of the requirement for effective enforcement of the Act.

Registration of users of Weights and Measures

Non-maintenance of records affecting consumers' confidence in the Department

3.2.17. Rule 10 of the W & M (Enforcement) Rules, 1993 provides that every person (other than an itinerant vendor) who intends to commence, or carry on, the use of any weight and measures in any transaction or for industrial production or for protection, shall get himself registered with the Department.

During test check of two Divisional Offices at Jalandhar and Patiala out of three¹¹ in all, it was seen that no records showing number of registered users was maintained in Jalandhar Division due to shortage of staff. It is evident that absence of this basic information rendered the Department weak in enforcement of the Act to the detriment of the interest of consumers and affected consumers confidence in the Department.

Verification of Weights and Measures

Unverified weights and measures can affect consumers' right adversely

3.2.18. Rule 14 of the W & M (Enforcement) Rules, 1993 provides that every weight or measure used or intended to be used in any transactions or for industrial production shall be verified / re-verified and stamped at least once in a year, provided that storage tanks including vats, shall be re-verified or re-calibrated and stamped at least once in five year.

During test check of two Divisional Offices (Jalandhar and Patiala), the number of verifications and re-verifications could not be compared with the number of registered users in the absence of records showing registration of users of weights and measures in Jalandhar Division. In the absence of this record, the Department was also not in a position to ensure that the extent of verifications and re-verifications was adequate. This left scope for continued use of unverified weights and measures by unknown number of offenders.

Non-execution of challans

Huge pendency in execution of challans

3.2.19. Rule 24 of the Punjab Standards of Weights and Measures (Enforcement) Rules, 1993, provides that whoever contravenes any provisions of the rules, for the contravention of which no punishment has been separately provided in the Act, shall be punished with fine which may extend to one thousand rupees. Detection of contravention entailed issuance of challans for deposition of fine or appeal.

During audit it was seen that there was an opening balance of 3184 pending cases as on March 2000 and during 2000-2005, 8875 challans were issued. Out of these (12059), only 8462 cases were compounded leaving a balance of 3597. This pendency was on increase. Reasons called for (August 2005) for such a huge pendency were not received (December 2005).

There is need for close monitoring of working of Collectors to ensure recovery of amounts decreed by the district forums. The system of issue/renewal of

¹¹ Assistant Controllers, Weight and Measures, Ferozepur, Jalandhar and Patiala.

licences, taking and testing of samples and launching of prosecutions under Prevention of Food Adulteration Act needs improvement to ensure timely relief to consumers. Sufficient staff should be provided in terms of the Rules for registration of vendors, verification of weights and measures and timely execution of challans so that consumers' rights are not affected adversely.

Functioning of Consumer Protection Councils

Consumer Protection Councils not established

Rules for establishment of State Consumer Protection Councils were awaiting approval since 1999

3.2.20. Section 7 and 8A of the Consumer Protection Act, provide that the State Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the State Consumer Protection Council (State Council) at the State level and the District Consumer Protection Council (District Council) for every district respectively, to promote and protect the rights of the consumers laid down in clauses (a) to (f) of Section 6 of the Act.

During audit it was observed that State Council and District Councils were not established despite the fact that the Finance Department gave its consent (July 2003) to the Administrative Department for the constitution of State Council. The Punjab State Consumer Protection Rules, 1999 framed by the Food and Supply Department for the purpose for notifying formation of State Consumer Protection Council were awaiting approval (August 2005) of the Finance Department of the State. However, reasons for non-setting up of the councils had been called for (July 2005) from the Food and Supply Department; reply is still awaited (December 2005). The councils were meant for promoting and protecting the right 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 appropriate forum. Despite passage of more than three years, this Council had not been set up in the State which also has direct linkage to lack of awareness with regard to consumer protection as also skewed profile of complainants with majority belonging to urban area and well earning groups.

Results of the survey revealed that out of those aware about consumer rights, 62 *per cent*¹² acquired such knowledge from resources as friends and neighbours, 0.2 *per cent* had come to know from NGOs, 55 and 17 *per cent* through electronic and print media respectively. The profile of the complainants who were surveyed revealed that almost all resided in urban areas and practically all were educated with average monthly house hold income of Rs 14,525. This implied that the facilities provided by redressal agencies were availed of mostly by the urban middle/ upper middle strata of the community. Thus, the basic purpose of legislative enactment was not really addressed through the Consumer Protection Act.

¹² Some consumers came to know about their rights from more than one source and are included in more than one source. Hence more than 100 per cent.

Consumer Protection Councils should be established for promoting and protecting the rights of consumers by dissemination of information through consumer education.

Adequacy of staffing and funding operations

Additional staff not provided

**Failure to
recruit
additional staff**

3.2.21. In pursuance of recommendations of a committee constituted (October 1999) for reviewing the functioning of the consumer forums, the requirement of certain additional staff for the State Commission and the district forums was forwarded (December 2001) by the State Commission to the State Government but the same was not provided so far. The following table shows the position:

State Commission

Sr. No.	Post/designation	No. of posts		
		Required	Already existing	Additional to be sanctioned
1.	Administrative Officer	1	-	1
2.	LDC (LS)	17	2	15
3.	Daftry	2	--	2
4.	Despatch Rider (Process Server)	1	--	1
5.	Peon	10	7	3
	Total	31	9	22

District Forums

Sr. No.	Post/designation	No. of posts		
		Required	Already existing	Additional to be sanctioned
1.	Private Secretaries	17	--	17
2.	UDC (Jr. Assistant)	23	17	6
3.	LDC	23	17	6
4.	Receipt & Despatch clerk	17	--	17
5.	Peon	58	51	7
6.	Chowkidars	7	--	7
7.	Dispatch Rider (Process Server)	17	--	17
	Total	162	85	77

Against the requirement of 31 and 162 officials in the above cadres in State Commission and district forums, the shortfall was to the extent of 22 and 77 officials in the State Commission and district forums respectively. The State Government was requested (July 2005) to intimate the reasons for not providing the requisite staff. The reply has not been received so far (December 2005). The recommendations of the Committee for providing additional staff remain unimplemented, affecting operational efficiency of the machinery.

Rules not framed

3.2.22. As the consumer courts are performing quasi-judicial functions, their members are entitled to qualified and able administrative and ministerial

Absence of recruitment rules raises question of suitability of staff for appointment

support for efficient functioning. It is imperative, therefore, to frame appropriate recruitment rules for appointments to various levels in the office hierarchy. No rules, however, are in existence for ensuring that the administrative and ministerial posts are manned by qualified and suitable personnel. Moreover, charter of duties have not been prescribed.

It was seen during test check that two Superintendents joined on deputation (November 2001) at district forums, Hoshiarpur and Patiala, were appointed (November 2003) afresh and subsequently relieved (March 2004) following State Government's refusal to approve their terms of appointment. Feeling aggrieved, they filed a writ petition in the Hon'ble Punjab and Haryana High Court and got stay (April 2004) of execution of the orders of the Commission. The case is still pending in the Hon'ble Court. Such avoidable litigation and *ad hocism* arise from prevailing confusion due to absence of recruitment rules. Consequently, it affects the morale of the staff and promotes inefficiency.

Inadequate funds for efficient working of forums

3.2.23. Budget provided by the State Government and expenditure incurred therefrom during last five years from 2000-01 to 2004-05 for the State Commission and all the district forums was as under:

(Rupees in lakh)

Year	Financial outlay			Expenditure		
	Non Plan	Plan	Total	Non Plan	Plan	Total
2000-01	251.29	7.00	258.29	241.80	5.36	247.16
2001-02	325.98	7.00	332.98	304.96	5.08	310.04
2002-03	311.27	8.00	319.27	310.11	7.54	317.65
2003-04	330.64	9.00	339.64	293.45	8.61	302.06
2004-05	339.95	10.00	349.95	317.61	8.13	325.74

From the figures tabulated above, it is evident that the provision under Plan has been insignificant. No funds were made available for construction of office buildings during the last five years. The provision under non-Plan is mainly for meeting expenditure on salary, rental, office expenses, etc. Under the non-Plan the average expenditure on salaries was to extent of 89 per cent. The provision for office expenditure for purpose of meeting contingency, electricity bills, telephone bills was on average Rs 3.14 lakh per month during the above period. The funds were inadequate for providing basic amenities such as furniture for consumers and public. Further, due to paucity of funds the telephone bills were also pending for six months. The bulk of office expenditure was towards postage and stamps and here also the funds were inadequate to meet out the expenses as were stipulated as discussed below:

Improper procedure for service of notice due to paucity of funds

Insufficient funds hampering issue of notices in the prescribed manner

3.2.24. Section 28A inserted in the Act (2002) provides that the service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgement due, duly addressed to the opposite party against whom complaint is made or to the complainant by speed post, by such courier service as are approved by the district forum or the State Commission as the

case may be or by any other means of transmission of documents, including fax messages.

It was seen that in all the four districts test checked, the notices were issued through ordinary dak in contravention of the provisions of the Act. This was attributed to shortage of funds for the purchase of postage stamps.

State Government should make arrangements for providing additional staff for State Commission and district forums. Sufficient funds need to be allocated for providing basic amenities such as furniture for consumers and public and purchase of postage stamps.

Awareness and empowerment of consumers

Consumer Welfare Fund

**Consumer
Welfare Fund
not established**

3.2.25. The Government of India set up (1992) the Consumer Welfare Fund to provide financial assistance to Voluntary Consumer Organizations, NGOs and State Governments etc. for promoting, protecting the welfare of consumers, generating consumer awareness and strengthening consumer movement in the country, particularly rural areas. It was observed that an outlay of Rs. 10 lakh provided for the year 2004-05 for the purpose of providing financial assistance to promote and protect the welfare of consumer and strengthening voluntary consumer movement in rural areas. These funds were not released and reappropriated at the end of the fiscal year. Similarly an outlay of Rs 11 lakh had been provided in the year 2004-05 for organising two seminars at every district level for generating awareness among the consumers in the State. No seminars were organised and funds were reappropriated at the end of the fiscal year. The Directorate of Food and Supply who was the nodal agency for the purpose of budgeting and expenditure control, did not have any information pertaining to sanction of funds to NGO's and the utilisation of funds by them under specific schemes of Central Government.

Audit scrutiny in State Secretariat revealed that District Consumer Information Centres (DCICs) were not set up in any district of the State under the fund. This was despite the fact that for setting up of DCICs, the Central Government had launched a specific scheme wherein, based on the proposals received from Zila Parishads or Voluntary Consumer Organisations through the State Government, funds were to be provided for setting up and running DCIC in each district. However, four DCICs were running in the State by the NGOs from their own resources. No grant in aid was released to them under the scheme by GOI/State Government. The scheme has since (August 2004) been deferred by the GOI for the time being. GOI formulated a scheme for the purpose of research and the promotion in respect of the consumer protection and consumer welfare in colleges, universities and research bodies in the State. However, no institution in the State came forward (March 2005) to implement the scheme.

No action to implement the scheme of consumer awareness was taken by the Department frustrating the very purpose of the Fund. Lack of activities and absence of funding adversely impacted the cause of consumer awareness in the State.

Results of the ORG MARG survey revealed that 64 *per cent* of the consumers were not aware of their rights as consumers and 91 *per cent* were still unaware of the Consumer Protection Act. The Act envisaged to benefit all the consumers in urban and rural areas, but only seven *per cent* of the rural population had heard about it. The analysis further showed that among those who were aware of the Act, most belonged to the educated lot (13 *per cent*), self employed (20 *per cent*), students (18 *per cent*) and retired (26 *per cent*). This was despite the fact that results of the survey revealed that 72 *per cent* of the consumers at large believed that it is important for every consumer to know about his rights. They opined that knowledge of consumer rights will help the consumers in getting good quality products/services (73 *per cent*) and consumer will not be cheated on price (83 *per cent*). The opinion is similar across urban and rural respondents. Very low level of expenditure on advertisement and publicity contributed towards the low level of awareness as discussed below.

Advertisement and Publicity

3.2.26. One of the objectives of the Act was “right to consumer education”, i.e. educating the consumers about the Act/Rules, procedure of filing the complaints and the place where to file it (exact location of the organisation in each district and at State level) through advertisement and publicity through print and electronic media. There was only expenditure of Rs. 5.12 lakh during 2000-05 on advertisement and publicity out of Rs. 8.04 lakh provided by Government for educating the consumers for their rights. The bulk of this expenditure every year was on celebration on consumer welfare day and thus the negligible expenditure was on a one time occasion and there was absence of any concerted and sustained efforts for awareness generation round the year.

3.2.27. The deterrent aspect of the Consumer Protection Act, 1986 was also surveyed. The findings of the survey revealed that 14 *per cent* of the respondents, who had faced problems with products or services had initially complained to the concerned retailer or manufacturer. Of these complaints, 70 *per cent* reported to have succeeded in obtaining redressal in the form of refund/replacement of goods or removal of defects or compensation for damages. Out of the complainants, who had gone on to the adjudication mechanism set up through this Act, 18 *per cent* agreed to out of court settlement after filing complaints in the form of restoration of services, removal of deficiencies or cash compensation. These cases of out of court settlement were partly on account of suggestions made by the forums and also because of the anticipated delay in resolving the issue through the forums. Improving the awareness of consumers as well as traders and service providers can only increase the deterrent impact of the Act.

There is need for generating awareness among the people of both urban and rural areas through advertisements and publicity through electronic and print media to make the consumers conscious of their rights and regarding the sources which could be helpful in protection of their rights.

Monitoring mechanism

No third party evaluation of Departments' activities

3.2.28. GOI issued (July 1995) instructions while considering the request of various states for the grant of one time financial assistance to clear the pendency of cases and fixed norms for the daily disposal of 10 cases which did not include adjournment 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.

During test check it was seen that there is no column showing daily disposal or showing reasons for delay or non-achievement of the prescribed number of disposals in the return prescribed by the National Commission for reporting on disposal of cases. Thus, no effective monitoring system was in place. The position of pendency of cases in the State Commission and district forms is given below:

State Commission

Year	Opening balance		No. of cases filed		Total no. of cases		No. of cases disposed of		Percentage of disposal	
	O.C ¹³	A ¹⁴	O.C.	A	O.C.	A	O.C.	A	O.C.	A
2000-01	150	1847	91	1265	241	3112	52	1174	22	38
2001-02	189	1938	146	1482	335	3420	95	1030	28	30
2002-03	240	2390	91	1764	331	4154	153	1551	46	37
2003-04	178	2603	27	1693	205	4296	75	902	37	21
2004-05	130	3394	39	1824	169	5218	27	965	16	18

District Forums

Year	Opening balance	No. of complaints filed	Total No. of cases	No. of complaints disposed of	Percentage of disposal
2000-01	3482	10048	13530	8290	61
2001-02	5240	9139	14379	8921	62
2002-03	5458	9481	14939	9269	62
2003-04	5670	10725	16395	9793	60
2004-05	6602	9828	16430	8854	54

Rising number of pending cases

The number of pending appeals and original complaints were, thus, increasing each year in the State Commission and the district forums though a substantial proportion of complaints and appeals were disposed of by the Commission as well as the district forums. In district forums, the average number of complaints filed has been 9844¹⁵ and disposal at 9025¹⁶ per year, showing 92 percent disposal in a year. Despite heavy disposal, the overall pendency during the period nearly doubled from 3482 in 2000-01 to 6602 in 2004-05. The objective of speedy redressal of consumer grievance was, thus, only partly achieved. To ensure speedy redressal, there exists a need to augment the adjudication mechanism by setting up of service specific redressal machinery and providing of additional infrastructure.

¹³ Original complaints

¹⁴ Appeals

¹⁵ 10048+9139+9481+10725+9828/5

¹⁶ 8290+8921+9269+9793+8854/5

Results of the ORG MARG survey revealed that the majority of the complaints were against services (88 *per cent*) such as electricity (46 *per cent*), other financial services (24 *per cent*) and insurance services (11 *per cent*). This may imply that competition in the product market does take care of the consumer problems but in case of monopolistic situation the consumer has to approach consumer redressal agencies to seek relief against the government owned service providers, agencies, public utility concerns, boards and organisation.

Cases taking more time for disposal

3.2.29. It was seen that the time taken for disposal of cases was as under:

Sr. No	Name of the unit	Total no. of complaints disposed during January 2000 to December 2004	No. of cases due to be decided within		No. of cases decided within			Percentage of cases decided within		
			90 days	150 days	90 days	150 days	More than 150 days	90 days	150 days	More than 150 days
1.	State Commission	398	398	Nil	29	27	342	7	7	86
	District Forum									
1	Amritsar	7186	7186	Nil	3189	1982	2015	44	28	28
2	Hoshiarpur	2434	2434	Nil	1704	430	300	70	18	12
3	Jalandhar	2282	2282	Nil	441	451	1390	19	20	61
4	Patiala	3887	3884	3	1493	855	1539	38	22	40

Prolonging of the cases works against the basic objectives of the Act and increases the cost of litigation, which also is against the basic tenet of the Act.

An analysis of the time taken at various stages of the cases during the ORG MARG survey showed that on an average 2.1 days were spent for registering a case and 11.6 days were taken for serving the notice, the first hearing was held after 14.8 days. On an average 3.7 hearings were required to resolve the case. Around 15 per cent of cases were still unresolved even after 5.2 hearings and most of these cases were against electricity Department (41 *per cent*). Further analysis of the data reveals that to resolve a case on an average 6.2 months were spent. Results of the survey further revealed that, on an average, the complainant had to spent Rs 2,645 to resolve the case of which a large proportion (average amount of Rs 1,822) comprised of the advocates' fees.

Conclusion

3.2.30. The legislative intent of the Parliament to empower the consumer has only been partially achieved in the State of Punjab. This is mainly attributable to the inability of the State Government to provide adequate infrastructure – both proper office buildings and equipment – mainly due to the State Government's financial constraints. The role of the Weights and Measures Department in ensuring delivery of rights to consumers was negligible as even records of registered vendors and verification of their weights and measures was not maintained by the Department. The enforcement of the Prevention of Food Adulteration Act was slow affecting the consumers' interest adversely. The consumers at large were not aware of the system and procedures of redressal machinery. Consumer Protection Councils were not set up to monitor and promote consumer awareness and steps needed to be taken for

generating awareness among people through advertisement and publicity to make consumers conscious of their rights and aware of the procedure to secure the same.

Recommendations

To ensure a visible impact of promotion of consumers' rights and awareness, the government as a first step should expeditiously create adjudication mechanism with infrastructure commensurate with the work load and pendency of cases.

For smooth and better functioning of the organisation, like prompt disposal of cases, effective implementation of the forum's decision to recover the decretal amount and evolving proper monitoring and evaluation system, sufficient staff, additional benches, infrastructure for the office as well as appropriate office equipment should be provided by the State Government. The working of the Weights and Measures Department as well as the machinery for prevention of food adulteration need improvement and monitoring. For spreading awareness among consumers about (i) their rights and responsibilities; (ii) procedure of filing the complaints; and (iii) the location of the Consumer Courts, adequate budget should be provided for advertisement and publicity at regular intervals. Consumer Councils should be established without further delay.

The matter was referred to the Government in July 2005; their reply is awaited (December 2005).

Annexure-A
(Refers to Paragraph 3.2.2, Page 46)
EXECUTIVE SUMMARY

In order to gain an understanding of the functional status of the Consumer Protection Act Consumers at large, Complainants, manufacturers /service providers, NGOs and appropriate laboratories were covered under the survey. In state of Punjab a total of 1471 consumers spread across urban and rural areas were contacted. Besides 270 complainants, 10 manufactures/ service providers, 2 NGOs and 2 laboratories were interviewed. The survey was conducted during mid July to mid August 2005.

FINDINGS OF THE SURVEY

- Overall 71 percent of the Consumers at large gave importance to knowledge of the Consumer Protection Act (CPA) but 64 percent were not aware of consumer rights and 91 percent still unaware of the Consumer Protection Act.
- The Act is envisaged to benefit all the consumers in urban and rural areas but only 7 percent of the rural population has heard about it.
- In response to, whether the government is making any effort in safe guarding the consumer rights, only 11 percent replied positively remaining either carrying negative or have no idea of the same.
- Formal source of awareness - electronic and print media stand at 55 and 17 percent respectively and only .2 percent learnt about CPA from the NGOs.
- Majority of the aware Consumers at Large (50 percent) have come to know about the act only in the last 2-3 where as the act has been in existence for past 19 years.
- Overall, only 11 percent 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 35 percent aware of CPA did not know the location of the redressal agency in their respective district.
- Almost all complainants resided in urban areas and except one rest were the educated lot and earned a monthly household income of Rs. 14525. 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 (88 percent) such as electricity (46 percent), other financial services (24 percent) and Insurance services (11 percent). This may imply that competition in

the product market take 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 (95 percent) came to know about the redressal agencies through friends / neighbours. Electronic and press media do not seem to have been very instrumental in creating awareness on redressal agencies. NGOs not a popular source of awareness (<8 percent).
- Sixty nine percent of the complainants used stamp paper to file the case and in majority of cases (91 percent) the lawyers /agents advised them to do so.
- Around 50 percent of complainants who registered their complainant prior to March 2003 reported to have deposited court fee notwithstanding the fact that the court fee was introduced only in March 2003.
- An analysis of time taken at various stages of the cases show that on an average 2.1 days were spent for registering a case and 11.6 days were taken for serving the notice; first hearing was held after 14.8 days.
- On an average 3.7 hearings were required to resolve a case. Around 15 percent of cases were still unresolved even after 5.2 hearings and most of these cases were against electricity Department (41 percent).
- To resolve a case on an average 6.2 months were spent. In case of unresolved cases the same were pending for past 29 average months.
- There were 7 cases where the decree was passed and compensation was yet to be received. On an average the compensation was due for 7.4 months. For those received compensation the same was received within an average period of 1.4 months.
- On an average a complainant had to spent Rs 2645 to resolve the case of which a large proportion (average amount of Rs 1822) 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 a 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 but not very speedy and economical.

3.3. Cash Settlement Suspense Account and Material Purchase Settlement Suspense Account

**PUBLIC WORKS
DEPARTMENT
(BUILDINGS AND
ROADS
BRANCH),
IRRIGATION,
WATER SUPPLY
AND
SANITATION
DEPARTMENT**

Highlights

- *There was a balance of Rs 60.50 crore outstanding under CSSA (Rs 57.52 crore) and MPSSA (Rs 2.98 crore) pending clearance.*
(Paragraph 3.3.5)
- *In 26 Divisions, there were credit balances totalling Rs 8.52 crore pertaining to period from July 1965 to February 2005 under the suspense head (CSSA).*
(Paragraph 3.3.12)
- *Advance payments of Rs 1.28 crore made for execution of works, were not adjusted in the absence of receipt of B.T. Bills.*
(Paragraph 3.3.13)
- *In 12 Divisions, claims of Rs two crore for the materials supplied were not preferred against the responding Divisions.*
(Paragraph 3.3.15)
- *In 10 Divisions, claims of Rs 1.99 crore for the materials supplied were preferred late by one month to 120 months against the responding Divisions.*
(Paragraph 3.3.16)
- *In 35 Divisions, cash amounting to Rs 48.05 crore was unauthorisedly transferred through CSSA, out of which Rs 13.35 crore was still awaiting clearance.*
(Paragraph 3.3.17)

Introduction

3.3.1. As per the provisions of the Central Public Works Accounts Code (Code), the account of transactions booked under suspense heads is to be followed by the States. As per the list of major and minor heads of account, State PWD had to follow the provisions of the Central Public Works Accounts Code as far as suspense head accounts are concerned. As per the Code, the cost of material supplied or services rendered (including those pertaining to work done), by one Public Works Division to another is initially classified under the head Cash Settlement Suspense Account (CSSA) and is required to be settled by the Divisions amongst themselves within 10 days of the receipt of the claim, by payment through cheque/ bank draft from the responding Division by the Division making the supply or rendering the service. At the close of the year, all the expenditure should be booked to the final head of account by clearing the suspense head and normally there should be no balance under the suspense head. To achieve this object, outstanding items should be reviewed periodically by the divisional officers to see that settlements are not unduly delayed. The outstanding balances represent outstanding liabilities of the responding Division and their non-adjustment indicates that expenditure to that extent had remained unaccounted for under

the final heads of account. Consequently to that extent, the excesses and surrenders against grants and appropriations of the year do not represent a true picture.

To meet the requirement of materials for construction and maintenance, it is customary for Divisions to procure materials either from the Central Stores Division or from other Divisions and in case the payment on account of the material is not made in the same month in which the material is received, such transactions are watched through the Material Purchase Settlement Suspense Account (MPSSA) by both the responding and the originating Divisions. The items remaining unadjusted for long periods facilitate concealing frauds as well as pilferage besides rendering verification of material and services supplied or received increasingly difficult. Non-settlement of such suspense heads not only distort accounts, but also provide unintended immunity for erring officials.

Organisational set-up

3.3.2. The Departments¹⁷ are under the administrative control of the Secretaries. At the operational level, these are headed by Chief Engineers who are assisted by Superintending Engineers in circle offices and Executive Engineers in Divisions. Each Division has a Divisional Accounts Officer. Besides performing accounting function he is also required to render financial advice, if called upon to do so, to the Executive Engineer.

Scope of Audit

3.3.3. Out of 211 Divisions (B&R: 85, Irrigation: 78 and Water Supply and Sanitation (WSS): 48), records of 64 Divisions listed in *Appendix-XXI* (B&R: 22, Irrigation: 28 and WSS: 14) were test checked in audit during October 2004 to April 2005. The period covered in audit was 2000-01 to 2004-05.

Audit objectives

3.3.4. The objective of audit was to see whether:

- Outstanding balances were reviewed periodically and steps taken to clear them;
- Bills for services rendered or works done or material supplied were promptly raised by the originating Division and accounted for in its accounts by the responding Division;
- Services rendered to autonomous bodies and civil Departments were realised in cash and not classified under CSSA;
- Cash transfers had been incorrectly made through CSSA;
- Any management information system existed for exercising supervisory control.

¹⁷ Public Works (B&R), Water Supply and Sanitation and Irrigation.

Outstanding balances

3.3.5. The year-wise balances outstanding as on 31 March 2005 under CSSA and MPSSA in the State as per the accounts were as under:

(Rupees in crore)

Year	CSSA				MPSSA			
	Opening Balance (Debit)	Debit	Credit	Closing Balance (Debit)	Opening Balance (Credit)	Credit	Debit	Closing Balance (Credit)
2000-01	21.92	64.81	49.94	36.79	3.41	1.51	1.84	3.08
2001-02	36.79	94.71	92.69	38.81	3.08	4.16	5.26	1.98
2002-03	38.81	143.61	135.43	46.99	1.98	1.92	1.07	2.83
2003-04	46.99	58.65	61.11	44.53	2.83	0.24	0.17	2.90
2004-05	44.53	63.51	50.52	57.52	2.90	0.18	0.10	2.98

The Division which has supplied the material or has rendered service raises debit against the Division to whom the material or service has been supplied or rendered. The payment is watched on the receipt of credit afforded by cheque to square the debit. Similarly, a Division which has made advance payment for material or service to be rendered raises credit against the Division which has to supply material or render service and upon receipt of material or the bills the credit is squared against the debit. Further, this procedure involves operation of different suspense heads to book the transactions in the accounts of both originating/ supplying and responding/ receiving Divisions and leads to the failure of the system due to its not being followed properly at some stage or other and also creates a tendency on the part of the responding Division, not to give due priority to such settlements.

As per the codal provisions, the responding Division is required to ensure the payment within 10 days of raising of Book Transfer bills (BT bills) by the originating Division that has rendered the service. Similarly, credit is required to be watched and to be adjusted against submission of bills by the Division, which has undertaken the work. Outstanding debits to the tune of Rs. 63.51 crore as on 31 March 2005 indicate that clearances are not being effected in a time bound manner.

Though rules provide that these items should be cleared within 10 days from the receipt of claim and there should be nil balance under these heads at the end of every month, no internal control mechanism such as submission of periodical returns to higher authorities for monitoring at appropriate level, periodical meetings to clear these items etc., was evolved. As a result, balances under the CSSA not only persisted but showed an upward trend. The Government of India had dispensed with (March 1993) the operation of minor head CSSA/MPSSA w.e.f. 1.4.1993. On the same pattern, the Accountant General (Accounts & Entitlements) had suggested (September 2002 and December 2004) to State Government to adopt the 'Cash and Carry System' in these Departments of the State. The decision of the Government on the issue is still awaited (May 2005). In view of this alarming position of balances under suspense heads early decision on the issue is recommended to be taken. It was observed in audit that initial record keeping and system of watch over

clearances and reconciliation was deficient as discussed in subsequent paragraphs which had led to non-liquidation and adjustment of amounts outstanding under MPSSA & CSSA.

Non-reconciliation of balances

As per para 12.20 of the Punjab Budget Manual 3rd Edition, the Head of the Department is required to reconcile the figures monthly with those recorded in the books of the Accountant General (Accounts & Entitlements), Punjab.

3.3.6. In 29 Divisions test checked (B&R, Irrigation and WSS) the differences in the balances as on March 2005 under the head CSSA and MPSSA as per broadsheets maintained by the Accountant General (Accounts & Entitlements) Punjab, Chandigarh and as per the schedules appended to the monthly accounts of these Divisions were not reconciled. The broadsheet reconciles the debits booked by a Division with the corresponding credits of the Division for which service has been rendered or material supplied. In the absence of reconciliation the possibility of debits which are not duly backed by rendering of service or supply of goods to the corresponding Divisions against which debit had been raised exists. As a result, the possibility of fictitious transfer of material, stock and rendering of service exists as the corresponding Division may not have either requisitioned or received the supply of material/ service.

On this being pointed out (October 2004-April 2005), no reasons for non-reconciliation of balances and discrepancy in the two sets of accounts were furnished by the Divisional Officers (August 2005).

Non-maintenance of records

Rules provide that as and when transactions under CSSA take place, those are to be entered into the 'Outward Claim Register' and posted in a "Division-wise Register of Transactions adjusted under the head CSSA" maintained by the originating Division in the prescribed Form-I. The copy of Form-I is to be sent to the responding Divisions along with supporting documents of claims. The responding Division after verifying the claim will enter the same in the 'Inward Claim Register' maintained by them. Further, the Code provides that the Division-wise register of transactions should be reviewed by the Divisional Officer monthly to enable him to see that (i) the registers are properly maintained; (ii) there is no inward claim outstanding for more than 10 days without sufficient reasons; and (iii) prompt action is taken by the office to send the outward claims.

3.3.7. Forty four Divisions (B&R:11, Irrigation: 23 and WSS: 10) had not maintained either inward or outward claim registers, whereas six Divisions of B&R did not maintain inward claim registers in the absence of which neither the acceptance or accountal by the responding Divisions could be ascertained nor payment thereof could be watched.

3.3.8. Further, three Divisions¹⁸ had not even prepared the schedule of CSSA showing Division-wise monthly abstract of balances whereas at the end of March 2005, as per monthly accounts submitted by them, an amount of Rs 10.17 crore was recoverable by them from the other responding Divisions. How the clearance would be watched in the absence of the details was totally unclear.

On this being pointed out, the Divisional Officers stated (October 2004 to April 2005) that the register would be maintained in future.

Incomplete details/documents

3.3.9. In 11 Divisions there were debit balances of Rs 23.07 lakh outstanding under CSSA but complete details or documents of transactions were not available with them. In the absence of details/relevant documents of the transactions, the possibility of realisation of the amount outstanding against other Divisions had become remote.

On this being pointed out (October 2004 to March 2005), the Divisional Officers of Store Procurement Division Irrigation Branch (IB), Chandigarh, Provincial Division PWD (B&R), Gurdaspur and Construction Division, Ropar stated (October 2004 and November 2004) that sanction to write off the amount was awaited. However, the full details of how the proposals for write off were prepared and submitted were not shown to audit. Final reply from other Divisions had not been received (December 2005).

3.3.10. The year-wise balances under CSSA awaiting clearance in the Divisions test checked were as under:

(Rupees in crore)

Year	Buildings & Roads Department				Irrigation Department				Water Supply & Sanitation Department				Grand Total
	O.B. Dr.	Dr.	Cr.	C.B. Dr.	O.B. Dr.	Dr.	Cr.	C.B. Dr.	O.B. Dr.	Dr.	Cr.	C.B. Dr.	
2000-01	4.71	4.17	5.31	3.57	0.29	3.18	0.77	2.70	3.06	23.19	15.43	10.82	17.09
2001-02	3.57	1.80	2.53	2.84	2.70	32.60	26.32	8.98	10.82	19.49	22.09	8.22	20.04
2002-03	2.84	1.97	1.80	3.01	8.98	55.98	58.80	6.16	8.22	26.72	21.51	13.43	22.60
2003-04	3.01	3.00	1.10	4.91	6.16	8.52	10.89	3.79	13.43	19.15	14.75	17.83	26.53
2004-05	4.91	2.90	4.52	3.29	3.79	7.17	7.13	3.83	17.83	9.20	7.79	19.24	26.36

It was observed in the test checked Divisions that these balances were on account of erroneous accounting as brought out in the succeeding paragraphs.

Irregular transactions under CSSA

3.3.11. In 10 Divisions, the cost of material worth Rs 37.21 lakh (B&R: Rs.2.77 lakh, Irrigation: Rs 33.21 lakh and WSS: Rs 1.23 lakh) procured from other Divisions between January 1981 and August 2003 was not paid in the

¹⁸ Water Supply and Sanitation Mechanical Division, Faridkot: Rs 7.29 crore, Water Supply and Sanitation (Mechanical) Division, Hoshiarpur: Rs 2.04 crore, Water Supply and Sanitation (GW) Division, Patiala: Rs 83.66 lakh.

same month in which received and was shown incorrectly as credit balances under the suspense head CSSA instead of under the suspense head MPSSA.

On this being pointed out (March 2005), Divisional Officer Janauri Chohal Construction Division, Hoshiarpur and Central Works Division, Hoshiarpur stated (February and April 2005) that MPSSA is not being operated now. The reply is not acceptable as no such decision has been taken by the State Government so far. Other Divisions did not reply (December 2005).

Credit balances under the head CSSA

Credit balances represent outstanding liabilities of the responding Divisions and non-adjustment thereof indicates that expenditure to that extent remained unaccounted for under the final heads of account.

In 26 Divisions, there was credit balance of Rs 8.52 crore under CSSA which could not be charged to final head

3.3.12. In 26 Divisions, credit balance of Rs 8.52 crore (B&R: Rs 0.24 crore, Irrigation: Rs 2.43 crore and WSS: Rs 5.85 crore) on account of non-adjustment of cash received (Rs 7.66 crore), services rendered (Rs 0.81 crore) and less material supplied (Rs 4.65 lakh) against receipt of advance payment during the period from July 1965 to February 2005 were appearing under the CSSA as of March 2005. Thus, expenditure to that extent could not be charged to the final heads of account.

This was pointed out in November 2004 and April 2005; final reply had not been received (December 2005).

Non-adjustment of advance payments

3.3.13. Rules provide that advance payments made by one Division to another for execution of work should be adjusted within the same financial year.

Advance payments amounting to Rs 1.28 crore made for execution of works etc. were awaiting adjustment for the last two years to 20 years

Advance payments amounting to Rs 1.28 crore (Irrigation: Rs 1.25 crore and WSS: Rs three lakh)¹⁹ made by five Divisions to 12 other Divisions for execution of works during the period between March 1985 and July 2003 were still awaiting adjustment (May 2005) in the originating Divisions though a period of two years to 20 years had passed.

On this being pointed out (February 2005), two Executive Engineers (Jalandhar Drainage Division, Jalandhar and Ludhiana Drainage Division, Ludhiana) stated (February 2005) that the amount of advance payments would be adjusted after receipt of Book Transfer (BT) Bills whereas the remaining three Executive Engineers stated that reply would be furnished after verification of records.

Irregular transactions with Autonomous bodies/civil Departments

3.3.14. The suspense head "CSSA" is primarily intended to deal with the transactions of material supplied or services rendered between the Public Works Divisions rendering account to the same Accountant General. The operation of suspense head CSSA was thus exclusively meant for works

¹⁹ Drainage Construction Division, Ferozepur: Rs 24.00 lakh, Kandi Area Dam Maintenance Division, Hoshiarpur: Rs 19.97 lakh, Jalandhar Drainage Division, Jalandhar: Rs 0.58 crore, Ludhiana Drainage Division, Ludhiana: Rs 22.86 lakh WSS(RWS) Division, Amritsar: Rs three lakh.

In 11 Divisions, services worth Rs 21.40 lakh rendered between 1971 and 2003, to autonomous bodies and civil Departments were not realised in cash and were wrongly classified under CSSA

undertaken on behalf of other PWD Divisions and works done on behalf of other autonomous bodies or civil Departments of State Government were to be considered as deposit works for which the modality of payment was through cash. In disregard to this provision it was observed that 11 Divisions (*Appendix- XXII*) rendered services valuing Rs 21.40 lakh (Irrigation: Rs 10.43 lakh and WSS: Rs 10.97 lakh) to the autonomous bodies and civil Departments during the period from 1971 to July 2003 and debited the same unauthorisedly to CSSA instead of realising the amount in cash. This resulted in non-realisation of Rs 21.40 lakh as instead of obtaining cash as per procedure for deposit works the payment is now being obtained through CSSA. As a result, an amount of Rs. 21.40 lakh pertaining to earlier periods had remained unrealised; this included some amount outstanding for 34 years.

On this being pointed out (between November 2004 and April 2005), five Divisional Officers (Irrigation: one and WSS: four) stated (between November 2004 and April 2005) that efforts would be made to effect recovery at the earliest. The reply was not acceptable because the transactions were required to be made at the first place in cash with autonomous bodies and other civil Departments and routing of the same through CSSA was irregular. Reply from other Divisions had not been received (December 2005).

Failure to or delay in preferring claims

As per rules, the originating Division shall prefer claims against the responding Division immediately after closure of the monthly accounts in which the transaction takes place. On receipt of the claim, the responding Division would enter the claim in the "Register of Claims Received" and ensure payment within 10 days.

In 12 Divisions claims of Rs two crore for the material supplied were not preferred

3.3.15. In 12 Divisions (*Appendix-XXIII*), in 118 cases, claims of Rs two crore for the materials supplied (B&R: Rs 31.69 lakh, Irrigation: Rs 1.33 crore and WSS: Rs 35.29 lakh) during the period between April 1967 and March 2005 were not preferred (May 2005).

In 10 Divisions claims of Rs 1.99 crore were preferred late by one to 120 months

3.3.16. In 10 Divisions (*Appendix- XXIV*), in 62 cases, claims for Rs 1.99 crore (B&R: Rs 50.70 lakh, Irrigation: Rs 17.40 lakh and WSS: Rs 1.31 crore) on account of materials supplied were preferred late by one month to 120 months against the responding Divisions.

Irregular transfer of cash through CSSA

The transfer of cash from one Division to another Division is not permissible without the approval of the competent authority.

In 35 Divisions, cash amounting to Rs 48.05 crore was unauthorisedly transferred through CSSA, out of which Rs 13.35 crore was still awaiting clearance

3.3.17. In 35 Divisions (*Appendix-XXV*), cash amounting to Rs 48.05 crore (B&R: Rs 3.16 crore, Irrigation: Rs 15.93 crore and WSS: Rs 28.96 crore) was transferred unauthorisedly to other Divisions through CSSA during the period between September 1987 and March 2005. Out of this, Rs 13.35 crore (B&R: Rs 1.79 crore, Irrigation: Rs 3.78 crore and WSS: Rs 7.78 crore) was neither adjusted nor recovered and was still awaiting clearance as of May 2005.

It was observed in audit that situation of transfer of cash to the Divisions and watching the transactions through CSSA had occurred mainly on account of drawl of Letter of Credit (LoC) by one Division for other Divisions and

transferring them their LoC's through demand draft or cheque in favour of executive engineer of that Division. The system of allocation of funds through budget to the Divisions was thus replaced through transfer of cash wherein LoC has been drawn and amount distributed to other Divisions through demand draft/ cheque.

Three Divisional Officers (Gurdaspur UBDC Division, Gurdaspur, Kandi Area Dam Maintenance Division, Hoshiarpur and Water Supply and Sanitation (RWS) Division, Gurdaspur) stated (between October 2004 and April 2005) that the amounts would be cleared at the earliest while other Divisional Officers stated that the amount was transferred with the orders of the competent authority but no such orders were made available to audit. The reply was not acceptable since rules do not permit the routing of transactions relating to transfer of cash through CSSA.

Monitoring

3.3.18. No monitoring of the clearance of outstanding balances under the suspense heads was done because:

- There was no system of periodical returns of outstanding balances to be submitted to higher authorities, such as CE/Government for the latter to review the position.
- Review of outstanding balances was not being done by the Divisional Officers as required.
- Periodical meetings at any level were neither prescribed nor held to review the outstanding balances.
- Though outstanding items were to be cleared within 10 days from the date of receipt of the bills, no sustained efforts were made to clear them.
- No effective internal control mechanism to clear the balances was in place.

Conclusion

3.3.19. The control over the maintenance of the suspense heads CSSA and MPSSA was deficient inasmuch as heavy balances were outstanding under them. This indicated that expenditure to that extent was not charged to the final heads of account; consequently the expenditure under the relevant functional head of account did not reflect the actual value of work done or service rendered. The excesses and surrenders against the grants of the year did not represent a true picture of accounts. Items remaining outstanding for long periods facilitate concealment of frauds and pilferage in materials and services rendered that had not been accounted for. Irregular transfer of cash through CSSA may also lead to frauds. The amounts on account of services rendered to autonomous bodies placed irregularly under the suspense heads resulted in non-realisation of money and loss to Government. No effective internal control mechanism to clear the balances was in existence.

Recommendations

- In view of non-clearance of balances under CSSA and MPSSA, the Government may take early decision for adoption of cash and carry system as had been proposed by the Accountant General (A&E).
- Periodical returns/reports may be prescribed for submission to the higher authorities by the Divisions so as to watch pendency. An effective control mechanism at the HOD level in this regard may be evolved.
- Periodical meetings may also be required to be held at regular intervals to review the outstanding balances.
- Reasons for the outstanding balances may be ascertained/examined and expeditious action taken to ensure earlier adjustment.

The above points were reported to Government in (June 2005); reply has not been received (December 2005).