

CHAPTER XVII : MINISTRY OF URBAN DEVELOPMENT

Central Public Works Department

Nasik Central Division

17.1 Irregularities in execution of deposit works

The Executive Engineer of CPWD, Nasik did not follow rule provisions in execution of deposit works, which resulted in incurring expenditure of Rs. 3.76 crore in excess of deposits.

As per the provisions of CPWD Manual, whenever a deposit work is to be carried out, the contribution should be realized before any liability is incurred on account of the work. However, in cases where the Ministry is satisfied that the money will be forthcoming when required, it may authorise the recovery from the contributor in suitable instalments on fixed dates. No advance of Government money for this purpose is permitted.

Test check in audit (May 2004) revealed that as of March 2004, the Executive Engineer, Nasik Central Division, CPWD, Nasik had incurred an expenditure of Rs. 3.76 crore in excess of the deposits received from various client departments for execution of deposit works, in violation of the codal provisions. Of this, Rs. 3.47 crore was recoverable from Novodaya Vidyalaya Samiti, an autonomous body, in respect of the construction works undertaken by CPWD at various places between 1995-96 and 2001-2002. The Executive Engineer (February 2004) intimated the Novodaya Vidyalaya Samiti, that CPWD would discontinue all ongoing deposit works till receipt of the outstanding amount.

The excess expenditure on these deposit works was made either from CPWD's own budget grant or from funds available with other deposit works, violating the codal provisions. It was also noticed that the Executive Engineer did not settle accounts with client departments immediately on completion of the respective deposit works and the action of the department to stop all works in February 2004 was taken after a long delay. This resulted in short realization of Rs. 3.76 crore from client departments.

The department replied in September 2004 that Form No. 65 was regularly sent to the clients exhibiting status of work and financial position at the end of each month. However, in spite of constant persuasion, funds were not forthcoming from the client departments. The department further added that the work undertaken could not be discontinued due to contractual

complications and payments had to be made to the contractor in spite of non-availability of fund.

Thus, the department pursued the matter in a routine manner through issue of Form No. 65 and did not take it up in time at an appropriate level of the client department despite the substantial arrears.

The matter was referred to the Ministry in July 2004; their reply was awaited as of December 2004.

17.2 Extra expenditure due to delay in execution of work

Inordinate delay due to lack of control in execution of work resulted in unrealised dues of Rs. 66.87 lakh from contractor, apart from revenue loss of Rs. 64.42 lakh.

To mitigate the shortage of type-IV quarters in Kolkata, Director General of Works, Central Public Works Department (CPWD) accorded sanction for Rs. 358.34 lakh, in January 1995, for construction of 28 type-IV quarters at Kolkata. The work comprising of two parts viz. pile foundation and the super structure, was to be completed by December 1996.

Executive Engineer, CPWD awarded the pile foundation work to a contractor in July 1996 at a cost of Rs. 64.25 lakh to be completed by June 1997. The work was completed in June 1998 at a lesser cost of Rs. 56.03 lakh due to savings in the quantity of steel used. Delays in completion of the work were mainly attributable to non-availability of site and discrepancy in the drawing provided by CPWD.

In April 1998, the Executive Engineer CPWD awarded the superstructure work to another contractor at a cost of Rs. 157.07 lakh, to be completed by October 1999. There were delays due to delay in finalisation of drawings and non-availability of site. Provisional extension was granted to the contractor from time to time to keep the contract alive. As the work did not show any progress, the Executive Engineer rescinded the contract in June 2000 at the risk and cost of the defaulting contractor, without levying any compensation as per clause 2 of the contract. At the instance of audit, CPWD levied penalty of Rs. 16.51 lakh in January 2003 after more than two years from the date of rescission of the contract. It was noticed that Rs. 58.35 lakh had been paid to the contractor as running payment upto July 2003, and no further dues were payable to the contractor. The penalty however, had not been recovered from the contractor till November 2004.

The balance work valued at Rs. 98.72 lakh was awarded to another contractor at a cost of Rs. 149.08 lakh in February 2001 with the stipulation to complete

it by February 2002. The work has since been completed and Rs. 130.09 lakh were paid to the contractor by November 2004. Delay in completion of work was mainly due to non-availability of departmental materials and delay in finalisation of the structural drawings.

Re-award of balance super structure work resulted in extra expenditure of Rs. 50.36 lakh. This was recoverable from the defaulting contractor as the previous contract had been terminated at his risk and cost, in addition to a penalty of Rs. 16.51 lakh. The total claim outstanding against the contractor was thus Rs. 66.87 lakh.

Thus, the work, which was originally scheduled for completion by December 1996 could be completed after eight years. The delay was due to lapses of CPWD like non-availability of departmental materials, faulty structural drawings coupled with delay in finalisation of second call of tender for balance work, as well as delay in execution by the executing contractors. As a result the quarters could not be handed over to the Directorate of Estates for allotment. This led to a potential loss of Rs. 64.42 lakh (approx) towards recovery of licence fee and house rent allowance from the prospective allottees as of November 2004.

The Executive Engineer, CPWD stated in July 2004 that the claim towards recovery of penalty and the risk and cost amount from the defaulting contractor had been placed as counter claim to the Arbitrator, appointed in November 2000, the decision of which was pending (November 2004).

The matter was referred to the Ministry in August 2004; their reply was awaited as of December 2004.

Mumbai Central Electrical Division II, Mumbai

17.3 Irregular payment of electricity duty

CPWD Division, failed to obtain exemption of Electricity Duty and Maharashtra State Tax from BEST authority on consumption of power by Central Government and incurred additional expenditure of Rs. 18.03 lakh upto March 2004.

Article 287 of the Constitution of India stipulates that no State law shall impose or authorise the imposition of tax on the consumption or sale of electricity consumed by Government of India or sold to the Government of India for its consumption. Bombay Electricity Duty Act of 1958 also reiterates the same position.

During test check of the records of Executive Engineer, Mumbai Central Division II, Central Public Works Department (CPWD), Mumbai it was noticed that the Division paid Electricity Duty and Maharashtra State Tax to Brihanmumbai Electricity Supply and Transport (BEST) for the power supply used for common facilities in Government residential complex at Kane Nagar, Antop Hill and Wadala, etc, even though Government of India is exempted from payment of such taxes. A total of Rs. 12.55 lakh as Electricity Duty and Rs. 5.48 lakh as Maharashtra State Tax was paid during the period from April 2000 to March 2004.

After this was pointed out in audit, the Division stated in October 2002 that due to time limit for payment of electricity bill, the claims raised by the BEST were paid promptly to avoid disconnection of electricity. The Division referred the matter to BEST in October 2002. However, BEST in November 2002 declined to waive electricity duty and Maharashtra State Tax stating that the same were exempted only for premises used for the offices and not for residential premises.

The above contention is not tenable as the Division was paying electricity bill for common facilities of the buildings from the Consolidated Fund of India and it was not recoverable from the tenants/occupants of the residential quarters. Hence, the department is eligible for exemption of electricity duty and Maharashtra State Tax. Further, it was noticed that wherever CPWD had electricity connection from Maharashtra State Electricity Board (MSEB) the electricity bills did not include electricity duty and Maharashtra State Tax for common facilities in Government residential complexes.

The CPWD did not take up the issue with BEST for exemption of these duties. The failure of the Division in pursuing the matter resulted in an irregular expenditure of Rs. 18.03 lakh upto March 2004 and Rs. 4.51 lakh *per annum* as recurring liability.

The matter was referred to the Ministry in July 2004; its reply was awaited as of December 2004.

Directorate of Estates

17.4 Non-recovery of outstanding rent

Directorate of Estates failed to initiate action for recovery of dues from private allottees resulting in avoidable arrears of Rs. 82.30 lakh.

The Government allots residential accommodation to eminent persons such as artists, freedom fighters, social workers etc. The allotment is governed by the departmental guidelines of the Directorate of Estates (DOE). The guidelines

provide for recovery of the licence fee in advance before fifth of every month from all such allottees. Cases of non-payment of licence fee and continued occupation of the premises after expiry of allotment period are regulated as per the provisions of the Allotment of Government Residence Rules, 1963 and Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PPA), which provide for recovery of licence fee and damages, besides eviction by use of force after issue of show-cause notices.

As of June 2004, 195 allotments were made to private individuals, of which, Audit scrutinised 24 cases. Audit noted the following lapses:

- Licence fee was not recovered in advance and the allotments were not cancelled despite failure to pay licence fees in all 24 cases. Licence fee of Rs. 82.30 lakh remained outstanding as of December 2003. The year-wise breakup of the dues is as below:

Year	Upto 1997	1998	1999	2000	2001	2002	2003	Total
Outstanding amount (Rs. in lakh)	14.85	6.95	8.49	10.12	9.50	16.06	16.33	82.30

Of the total outstandings, Rs. 37.03 lakh was recoverable from eight private persons who were still occupying government quarters after the expiry of the allotment period while another Rs. 45.27 lakh was outstanding in 16 cases against those allottees who had vacated the government quarters without clearing their dues.

- In ten cases, there was delay of one to 120 months in issuing show cause notices to the allottees.
- In 15 cases, there was delay ranging between one and 127 months in issue of Eviction Orders.
- Cancellation notices that were to be served one month prior to the expiry of allotment had also not been served in time.

Thus failure of Estate Officer to follow the mandatory rules relating to allotment of government quarters to private persons and enforcing the provisions of the PPA resulted in accumulation of arrears of outstanding rent/licence fee/damages amounting to Rs. 82.30 lakh. Apart from the financial loss, the allotment to eligible persons was also denied due to houses remaining under unauthorised occupation.

The matter was referred to the Ministry in August 2004, their reply was awaited as of December 2004.

17.5 Allotment in excess of quota fixed

Ministry failed to observe the directions of the Hon'ble Supreme Court in making allotments of discretionary quota in excess of the prescribed ceiling.

Following the Hon'ble Supreme Court's final order dated 23 December 1996, the Directorate of Estates (DOE), Ministry of Urban Affairs and Employment, now Ministry of Urban Development issued guidelines in November 1997 to regulate discretionary/out-of-turn allotments of Government quarters in Delhi. It was decided to permit discretionary/out-of-turn allotments to serving government servants on medical, security and functional grounds only and to restrict the number of such allotments to an overall ceiling of five *per cent* of the total number of vacancies occurring in each type of house in a year.

In November 2000, Ministry of Urban Development sought to amend the rules to provide for out of turn allotment to the personal staff attached with the dignitaries. Ministry of Law opined in January 2001 that the amendment was not tenable as it would override the ceiling of five *per cent* for discretionary allotment laid down by the Hon'ble Supreme Court.

Notwithstanding this advice, DOE, in 2001 and 2003 issued notifications providing for immediate allotment of government quarters on out-of-turn basis to the personal staff attached to the Cabinet Minister, Minister of State, Deputy Chairman (Planning Commission), Speaker (Lok Sabha) and Deputy Chairman (Rajya Sabha).

In March 2002, the Ministry submitted a note seeking approval of the Cabinet Committee for Accommodation (CCA) for out-of-turn allotment to the personal staff attached with Union Cabinet Ministers and Ministers of State to be taken out of the purview of the guidelines dated 17 November 1997. The Ministry of Law had not cleared the note for being put up to CCA till June 2004.

During the period December 2001 to August 2004, 229 out-of-turn allotments were made to the key officials of various dignitaries outside the prescribed ceiling of five *per cent*. These allotments made were in contravention of the Hon'ble Supreme Court's directives and the Government of India orders of November 1997.

In response to audit observation, DOE stated in July 2004 that though the matter was yet to be decided by the CCA, out of turn allotments to the personal staff attached to the Union Ministers and other dignitaries on immediate basis were currently being kept outside the purview of five *per cent* quota as was decided by the then Urban Development Minister. The reply confirms that the Ministry did not follow the Hon'ble Supreme Court's directives and violated its own guidelines.