

## CHAPTER VI

### URBAN DEVELOPMENT DEPARTMENT

#### AKOLA MUNICIPAL CORPORATION

##### 6.1 Non-levy of development charges

##### **Non-levy of development charges of ₹ 64.29 lakh on the residential/commercial plots by Akola Municipal Corporation**

According to Section 124A of the Maharashtra Regional and Town Planning Act, 1966 (Act) the development authority shall levy development charges on the institution for use or change in use of any land or building or develop any land or building at the rate specified in second schedule of the Act. The Akola Municipal Corporation (MC) had decided (February 2002) to levy development charges for land at the rate of ₹ 40 *per sq.m* for residential use. The rate of development charges shall be doubled for commercial use of land.

Scrutiny of records (December 2009) of the Akola MC revealed that the Town Planning Department of Akola MC had received copies of orders for Non-Agricultural Assessment (NAA) passed by the Collectorate, Akola allowing land for residential/commercial use. These NAA orders were issued on the basis of temporary approval given by the town planner of Akola MC payable under Section 124A of the Act. However, the Akola MC did not raise demand for recovery of development charges from the owners of the land on the basis of such orders received from Collectorate. Further, information collected (December 2009/February 2010) from the Collectorate, Akola revealed that the Collectorate, Akola during the last three years from 2006-07 to 2008-09 had sanctioned NAA between September 2007 and November 2008 in nine cases. Cross verification of position of these nine cases with the records of Akola MC revealed that demand ranging from ₹ 0.77 lakh to ₹ 23.56 lakh towards development charges aggregating to ₹ 64.29 lakh was not raised by the Akola MC.

On this being pointed out in audit, the Municipal Commissioner, Akola MC accepted (March 2010) the facts and agreed to recover development charges.

The matter was referred to Government (March 2010). Reply has not been received (June 2011).

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## 6.2 Loss to Municipal Corporation

**Deposit of ₹ One crore as Short Term Deposit in a Co-operative bank with deteriorating financial position by the Municipal Commissioner, Akola Municipal Corporation, led to loss of deposit apart from accrued interest of ₹ 3.19 lakh**

According to Section 92 of the Bombay Provincial Municipal Corporation Act, 1949, surplus moneys at the credit of the Municipal fund from time to time, be deposited in the Imperial Bank of India (now State Bank of India) or any other scheduled bank or an approved co-operative bank or with the Government of Maharashtra (GOM) or with any statutory corporation approved by the GOM or be invested in public securities. All such deposits and investments shall be made by the Commissioner on behalf of the Municipal Corporation with the sanction of the Standing Committee of the Municipal Corporation. Section 85 of the Act permits the Commissioner to invest any portion of the Municipal Fund with the bank or other agency at any place beyond the city with the previous approval of the Standing Committee.

Scrutiny of records (December 2009) of Akola Municipal Corporation (MC) revealed that the Akola MC had deposited ₹ one crore (9 March 2009) in Fixed Deposit (FD) in Vidarbha Urban Co-operative Bank, Akola at the interest rate of 9.5 *per cent* per annum for a period of 31 days without approval of the Standing Committee of Akola MC. The amount matured on 9 April 2009 along with interest of ₹ 80685. However, instead of withdrawing the amount, the Municipal Commissioner on 29 April 2009 requested the Bank to reinvest the amount along with interest accrued for a further period of 91 days at the interest rate of 9.5 *per cent* per annum. On maturity of the FD on 9 July 2009 the bank did not refund the amount of ₹ 1.03 crore to the Akola MC though requested on 31 July 2009. The amount is yet to be refunded (July 2010) due to financial distress in the bank. Meanwhile, the Reserve Bank of India, Mumbai cancelled (10 May 2010) the license of the bank and prohibited the bank to carry out any business on the ground of negative net worth and deteriorated financial position of the bank as on March 2009.

The Municipal Commissioner stated (July 2010) that no approval from Standing Committee was obtained before investment/reinvestment of the amount in the said bank by the then Municipal Commissioner and the matter was taken up with the Co-operative bank and Reserve Bank of India, Nagpur. The then Municipal Commissioner, Deputy Municipal Commissioner and Auditor of the Akola MC were suspended. No amount of the matured FD was received so far (September 2010).

Thus, the incorrect financial decision of the Municipal Commissioner to invest/reinvest funds in a bank which had a deteriorating financial condition resulted in loss of ₹ one crore apart from interest of ₹ 3.19 lakh accrued thereon to the Akola MC.

The matter was referred to Government (October 2010). Reply has not been received (June 2011).

### **6.3 Loss of revenue**

#### **Awarding of work of collection of octroi to an Agency at lesser rate by the Akola Municipal Corporation, had resulted in loss of revenue of ₹ 2.60 crore to the Corporation**

With a view to make the work of octroi collection easy by the Municipal Councils/Corporations, the Government of Maharashtra (GOM) had introduced (February 1994) a system of octroi collection by appointing agencies through competitive bidding. As per additional terms and conditions issued (March 1995) by GOM in this regard there should be a minimum increase of 10 *per cent* in the rate over the preceding year for fixing next year's rate. Looking into local conditions and experience, the Municipal Commissioners in their own discretion are free to fix any amount higher but not lesser than the amount to be calculated as above. The Municipal Commissioners can extend the period of contract for the existing agent by one month if the agent is agreeing to collect the octroi during that month. Proposal for acceptance of any offer for any amount with less than 10 *per cent* increase, be referred to the GOM for its approval.

Scrutiny of records (November 2009) of the Akola MC revealed that the work of collection of octroi for the period from 26 June 2007 to 26 June 2008 was awarded to an agency for ₹ 31.25 crore for 365 days (₹ 856184 per day). Meanwhile the GOM decided (June 2008) to levy cess on goods *in lieu* of octroi from 1 November 2008 in respect of 11<sup>41</sup> 'D' class Municipal Corporations in the state including Akola MC and accordingly, instructed all the Municipal Corporations to extend the period of earlier agency up to the date of levy of cess with the mutual understanding with the agency, if required. However, on the plea of mutual understanding, Akola MC agreed to the demand of the agency for drastic reduction of 25 *per cent* in the existing rate from 26 June 2008 to 31 July 2008 and a further reduction of 13.33 *per cent* from 31 July 2008 to 31 October 2008. This has resulted in loss of ₹ 2.60 crore as compared to the existing rate.

The matter was referred to Government (June 2008) by the Akola MC and the Government reiterated (July 2008) that the period should be extended with the mutual understanding. However, no specific instructions in this regard were issued by the GOM in the light of Resolution dated 3 March 1995. It was further noticed that the Akola MC had not made any attempt either to demand 10 *per cent* increase from the existing rate as stipulated by the Government in March 1995, or atleast to retain the existing rate. Akola MC accepted the argument of the agency for reduction of the rate

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<sup>41</sup> Ahmednagar, Akola, Amravati, Aurangabad, Jalgaon, Kalyan Dombivli, Kolhapur, Malegaon, Mira Bhayandar, Nanded Waghela and Solapur

that the traders might reduce the quantity of goods to be brought into the city due to the decision of the Government to levy cess *in lieu* of octroi.

The Municipal Commissioner, Akola MC stated (November 2009) that the agency was reluctant to continue the octroi collection work even on the existing rate due to the imposition of cess *in lieu* of octroi by the Government and, therefore, as per mutual understanding, the rates were reduced.

The reply was not tenable as the GOM had categorically stated in letter dated 11 July 2008 that the period could be extended with mutual understanding and had not ordered for any reduction in existing rate. Further, in Amravati MC where also the cess *in lieu* of octroi was to be levied, the same agency had extended the period of collection at the existing rate. Thus, Akola MC's failure to negotiate the matter properly with reference to Government instructions resulted in loss of revenue of ₹ 2.60 crore.

The matter was referred to Government (December 2010). Reply has not been received (June 2011).

#### AMRAVATI MUNICIPAL CORPORATION

##### 6.4 Short levy of property tax

##### Failure to assess and levy property tax of ₹ 63.64 lakh by Amravati Municipal Corporation

According to the provisions of the Bombay Provincial Municipal Corporations (BPMC) Act, 1949, all lands and buildings within the limits of Municipal Corporation area are subject to levy of Property Tax (PT) unless exempted for specified use. The General Body (GB) of the Amravati Municipal Corporation (MC) had resolved in their meeting held on 20 March 2003 not to levy PT on open plots. The Government of Maharashtra (GOM) had set aside (November 2003) the said resolution exercising powers available under Section 451 of BPMC Act on the ground that it was not in the interest of Amravati MC. However, Amravati MC instead of levying PT on open plots further resolved (August 2007) that PT should be levied on open plots only for one year at the time of granting permission for construction. This resolution was also set aside (November 2008) by the GOM.

Scrutiny of records (September 2009) of the Amravati MC revealed that 171 layouts were sanctioned by the Amravati MC for residential/commercial/ industrial use during 2003-09 and records of 90 layouts were made available to Audit. Verification of these records indicated that PT of ₹ 77.34 lakh was leviable for the period upto 31 March 2009. The Amravati MC, however, recovered PT of ₹ 13.70 lakh at the time of granting permission for construction. This resulted in short levy of PT of ₹ 63.64 lakh.

On this being pointed out (September and December 2009) the Deputy Commissioner (Administration) Amravati MC, while accepting the objection, (October and December 2009) stated that necessary action for recovery of ₹ 63.64 lakh would be taken.

The matter was referred to Government (January 2010). Reply has not been received (June 2011).

### **6.5 Non-levy of either octroi or cess on entry of goods**

#### **Loss of revenue of ₹ 9.19 crore due to non-levy of octroi/cess on entry of goods by Akola, Amravati and Aurangabad Municipal Corporations**

Section 127(2) of the Bombay Provincial Municipal Corporation (BPMC) Act, 1949 authorises Municipal Corporations (MCs) to impose octroi. Section 127 (2) (aa) of BPMC Act, provide that the State Government may, by notification in the Official Gazette, direct the MC to levy cess on entry of goods into the limits of City for consumption, use or sale therein, *in lieu* of octroi.

Government of Maharashtra (GOM) decided (June 2008) to levy cess on entry of goods *in lieu* of octroi by 'D' Category MCs in the State. Accordingly, GOM notified on 3 October 2008 amendment to BPMC Act, together with schedule containing list of goods and rate of cess on entry of goods. The GOM notified on 21 October 2008 to levy cess on entry of goods by seven<sup>42</sup> MCs from 1 November 2008.

Scrutiny of records of Akola, Amravati and Aurangabad MCs (September/December 2009 and January 2010) revealed that collection of octroi/transit fees was outsourced till 31 October 2008 to different agencies. These MCs were required to collect cess between 1 November 2008 to 15/18 November 2008. From 16/19 November 2008 these MCs had again started collection of octroi. Had collection of octroi continued from 1 November 2008 these MCs<sup>43</sup> could have earned revenue of ₹ 9.19 crore.

Taking into account the fact that the MCs did not levy cess on entry of goods *in lieu* of octroi, the Urban Development Department on 15 November 2008 notified decision of the GOM to empower the MCs to decide the date from which cess would be levied by them.

These MCs stated (September 2009 and January 2010) that implementation of levy of cess was under process. The reply was not acceptable as no timely action was taken for levy of cess.

Thus, failure of the MCs to levy cess on entry of goods resulted in loss of revenue of ₹ 9.19 crore.

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<sup>42</sup> Akola, Amravati, Aurangabad, Jalgaon, Kolhapur, Malegaon and Solapur

<sup>43</sup> Akola - ₹ 1.11 crore (1 to 15 November 2008); Amravati - ₹ 2.01 crore (1 to 15 November 2008) and Aurangabad - ₹ 6.07 crore (1 to 18 November 2008).

The matter was referred to Government (April 2010). Reply has not been received (June 2011).

## MUNICIPAL CORPORATION OF GREATER MUMBAI

### 6.6 Non-regularisation of Mobile Towers

**The internal control failure to monitor the erections of Mobile Towers led to unauthorised construction of these towers and also loss of revenue estimated at ₹ 6.50 crore**

Municipal Corporation of Greater Mumbai (MCGM) issued instructions (October 1995/June 2002) regarding the procedure for granting permission/ regularisation to structures for installation of cellular telecommunication equipment (Mobile Towers) and the approval was subject to payment of annual fee of ₹ 600, deposits for demolition ₹ 5000, penalty for regularization of already constructed Mobile Towers ₹ 5000. In addition premium is computed on the basis of space utilised multiplied by land rate<sup>44</sup> prevailing in the area and to be paid in five installments. MCGM has the right to revoke the permission and summarily remove the installation after seven days notice in case of non-payment of premium or breach of condition. Over and above these charges, property tax was leviable for the structures of Mobile Towers (MTs) also.

Audit scrutiny (March 2010) of the data relating to the approvals for MTs by MCGM from the four regional offices<sup>45</sup> revealed that out of 3836 proposals for permission/revalidation for construction of cabins erected by telecom companies received since 1997, MCGM had scrutinised and regularised only 1134 proposals (February 2010). It was observed that invariably prior permission was not taken for erection of MTs and after installation, proposals were received for their regularization. The balance 2702 MTs have neither been regularised by collecting stipulated premium and regularization charges nor action been taken for survey of all these unauthorised MTs and for removal till March/June 2010 although these MTs have been installed and were functioning for more than one year. The loss of premium at the lowest land rates worked out to ₹ 3.64 crore<sup>46</sup> and the loss in respect of the charges for regularization and recurring yearly fees amounted to ₹ 2.86 crore<sup>47</sup>.

Further detailed scrutiny of 1601 proposals received by two regional offices<sup>48</sup> which were not regularised, showed that 257 proposals (16 per cent) were pending for more than 5 years, 346 proposals (21 per cent) were pending for 3 to 5 years, 721 proposals (45 per cent) were pending for 1 to 3 years and 227 proposals (18 per cent) were pending for less than 1 year as of March 2010.

<sup>44</sup> Rates as depicted in the Stamp duty ready reckoner published yearly by the Government of Maharashtra

<sup>45</sup> City, Western Suburbs (I&II), Eastern suburbs

<sup>46</sup> Average area of cabin 7.20 Sq. M x ₹ 1875 x 2702 MTs = ₹ 3.64 crore

<sup>47</sup> Security deposit ₹ 5000, penalty ₹ 5000, yearly fee ₹ 600 = ₹ 10600 x 2702 MTs= ₹ 2.86 crore

<sup>48</sup> City, Western Suburb (I)

It was also observed (March/July 2010) on test check of four ward offices<sup>49</sup> that MCGM collected property tax pursuant to Section 143 of the Mumbai Municipal Corporation Act 1888, even on MTs which had not been regularised. This proves that MTs were erected even without permission/knowledge of MCGM which is illegal and MCGM also failed to monitor the erection of MTs and to coordinate the regularization and tax collection. The lack of effective internal controls and coordination between Building Proposal Department and Property Tax Department of MCGM resulted in collection of property tax on 628 MTs with no action taken for regularization.

MCGM assured (March 2010) to take necessary action under due process of law. The reply is not acceptable as MCGM had issued instructions (February/June 2002) detailing procedure for grant of license/approval and for exercise of proper control which has not been implemented. Further, MCGM was aware that the applicants had erected MTs but still failed to take action on the proposals received in time. Though the matter was again referred to MCGM (November 2010) to ascertain the action taken, no further progress has been reported so far (March 2011).

Thus the failure to monitor the erection of the MTs resulted in unauthorised construction and loss of revenue of ₹ 6.50 crore.

The matter was referred to Government (April 2011). Reply had not been received (June 2011).

## **NAGPUR MUNICIPAL CORPORATION**

### **6.7 Loss of revenue due to non-enforcement of surrender of Transit Passes**

**Failure to collect transit passes at exit post between April 2006 and March 2009 resulted in loss of revenue of ₹ 13.05 lakh and non-levy of fine up to ₹ 9.33 crore in 186558 cases**

According to Rule 16(a) of Nagpur Municipal Corporation Octroi Rules, 1966, (NMCOR) goods imported and intended for immediate export shall not be subject to duty on their entry at an entrance post in the octroi limit of Nagpur Municipal Corporation (MC) and the office-in-charge<sup>50</sup> shall issue 'Transit Pass' (TP) in Form-D based on declaration made by importer under Rule 9 of NMCOR in these cases. The goods shall reach at exit post within a period not exceeding twelve hours from issue of TP and the TP is required to be surrendered to the official-in-charge at the exit post. He shall verify such goods with the details given in the TP and if found correct, allow to pass the goods on collecting administrative charges at the rate of ₹ 5 (₹ 10 with effect from September 2007) *per* TP. In case of failure to surrender the TP the importer is required to give intimation of

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<sup>49</sup> 'A' ward of city region, 'F' North of city region, 'M' West of eastern region, 'K' West of western region

<sup>50</sup> Additional Deputy Commissioner

such failure within 36 hours from issue of TP and prove to the satisfaction of Octroi Superintendent within a week's time that such goods were actually exported. The Nagpur MC had decided (March 1997) to recover fine of ₹ 500 from the importer in case of failure to surrender the TP.

Scrutiny of records (June 2008) and subsequent information collected (January 2009 and January 2010) from Nagpur MC revealed that 186558 TPs were not surrendered by the importers during 2006-07 and from 21 June 2007 to 31 March 2009. Although the Nagpur MC was required to initiate action immediately after a week's time in each case in order to check leakage of revenue, no action was taken. The administrative charges of ₹ 13.05 lakh as well as fine of ₹ 9.33 crore was not recovered in respect of these cases.

On this being pointed out, the Assistant Commissioner (Octroi) of Nagpur MC, while accepting the facts, stated (April 2009) that due to non-availability of sufficient manpower, the work of reconciliation, ascertaining correct number of non-collection of TPs and initiating action to issue notices to defaulting importers could not be taken. Nagpur MC further intimated (May 2010) that the notices were issued in 84777 cases.

Thus, no effective mechanism was evolved by the Nagpur MC to take action against importers who failed to surrender TPs and to arrest possible evasion of octroi duty. There was no significant progress in enforcement of surrender of TPs even after computerization of records (21 June 2007).

The matter was referred to Government (January 2010). Reply has not been received (June 2011).

#### **6.8 Pollution of reservoir water due to release of untreated water in the river**

**Release of 265 Million liters untreated water per day in Nag River by the Nagpur Municipal Corporation which is joining Vainganga River had polluted the water of Gosi Khurd reservoir on Vainganga River. Further, no action to treat this water was initiated from years together.**

The Water (Prevention and Control of Pollution) Act, 1974 prohibits the use of stream or well for disposal of polluting matter. As per section 24 of the said Act no person shall knowingly cause or permit any polluting matter to enter into any stream or well.

Scrutiny of records (June 2010) of Nagpur MC revealed that only 80 Million liters per day (Mld) water was treated at the Sewerage Treatment Plant (STP) installed at Bhandevadi in Nagpur city out of 345 Mld untreated water generated per day and 265 Mld untreated water is being released daily in Nag river. Nag River joins Kanhan River and thereafter to Vainganga River at Ambhora. On Vainganga river there is a reservoir at Gosikhurd where the water is being impounded. Thus, due to release of 265 Mld untreated water daily by the Nagpur MC, the water stored in Gosikhurd dam is being polluted creating hazard to the life of human,

animals and marine. No action was taken by the Nagpur MC to treat remaining 265 Mld untreated water. Section 33 and 33A of the Act authorised State Pollution Control Board to take action against the person who causes such pollution to the stream. However, other than issuing notices to Nagpur MC between 4 June 2006 and 10 February 2010, Maharashtra Pollution Control Board has not taken any action to restrict the pollution and Gosikhurd dam is still being polluted daily.

On this being pointed out (June 2010) Municipal Commissioner accepted the fact (October 2010) and stated that the Nagpur MC was about to launch water treatment project at Koradi and at various sewerage zones. However, work relating to this project was to be started (November 2010).

The matter was referred to Government (November 2010). Reply has not been received (June 2011).

### NAVI MUMBAI MUNICIPAL CORPORATION

#### **6.9 Extra expenditure on improvements made to Thane Belapur Road**

**Failure of Navi Mumbai Municipal Corporation to acquire land before issue of work order and include standard terms and conditions in the contract resulted in extra expenditure of ₹ 3.43 crore**

Navi Mumbai Municipal Corporation (MC) invited tenders (September 2005) for the work of improvement to Thane Belapur road at an estimated cost of ₹ 111 crore under Centrally Assisted Scheme of Assistance to States for Infrastructure Development for Exports (ASIDE). The work was to be executed in three packages from Vitawa to Mhape Junction from Ch 1.2 Km to 9.90 Km (Package I), from Mhape to Turbhe Junction from Ch 9.90 Km to 15 Km (Package II) and construction of fly over and slip roads along with cross drainage (Package III). The work was awarded as lumpsum contract (January 2006/March 2008) to M/s PBA Infrastructure Ltd (PBA) at ₹ 55.28 crore, ₹ 23.40 crore and ₹ 42.30 crore respectively for the three packages. The Packages I and II included Resettlement and Rehabilitation (R & R) of project affected people (PAP). As per clause 3.2 of the contract, in respect of items, where scope of work was reduced as deletion, the contractor would be paid 30 *per cent* of the rates in respect of quantities of work, not executed, against the payment envisaged to be made in respect of such works.

Under package I, though the work order was issued in January 2006, the Navi Mumbai MC acquired the land required for R&R work from Maharashtra Industrial Development Corporation (MIDC) in March 2007. After ascertaining (June 2007) that the land was not with clear title, the work was finalised, by deleting the R & R work with modifications to the plan. For this deleted portion of the work, (costing ₹ 5.43 crore) M/s PBA was paid an amount of ₹ 0.92 crore invoking clause 3.2 of the contract.

Under Package II also, the R & R work for 68 numbers of commercial units was cancelled due to the non-availability of land with clear title. M/s PBA was paid ₹ 1.44 crore towards the cost of R &R work of ₹ 2.34 crore in terms of clause 3.2 of the contract.

Failure of Navi Mumbai MC to take possession of the land with clear title before issue of work order resulted in extra expenditure of ₹ 2.36 crore.

In lieu of cancellation of construction of fly over work near Turbhe Railway Station, under package III due to resistance from the residents, work of 3+3 lane was awarded to the contractor M/s PBA for ₹ 1.35 crore. Further, an amount of ₹ 1.07 crore was also paid for deleted portion of the work of construction of flyover. Since Navi Mumbai MC adopted the contract terms followed by State Public Works Department (PWD), they should have incorporated a similar condition of 100 *per cent* rebate, if any work was given *in lieu* of deleted work. Failure of Navi Mumbai MC to incorporate the condition of 100 *per cent* rebate, if any work was given *in lieu* of deleted work resulting in extra expenditure of ₹ 1.07 crore.

Navi Mumbai MC replied (June 2010) that the conditions of contract were based on PWD as well as Fidic<sup>51</sup> Conditions of contract, 1992 edition (Fidic). Government concurred (August 2010) with the reply of Navi Mumbai MC that the payment to contractor was made as per terms and conditions of lumpsum contract.

The reply is not tenable as the terms of PWD contract allows for rebate of 100 *per cent* for the item deleted partially/fully in case of replacement/substitute. Also clause 51.1(a) and (b) of Fidic permits the increase/decrease in quantity of works and omission of any work and clause 52.1 specifies that payment for varied work under clause 51 shall be regulated as per price set out in the contract. Hence it was at the discretion of Navi Mumbai MC to insert suitable terms and conditions in the contract to protect the interests of Navi Mumbai MC. Further, had Navi Mumbai MC ensured the availability of land required for R&R work before inviting tenders with 'Fidic' conditions, Navi Mumbai MC would have avoided extra expenditure of ₹ 3.43 crore.

### SANGLI MIRAJ KUPWAD MUNICIPAL CORPORATION

#### **6.10 Loss of asset due to imprudent decision**

**Transfer of rights to property instead of development through FBT basis as envisaged, resulted in loss of asset of ₹ 2.57 crore and loss of lease rent of ₹ 4.32 lakh per annum**

Sangli Miraj Kupwad Municipal Corporation (MC) issued work order (February 2004) for construction of Library, Art Gallery and Shopping Plaza on land admeasuring 2784 sq. mtr. at Ram Mandir Chowk Sangli on

<sup>51</sup> Fidic-“Federation Inter National des Ingenieurs – Councils”(FIDIC) where in Lump sum rates are quoted for every stage of work including planning designing as per schedules for Billing.

Finance, Build and Transfer (FBT) basis to M/s Kotibhaskar Builders, Sangli (Developer) who had offered highest amount of premium at ₹ 42.67 lakh. The work was to be completed within 24 months and the concession period allowed to the developer was 3 years including construction period.

As per the terms and conditions of the contract documents (i) the successful bidder was to lease out the commercial space in the shopping plaza and collect non-refundable upfront payment from prospective occupants of the shopping plaza, (ii) Art Gallery, Library, Amphitheater and parking area were to be handed over to Sangli Miraj Kupwad MC free of cost, (iii) the ownership right of the site and project facilities would always rest with Sangli Miraj Kupwad MC, (iv) the developer was not to be compensated for any loss sustained in the contract, (v) the developer should carry out his market feasibility study independently and prepare his own cost for formulating the proposal and (vi) Sangli Miraj Kupwad MC was not to accept any responsibility on account of loss suffered by the developer due to market scenario as a result of the development in the city, and (vii) the lease rent for the commercial space in the shopping plaza was to be remitted to Sangli Miraj Kupwad MC's account which was estimated to be ₹ 4.32 lakh *per annum*.

The developer requested (May 2005) that as there was no demand for the property under construction on lease basis, the property be transferred on ownership basis. Sangli Miraj Kupwad MC transferred (June 2006) the right to the developer to sell/allot the buildings/structures to be constructed on the property on recovery of additional premium of ₹ 8.86 lakh by evaluating the land at ₹ 1.53 crore as against the market rate of the land at ₹ 2.57 crore (at market value of 2006).

The imprudent decision of Sangli Miraj Kupwad MC (March 2006) at the instance of developer to transfer the shopping plaza on ownership basis, by reversing its earlier decision (February 2003) of taking over the entire developed property from the developer at the end of concession period so as to generate income for Sangli Miraj Kupwad MC, resulted in loss of land valued at ₹ 2.57 crore and revenue income of ₹ 4.32 lakh per annum towards lease rent.

Sangli Miraj Kupwad MC replied (November 2009) that the agreement was changed from lease to ownership as there was no demand for shops on lease basis.

Reply is not acceptable as the feasibility report (May 2003) of the consultant for the project (M/s. Fortress Financial Services Ltd, Mumbai), indicated that the project site was strategically located in the most influential central business district of the city. Also the consultant while evaluating the bids indicated (December 2003) that Sangli Miraj Kupwad MC would receive ₹ 57 lakh as annual lease rent for 30 years at discounted rate. Further, the contract documents also specified that the developer was to carry out the feasibility study independently and Sangli

Miraj Kupwad MC would not accept any responsibility for any loss suffered by the developer due to change in the market scenario.

Thus the imprudent decision of transferring property valued at ₹ 2.57 crore for consideration of only ₹ 52 lakh, resulted in a loss of over of ₹ two crore on the asset and loss of revenue of ₹ 4.32 lakh *per annum*.

The matter was referred to Government (May 2010). Reply has not been received (June 2010).

#### **6.11 Loss due to failure to retender**

**Tendering the development of property under litigation and failure to retender after settlement of the court case resulted in loss of property of ₹ 3.32 crore and revenue income of ₹ 0.11 crore per annum apart from undue benefit to the contractor to the extent of ₹ 4.45 crore**

Sangli Miraj Kupwad MC planned to develop its own land and road through privatisation on Finance, Build and Transfer (FBT) basis to become self reliant through income generated without blocking up of corporation funds in capital expenditure on development of properties. Sangli Miraj Kupwad MC invited (January 2002) tenders for construction of commercial complex and shopping centre to rehabilitate 500 road side vendors at City Survey No. 341 (part) at Station Road, Vakharbhag, Sangli on FBT basis. The property was under litigation since 1994 due to civil suit filed by Shri Ganpati Panchayatan Sansthan Trust, Sangli (SGPST). As per the terms and the conditions of tender (i) Bid was valid for 180 days, (ii) The contractor would transfer the shopping centre (net area 3287.316 sq.m) to Sangli Miraj Kupwad MC free of cost, (iii) The contractor would be allowed to collect upfront payment from the prospective occupants of commercial complex (4449.39 sq.m) to be constructed by him, (iv) At the end of the concession period, the contractor shall transfer the commercial complex to Sangli Miraj Kupwad MC without any liability, (v) Sangli Miraj Kupwad MC shall always own the premises. The ownership right of the site and project facilities was not transferable to the contractor or the occupants at any point of time, and (vi) The commercial complex would be leased for a period of 75 years and lease rent would be paid directly to Sangli Miraj Kupwad MC.

M/s S.F. Chougule (contractor) quoted (February 2002) the highest premium of ₹ 0.16 crore. However due to the pending civil suit, the tender could not be finalised. The Civil Suit was settled by compromise settlement (June 2005).

Subsequently the contractor (July 2005) informed Sangli Miraj Kupwad MC that he was ready to execute the work at the same premium, provided he was allowed to sell the commercial complex instead of leasing and allowed to utilise the additional FSI. Sangli Miraj Kupwad MC accepted

(July 2006) the conditions of the contractor justifying that the construction cost had increased over the years and the work order was issued (August 2006).

Entrustment of the work after four years of tendering the work, allowing the contractor to sell the commercial complex instead of leasing, resulted in loss of asset of ₹ 3.32 crore<sup>52</sup>, lease rent of ₹ 0.11 crore per annum and also undue benefit to the contractor of ₹ 4.45 crore<sup>53</sup> due to grant of additional FSI.

Sangli Miraj Kupwad MC replied (April 2010) that the conditions of the contractor to sell the commercial complex and grant of additional FSI was agreed, as the work order was delayed due to the civil suit and the delay resulted in increase in construction cost.

The reply is not acceptable since increased cost of construction was recoverable from lessees of the premises. Also Sangli Miraj Kupwad MC should have retendered the work instead of accepting the conditions put forth by the contractor.

Thus, developing property under litigation and failure to retender after the settlement of the court case resulted in loss of property of ₹ 3.32 crore and revenue income of ₹ 0.11 crore per annum and undue benefit to the contractor to the extent of ₹ 4.45 crore.

The matter was referred to Government (May 2010). Reply has not been received (June 2011).

#### **ULHASNAGAR MUNICIPAL CORPORATION**

<b>6.12</b>	<b>Loss of property tax due to incorrect revision of Rateable Value</b>
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<b>Lack of effective internal control and undue favour to the assesses in violation of the procedure prescribed under Acts and Rules resulted in abatement of property tax of ₹ 1.63 crore resulting in loss of revenue of ₹ 1.28 crore to Ulhasnagar Municipal Corporation and ₹ 35.23 lakh to Government of Maharashtra</b>
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Tax on properties is a major source of revenue of Municipal Corporations. Property tax (PT) is levied at a percentage on Rateable Value (RV) of building or land assessable for PT in Municipal Area after deducting 10 *per cent* from the annual rent of such land or building *in lieu* of allowances for repairs as per provisions of Bombay Provincial Municipal Corporations (BPMC) Act, 1949. Property tax consists of general tax, tax on conservancy, special conservancy, street, water benefit, sewerage benefit, tax on larger residential premises, Education Cess and Employment Guarantee Cess.

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<sup>52</sup> (4427.50 sq.m x ₹ 7490 sq.m)

<sup>53</sup> (10394.925 sq.m - 4449.39 sq.m x ₹ 7490 sq.m)

Ulhasnagar MC revised the RV of properties (July 2003) and as it was not approved by General Body (May 2004), the matter was referred (December 2004) to Government of Maharashtra (GOM). GOM approved (February 2005) the revision in RV. After the notification of the revised RV which was applicable from 2003-04, in 2005-06, Ulhasnagar MC received several requests from the property owners to apply the old RV in respect of the assessment orders issued subsequent to 2003-04 which were turned down as BPMC Act did not allow application of old rates.

Audit (September to December 2009) of records of assessment of PT revealed that Ulhasnagar MC commenced (March 2006) the issue of revised assessment orders applying old RV *in lieu* of revised RV effective from 2003-04 thus unduly favoring the assesses. In respect of 311 properties, revised assessment orders were issued during 2006-07 to 2008-09 reducing the RV, consequently Ulhasnagar MC lost revenue of ₹ 1.28 crore. This also resulted in non-realization of Government revenue on account of taxes on larger residential premises, State Education Cess and Employment Guarantee Cess of ₹ 35.23 lakh.

Though similar revised assessment orders were issued in respect of 436 properties in 2007-08, due to complaints/protests, these orders were subsequently cancelled (August 2009).

It was observed that these revised assessment orders reducing RV were issued by the then Deputy Commissioners(City) without the knowledge of Municipal Commissioner and even though copies of each revised assessment order were endorsed to Municipal Chief Auditor(MCA) and Municipal Commissioner, they were not received. However, MCA confirmed (November 2009) that the PT department neither delivered any assessment order nor made available the records for conducting audit since 2003-04.

Thus, lack of effective internal control and undue favour to assesses in violation of the procedure prescribed under Acts & Rules resulted in abatement of PT of ₹ 1.63 crore resulting in loss of revenue of ₹ 1.28 crore to Ulhasnagar MC and ₹ 35.23 lakh to GOM.

Ulhasnagar MC stated (May 2010) that PT in respect of 298 properties had been recovered partly (₹ 81.52 lakh including PT upto 2009-10) between November 2009 and March 2010 and 15 property holders had filed court case. However the information on whether the loss of revenue pointed out by audit had been recovered though called for (September 2010) has not been furnished as of May 2011.

The matter was referred to Government (June 2010). Reply has not been received (June 2011).

SCHOOL EDUCATION AND SPORTS DEPARTMENT

**6.13 Role of Municipal Corporations in Primary Education**

**6.13.1 Introduction**

In keeping with the 74<sup>th</sup> Constitutional Amendment, the Government of Maharashtra (GOM) transferred/assigned all 18 functions to Urban Local Bodies (ULBs), which include Education. Municipal Corporations (MCs) are responsible to make reasonable and adequate arrangement for maintaining, aiding and suitably accommodating schools for primary education in MC's area.

**6.13.2 Organisational Set up**

The Principal Secretary, School Education and Sports Department decides policy on education with the help of Directors of Education, Pune. The Principal Secretary, Urban Development Department (UDD) is overall in-charge of the MCs. Municipal Commissioner is the administrative head of the MC appointed by the GOM. Education Officer/Administrative Officer, Municipal School Board is responsible for primary education in MC schools.

**6.13.3 Audit coverage**

The audit of the effectiveness of MCs in primary education was conducted in selected six<sup>54</sup> MCs for the period during 2004-09 between July 2009 and February 2010. The audit findings are discussed below:

**6.13.4** The total expenditure incurred by MCs and the expenditure incurred on education in respect of selected MCs during 2004-09 was as follows:

Name of the MC	Total expenditure	Expenditure on Education	Percentage of expenditure on education
	( ₹ in crore)		
Amravati	312.22	42.85	14
Aurangabad	991.43	72.65	7
Municipal Corporation of Greater Mumbai (MCGM)	35747.56	3330.62	9
Nagpur	2020.80	194.92	10
Nashik	2195.90	113.82	5
Solapur	669.61	72.65	11
<b>Total</b>	<b>41937.52</b>	<b>3827.51</b>	<b>9</b>

Though the GOM provided Grant-in-aid to primary education in MC's schools, no Management Information System is introduced to have an effective control over functions, other than yearly assessment report for grant.

<sup>54</sup>Amravati, Aurangabad, MCGM, Nagpur, Nashik and Solapur

### **6.13.5 Reduction of Primary Schools in MC area**

In order to achieve the target of providing better primary education by maintaining good schools, it was necessary on the part of Education Department to have an action plan regarding requirement of Primary Schools in the state (district wise/MC-wise). However, no action plan was prepared by the Education Department so far.

Test check of records of six MCs revealed that only 13 to 51 *per cent* schools were run by the MCs and remaining 49 to 87 *per cent* schools were run by private institutions in MC's area. This indicates that maximum liability of MCs to run primary education is borne by private institutions except MCGM.

In Nagpur MC, 86 schools were closed due to reduction in the enrolment of the students, out of which 15 school buildings closed during 2003-09 were not put to any use as of March 2011.

### **6.13.6 Reduction in the strength of the students**

It was noticed that there was reduction in strength of students during 2008-09 ranging from nine to 34 *per cent* as compared to 2004-05 in six test checked MCs. It was also observed that in four MCs there was increase in the strength of students ranging from 10 to 18 *per cent* during 2008-09 as compared to 2004-05 run in primary schools run by private institutions.

Joint Director Primary Education, Pune accepted (October 2010) above facts regarding reduction in the strength of the students in MC area and added further that attraction towards English medium schools mainly run by private institutions, availability of more facilities in private schools and less number of teachers in some of the schools were the reasons for reduction of the students in Primary Schools of MCs.

### **6.13.7 Lack of infrastructure and facilities/amenities**

The MCs are responsible to create and maintain infrastructure in its Primary Schools as per the instructions issued by the GOM from time to time. The following deficiencies were noticed.

- In four<sup>55</sup> MCs 77 works of commode toilets to be used by physically handicapped students were executed without observing the specifications laid down by the GOM. This defeated the purpose as these toilets could not be used by the physically handicapped students
- Rain Water Harvesting system was not installed in any of the school buildings of all the six selected MCs.
- No solar lamp systems were installed in any of the selected schools run by MC except MCGM.

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<sup>55</sup> Amravati, Aurangabad, Nagpur and Nashik

- Green Board reduces stress on eyes of the students. In all the 45 selected schools of five<sup>56</sup> MCs except three schools in Aurangabad MC, green boards were not used whereas in 28 selected schools of MCGM, green boards were used.
- Out of 73 selected schools in six MCs there was no arrangement of toilet in 11 schools of three<sup>57</sup> MCs and in eight schools of five<sup>58</sup> MCs, there was no separate arrangement of toilet for boys and girls.
- Out of 73 selected schools run by six MCs desks/benches were available in 48 schools, partly desk/bench and pharis<sup>59</sup> were available in 10 schools and the remaining 15 schools were having only Pharis in all classes.



Nagpur MC- Mominpura Girls Urdu High School



Nagpur MC- Sanjay Nagar Primary School

- GOM issued (November 1994) guidelines to provide for musical instruments, first aid boxes, fire extinguishers, etc. in every school. The position of availability of these facilities in the test checked schools of selected MCs was as follows :

Name of MC	Test checked schools	Number of school not having					
		Musical Instrument	First Aid Box	Updated First Aid Box	Fire Extinguisher	Refilled Fire extinguisher	Electrification
Amravati	5	0	0	0	0	0	0
Aurangabad	7	4	1	6	0	6	2
MCGM	28	6	0	3	1	14	2
Nagpur	15	7	3	0	7	8	2
Nashik	12	3	3	5	3	12	0
Solapur	6	6	4	0	6	0	2
<b>Total</b>	<b>73</b>	<b>26</b>	<b>11</b>	<b>14</b>	<b>17</b>	<b>40</b>	<b>8</b>

This was indicative of inadequate attention of the MCs towards welfare of the students.

### 6.13.8 Supply of free text books/work books

Under Sarva Shiksha Abhiyan (SSA), free text books were to be supplied to girls and SC/ST boys studying in Standard I to VIII of the schools of MCs up to 2007-08 and to all students from 2008-09. In addition to free

<sup>56</sup> Amravati, Aurangabad, Nagpur, Nashik and Solapur

<sup>57</sup> Aurangabad, Nagpur and Nashik

<sup>58</sup> Amravati, Aurangabad, MCGM, Nashik and Solapur

<sup>59</sup> Phari is a mat made from jute which has been used as arrangement for sitting of the students on floor.

text books, work books were also to be supplied from the year 2007-08. It was observed that:

- Maharashtra Prathamik Shikshan Parishad placed orders for supply of books for the respective academic sessions with Balbharti with instructions to supply books in advance so as to enable the schools to distribute books to the students on opening day of academic session. Information made available by selected MCs indicated that during 2004-09 there were delays ranging from one to five months in supply of 40.32 lakh books (33 *per cent*) out of 1.28 crore books by Balbharti.
- 7200 sets of text books were distributed to 7200 ineligible students in 27 schools in five<sup>60</sup> MCs during 2004-08.
- 2159 sets of work books were distributed to 2159 ineligible students in 16 schools of four<sup>61</sup> MCs during 2007-08.
- 1004 sets of text books in nine schools of three<sup>62</sup> MCs and 449 sets of work books in six schools of three<sup>63</sup> MCs were lying undistributed with the schools.

#### **6.13.9 Physical education in MC schools**

Sports development is an essential component of Human Resource Development and helps to inculcate comradeship and competitive spirit. Physical education in schools has a direct bearing on achievement in sports too.

- It was noticed in selected MCs that no grants were released by GOM during 2004-09 for physical education. The MCs also did not provide sufficient funds towards physical education as compared to the total expenditure incurred on education. The percentage of funds provided for sports activities compared to the total expenditure ranged from 'Nil' to 0.56 *per cent*.
- Sports Board which was to be constituted in each school was not constituted in any of the schools in selected MCs. As such these MCs were deprived of eligible grant of ₹ 1.24 crore from 2006-07 to 2008-09 for total 1653 schools at the rate of ₹ 2500 per school per annum.
- Twenty schools of five<sup>64</sup> MCs did not have playground.

#### **6.13.10 Conclusion**

There was a gradual reduction in strength of students in schools run by MCs as compared to increase in the strength of the students in private Primary Schools. GOM also did not take appropriate measures to improve the functioning of these schools with timely supply of books to the

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<sup>60</sup> Amravati, Aurangabad, Nagpur, Nashik and Solapur

<sup>61</sup> Aurangabad, Nagpur, Nashik and Solapur

<sup>62</sup> Amravati, Nagpur & Nashik

<sup>63</sup> Amravati, Nagpur & Nashik

<sup>64</sup> Amravati, Aurangabad, MCGM, Nagpur and Nashik

students, providing basic infrastructure like adequate number of urinals, toilet for boys, girls and physically handicapped students, playground *etc.*

The matter was referred to Government (May 2010). Reply has not been received (June 2011).

## MUNICIPAL COUNCILS

### 6.14 Unfruitful expenditure on Solid Waste Management

**Despite spending ₹ 2.34 crore out of Twelfth Finance Commission grant, Solid Waste Management was not being done in four Municipal Councils due to non-completion of infrastructure**

As per Municipal Solid Waste (Management and Handling) Rules, 2000 (Rules), littering of Municipal Solid Waste (MSW) is prohibited in the cities. To prohibit littering and to facilitate compliance of the Rules, every Municipal Authority within its area is responsible for development of infrastructure for collection, storage, segregation, transportation, processing and disposal of MSW. As per Twelfth Finance Commission's (TFC) guidelines the urban local bodies should earmark at least 50 *per cent* of the TFC's grant for the scheme of Solid Waste Management (SWM) which includes collection, storage, segregation, transportation, processing and disposal of MSW. Accordingly, to improve health of the citizens and also to comply with the provisions of the Rules of TFC guidelines, the Director of Municipal Administration had issued (September 2007) detailed instructions to all the Municipal Councils in the state for collection, segregation, transportation and processing of MSW.

Scrutiny of records (October to December 2010) of four<sup>65</sup> Municipal Councils revealed that these Municipal Councils had approved (between October and December 2007) Detailed Project Reports (DPRs) for SWM. According to these DPRs, all the works till the establishment of processing plant should be completed between March and December 2008. All the four Municipal Councils received a grant of ₹ 4.17 crore (between April 2005 and November 2010). Out of this, an amount of ₹ 2.34 crore was spent upto October/November 2010 on the following components of SWM:

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<sup>65</sup> Chandur Rly, Mul, Pandharkawada and Tiroda

Infrastructure developed	₹ in lakh				
	MC Chandur Railway	MC Mul	MC Pandharkawada	MC Tiroda	Total
Expenditure incurred on each item					
Preparation of SWM project Report	--	--	00.10	--	0.10
Land	--	--	--	3.51	3.51
Development of land	--	---	--	26.20	26.20
Segregation Plant	--	--	--	--	--
Servant Quarters	00.78	3.76	-	--	4.54
Recycle Zone		3.47	--	--	3.47
Maniyar twin Dumper placer System TATA 709 CLB Chassis Mount	--	--	10.44	--	10.44
Approach road	--	--	12.26	--	12.26
Manure manufacturing shed	-	--	6.88	--	6.88
WBM work along with earth work	04.51	15.61	00	5.85	25.97
Construction of shed No 1	06.42	8.44	00	00.00	14.86
Construction of shed no 2	0	11.62	00	00.00	11.62
Electrification	09.15	00.00	00	2.44	11.59
Compound wall/ wire Fencing	07.86	4.10	24.42	11.89	48.27
Miscellaneous work	--	--	--	2.50	2.50
Tractor Trolley	--	6.91	6.77	4.60	18.28
Purchase of containers	16.33	--	8.40	--	24.73
Purchase of Ghanta Gadi	02.53	1.25	4.72	--	8.50
<b>Total</b>	<b>47.58</b>	<b>55.16</b>	<b>73.99</b>	<b>56.99</b>	<b>233.72</b>

The above position indicated that despite availability of funds and lapse of three years, none of the Municipal Councils could complete the project (December 2010) even though it was proposed to be completed between March and December 2008. None of the Municipal Councils could implement any of the components of the scheme successfully due to non-completion of the infrastructure and meager collection of waste. Hence, solid waste was being dumped at the road side in Mul and Tiroda Municipal Councils and in yards already possessed by other Municipal Councils. No systematic collection, storage, segregation, processing and disposal of solid waste were carried out by any of the Municipal Councils. Thus, not only ₹ 2.34 crore spent on the project remained unfruitful but also none of the objectives laid down in the Rules and TFC guidelines regarding effective management and disposal of solid waste was achieved. Dumping of waste on roadsides and open yards without processing would create health hazards.

The Chief Officers (CO) of Municipal Councils Mul and Tiraoda stated (October–November 2010), that the solid waste was dumped at road side

as the daily collection was very meager. CO, Municipal Councils Chandur Railway and Pandharkawada stated (December 2010 and January 2011) that solid waste was being dumped at dumping ground but processing could not be carried out for want of processing plant. Joint physical verification by Audit and Municipal Council's officials also revealed that infrastructure created by spending ₹ 2.34 crore was lying unused and there was no SWM in all the Municipal Councils.

The matter was referred to Government (February 2011). Reply has not been received (June 2011).

**6.15 Wasteful expenditure on construction of a shopping complex**

**Construction of shopping complex in October 2008 on the land belonging to forest department and reserved for civic centre in City Development Plan by the Municipal Council-Mul without approval of the Government of Maharashtra resulted in wasteful expenditure of ₹ 20.33 lakh**

As per section 266 of Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965 Municipal Councils can acquire land and construct a building for the purpose of establishing a municipal market. Further, in terms of the Forest (Conservation) Act, 1980 (FCA) prior approval of the Government of India (GOI) is necessary for use of forest land for purposes other than afforestation. The GOI further clarified (March 1982) that any diversion of forest land for non-forestry activities even in anticipation of approval was not permitted.

Scrutiny of records (October 2010) of Municipal Council, Mul district Chandrapur revealed that Mul Municipal Council had started (June 2007) construction of shopping complex containing 14 shops out of the Twelfth Finance Commission (TFC) grant and completed (October 2008) at a cost of ₹ 20.33 lakh on a land belonging to Forest Department as 'Zudpi Jungle'. In the City Development Plan (CDP) of the Municipal Council, the said land was reserved for 'Civic Centre'. Further, as per Section 37 of the Maharashtra Regional Town Planning Act, 1966 (MRTP), Final Development Plan of the city or part thereof can only be modified with the approval of the Government of Maharashtra (GOM). GOM may, after consulting the Director of Town Planning, sanction the modification or refuse to accord sanction by notification in the *Official Gazette*. However, Municipal Council completed the construction without obtaining any approval for use of forest land for non-forest purpose from GOI or for deviation in CDP from GOM resulting in un-authorised construction of shopping complex costing ₹ 20.33 lakh and also depriving civic amenities to city inhabitants. Besides, Municipal Council had sustained a loss of revenue of ₹ 15.12 lakh for two years (for 2009 and 2010) due to non-allotment of these shops.

The Chief Officer of Municipal Council accepted (October 2010) the fact and stated that the maps of the shopping complex were sent (April 2009) to the Deputy Director of Town Planning, Nagpur (DDTP) for sanction.

The reply was not tenable as the DDTP refused (January 2011) to sanction the maps due to construction of shopping complex on the land reserved for 'Civic Centre' for which prior approval of the GOM was not obtained.

The matter was referred to Government (February 2011). Reply has not been received (June 2011).



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