CHAPTER-III

AUDIT OF TRANSACTIONS

This chapter contains audit paragraphs on idle investment, undue favour to contractor, avoidable expenditure and regularity issues that came to notice during the audit of transactions of Government departments.

3.1 *Idle investment*

HEALTH DEPARTMENT

3.1.1 Non-utilization of a district hospital - Infructuous expenditure

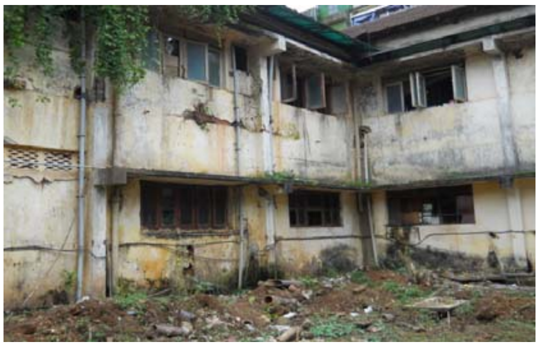
Non-commissioning of a newly built district hospital resulted in non-utilisation of facilities created at a cost of ₹ 49.91 crore and unfruitful expenditure of ₹ 1.64 crore on the upkeep of the hospital.

The Government-run 190-bedded Asilo Hospital at Mapusa in North Goa district was established during the Portuguese rule in Goa (Pre-liberation). The hospital was in a dilapidated state with inadequate facilities causing great inconvenience to the public accessing it for medical treatment. The Government of Goa, therefore, decided (February 2002) to construct a 230-bedded district hospital with modern amenities to expand and replace the existing hospital by a district hospital. The Goa State Infrastructure Development Corporation Ltd. was entrusted (February 2002) the work of construction of the hospital as well as procurement and installation of the required equipments.

The work for the hospital commenced in November 2004. While construction of the building and supply and installation of major equipment were completed by November 2008, the remaining equipment such as CT scan machine, Ultrasonography machine, Colour Doppler etc. were installed by March 2009. The total project cost on completion was ₹ 49.91 crore as detailed in the **Appendix 3.1**. The Government also sanctioned (January 2009) the recruitment of 200 personnel in addition to the sanctioned strength of 312 personnel of the existing Asilo hospital to man the new district hospital.

Newly built district hospital

Audit observed (June 2011) that though the hospital was completed and fully equipped by March 2009, the new premises were not occupied. In September 2010, a few outpatient wings began functioning for half a day. Despite the demands of the doctors and staff for shifting to the new premises and the deteriorating condition of the Asilo hospital, the new district hospital remains non-functional (August 2011).




External and internal view of old Asilo Hospital

The non-commissioning of the hospital resulted in non-utilization of the machinery and equipment costing ₹ 12.56* crore installed in the new hospital during their defect liability period, most of which have already expired (**Appendix 3.1**).

Audit further noticed that the department proposed recruitment of 315 personnel for the new district hospital in addition to the existing number of staff (312) functioning at Asilo Hospital. As the proposal was made without conducting any detailed study, the Administrative Reforms Department (ARD) was entrusted with the responsibility to study and make recommendations. The ARD, after a detailed study, recommended creation of 145 additional posts. A Committee was constituted, headed by the Finance Secretary to scrutinize the recommendations of the ARD. The Scrutiny Committee reassessed (May 2008) the additional requirement for the new hospital and recommended creation of 113 additional posts. However, on the insistence of the Health Minister the same was subsequently enhanced to 200. The proposal contained no justification for the increase, which was subsequently approved by the Chief Minister. This included 10 posts of drivers, 40 posts of patient attendants, four posts of peons and 12 posts of data entry operators, earlier disapproved by the Scrutiny committee. The manpower requirements were thus far in excess of the numbers worked out by the Administrative Reforms Department and the Scrutiny Committee. The Health Minister further instructed (January 2009) that recruitment to the sanctioned posts should be completed by March 2009. Accordingly, 156 personnel were recruited during February 2009 to May 2011. As the new hospital has not been commissioned, the newly recruited staff were attached to the Asilo hospital. Consequently, the persons-in-position at Asilo Hospital as of January 2011 became 407 as against its sanctioned strength of 312. The

* Sl. No. 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24 of Appendix 3.1.

delay in commissioning of the hospital resulted in infructuous expenditure on salaries of the staff recruited for the project. The extra expenditure on pay and allowances of the surplus staff could not be quantified for want of details.

Meanwhile, the Government incurred a total expenditure of ₹ 1.64 crore during the period 2008-11 towards upkeep of the hospital, including ₹ 97.41 lakh paid to a private party under a contract for sweeping and swabbing the premises.

Thus the delay in shifting the Asilo hospital to the new premises resulted in the hospital project, completed at a cost of ₹ 49.91 crore, remaining unutilized for the purpose for which it was constructed, besides incurring unfruitful expenditure of ₹ 1.64 crore on the upkeep of the hospital and infructuous expenditure on salary of the excess staff recruited for the project.

The department attributed the delay in commissioning the hospital to shortage of water and the decision of the Government to operate the hospital as a public-private partnership project.

The reply is not tenable as water was to be supplied by the Public Works Department of the same Government. The Advocate General had stated in the High Court on 2 March, 2010 that 80 *per cent* of the work for supply of water was complete and the remaining work would be completed within 15 to 20 days. Besides, even after water was made available in September 2010, the district hospital had not yet (August 2011) been commissioned, which indicated that this reason stated for the delay was not factual.

The matter was referred to the Government (June 2011) and their reply is awaited (October 2011).

3.2 *Undue favour to contractor*

WATER RESOURCES DEPARTMENT

3.2.1 Irregular release of bank guarantee and hypothecated machinery to the contractor, resulting in non-adjustment of mobilisation/ machinery advances.

Irregular release of security against mobilisation and machinery advance led to non-realisation of ₹ 4.66 crore and undue favour to the contractor.

The Works Division VIII (Division) of the Goa Tillari Irrigation Development Corporation (GTIDC), awarded (January 2007) the work of construction of 8.455 km length RCC Conduit from Ch.28.970 km to 37.425 km on the Left Bank Main Canal of the Tillari Irrigation Project to M/s Ketan Construction Pvt. Ltd. (KCL), Gujarat at a cost of ₹ 51.44 crore, which was 39.90 *per cent* above the estimated cost of work put to tender. GTIDC executed an agreement in January 2007 with KCL. The stipulated dates of commencement and completion of work were 18 January 2007 and 12 April 2008 respectively. However, the time limit was extended (December 2008) upto 31 May 2009.

As per Clause 10 B (ii) of the General Conditions of Contract, KCL was eligible for mobilisation advance, not exceeding five *per cent* of the tendered value, at 10 *per cent* simple interest per annum, subject to execution of a bank guarantee (BG) for the full amount from a scheduled/nationalised bank. Further, as per Clause 10 B (iii) of the General Conditions, up to five *per cent* of the tender value could also be advanced to KCL for plant, machinery and shuttering material required for the work and brought to site by the contractor, which in the opinion of the engineer in charge, would add to the expeditious execution of work and improve its quality.

The Division released an amount of ₹ 2.57 crore in January 2007, being five *per cent* of the tendered value as mobilisation advance against the security of five BGs totalling ₹ 2.57 crore valid upto 6 June 2008. The Division also released (January 2007) an amount of ₹ 2.57 crore as secured advance for plant and machinery on the security of one 200 TPH 3 stage Crushing Plant Machinery 2007 Model, to be hypothecated in favour of the Executive Engineer, with an insured value of ₹ 3.40 crore. The machine was insured for the period 18 May 2007 to 17 May 2008. However, no hypothecation deed specifying the machinery hypothecated was executed. As KCL had abandoned the work, GTIDC terminated the contract in February 2009 by invoking Clause 3 of the agreement and encashed the BGs for ₹ 2.57 crore submitted by them as performance guarantee.

Audit scrutiny revealed that at the time of termination (February 2009) of the contract, an amount of ₹ 3.84 crore out of ₹ 5.14 crore paid as mobilization and secured advance was due from KCL towards the principal alone. However, GTIDC was left with no security as the then Executive Engineer released all the five BGs for ₹ 2.57 crore submitted as security for mobilisation advance, on 8 April 2008. The machinery having value of ₹ 3.40 crore on the security, of which secured advance of ₹ 2.57 crore was paid was also released.

Clause 10 B (vi) of the General Conditions stipulated that the BG against advances should be valid for the contract period and should be renewed from time to time to cover the balance amount and likely period of complete recovery, together with interest. Though the scheduled date of completion of work was extended upto May 2009, and the amounts paid as advances were outstanding, the then Executive Engineer released the BGs in April 2008 itself, instead of extending the validity period upto May 2009.

Thus, the irregular release of the BG and permission to KCL to take away the hypothecated machinery resulted in GTIDC being left with no security for the amount due to it. The total amount of advance and interest thereon recoverable from KCL as on 31 March 2011 was ₹ 4.66 crore.

When these irregularities were pointed out (October 2010) in audit, GTIDC stated (March 2011) that the Superintending Engineer, Circle Office II of

GTIDC had been appointed to inquire into the irregular release of bank guarantee and hypothecated machinery to the contractor. The Superintending Engineer submitted his report on 26 April 2011. The Report confirmed the audit observation and termed it as a 'major irregularity'.

The matter was referred (June 2011) to the Government. Their reply is awaited (October 2011).

3.3 *Avoidable expenditure*

WATER RESOURCES DEPARTMENT

3.3.1 Avoidable payment of interest

Failure of GTIDC to pay income tax on interest income from fixed deposits as per the provisions of the Income Tax Act resulted in avoidable payment of interest of ₹ 53.83 lakh.

As per Section 139 of the Income Tax Act, 1961, every person, including a Company whose total income in the previous year exceeded the maximum amount which is not chargeable to income tax, shall on or before the due date, furnish a return of his income. Interest earned on deposits made out of the surplus funds before commencement of business, is taxable as 'Income from Other Sources' under Section 56(1) ibid. Further Section 207 of the Income Tax Act provides that tax shall be payable in advance during any financial year, in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year. On failure to comply with the above provisions of the Act, the interest is levied under Section 234 A of the Act for defaults in furnishing return of income, under Section 234 B for defaults in payments of advance tax and Section 234 C for deferment of advance tax.

Audit observed (July 2009) that Goa Tillari Irrigation Development Corporation (GTIDC), set up in June 2000, had not yet commenced commercial activities (March 2011). Funds with GTIDC allotted for construction work, were kept as fixed deposits in banks. The Corporation had earned an amount of ₹ 2.68 crore by way of interest on fixed deposits in different banks during the period from 2004-05 to 2007-08. However, the banks did not deduct income tax at source while releasing the interest. GTIDC neither paid tax on the income received nor filed any return for the respective years.

When the non-payment of income tax on acquired interest income was pointed out (July 2009) in audit the Corporation remitted (August 2010) an amount of ₹ 1.44 crore towards income tax, including interest amounting to ₹ 53.83 lakh for delayed payment.

Failure of the Corporation to furnish income tax returns and pay tax in time resulted in avoidable payment of interest amounting to ₹ 53.83 lakh.

The Managing Director, GTIDC stated (March 2011) that there was no malafide intention on the part of GTIDC as it presumed that it was the duty of the banks to deduct income tax for the interest paid to the Corporation and issue a TDS certificate.

The reply is not tenable as the primary duty to pay tax on income remained with the receiver. As the banks did not deduct tax, the GTIDC ought to have paid the tax due during the respective years. Failure to do so resulted in avoidable expenditure of ₹ 53.83 lakh.

The matter was referred to the Government (May 2011). Their reply is awaited (October 2011).

PUBLIC HEALTH DEPARTMENT

3.3.2 Avoidable expenditure

Continuance of contract staff and outsourcing of cleaning works despite the availability of regular staff resulted in an avoidable expenditure of ₹ 1.34 crore.

The Institute of Psychiatry and Human Behaviour (IPHB), Goa is a 190-bedded hospital which provides preventive, curative and rehabilitative mental health services to the people of Goa and to neighbouring districts of Maharashtra and Karnataka.

The sanctioned strength (February 2002) of the attendants and sweepers in IPHB was 93 and 30 respectively. As against this, the persons-in-position were 73 attendants and 28 sweepers. Due to the ban on recruitment of staff on regular basis, IPHB filled up the vacancies from time to time with contract staff supplied by the Goa Labour Recruitment and Employment Society (GLRES).

In October 2008, IPHB filled 34 posts on regular basis and issued (November 2008) termination notices to the GLRES contract staff. However, Audit observed that the Health Minister directed (November 2008) IPHB to continue their services till further orders. Subsequently (April 2010) the department transferred the services of 11 of the contract staff to Goa Dental College, while 14 staff continued at IPHB as on February 2011. The department thus incurred avoidable expenditure of ₹ 28.44 lakh on these staff between December 2008 and March 2011.

Audit further observed that while IPHB maintained its full complement of sweepers, the Government awarded (August 2008) a contract for mechanised sweeping and swabbing at IPHB, including cleaning of the entire building and surrounding area on day to day basis, to a private agency* for a period of three years at a cost of ₹ 3.22 lakh per month. It could be seen that there was no proposal for this from IPHB. Audit also observed that while the Government

* M/s Ecoclean System and Solutions.

executed an agreement with the private party for this work on 1 August 2008, the proposal to award the work was approved on 14 August 2008 only. Extra expenditure incurred on this by IPHB between September 2008 and March 2011 was ₹ 105.53 lakh.

Thus retention of surplus staff and outsourcing of work forming part of the duty of the regular staff to a private contractor resulted in extra/avoidable expenditure of ₹ 1.34 crore.

IPHB attributed retention of surplus staff to the orders of the Minister and stated (December 2010) that the contract for sweeping and swabbing was awarded by the Government at their level.

The matter was referred to the Government (June 2011) and their reply is awaited (October 2011).

3.4 *Regularity issue*

FOREST DEPARTMENT

3.4.1 Loss of interest due to non-recovery of net present value of forest land

Non-recovery of net present value of forest land amounting to ₹ 2.24 crore for extension of a mining lease granted to a user agency resulted in loss of interest of ₹ 65.71 lakh.

The Supreme Court, vide its order dated 30 October 2002, directed the Government of India (Ministry of Environment and Forests) to recover the net present value (NPV) of forest land diverted for non-forest purposes from user agencies at the rate of ₹ 5.80 lakh per hectare to ₹ 9.20 lakh per hectare, depending upon the quantity and density of the forest land diverted.

In compliance with the Supreme Court order, the GOI notified (April 2004) the Compensatory Afforestation Fund Management and Planning Authority (CAMPA). Accordingly, a CAMPA Fund was constituted. Receipt of all money from user agencies towards NPV, were to be credited to this fund.

The NPV was to be charged in all cases where final approval was given after the date of the Supreme Court order. GOI further clarified (November 2005) that NPV was also to be charged in all such cases which were originally approved by the Ministry prior to the Supreme Court order but which subsequently got their lease period extended by the Ministry after the date of the Supreme Court order.

Audit scrutiny (December 2010) revealed that the department delayed the issue of a demand notice by 22 months (October 2007) to a user agency whose mining lease was extended upto November 2007. The department adopted the rate of NPV at ₹ seven lakh per hectare of land considering the type of forest as moist mixed deciduous with density above 0.4. The party disputed (October 2007) the demand and agreed to pay at the rate ₹ 5.80 lakh per hectare instead of ₹ seven lakh per hectare. The Deputy Conservator of Forests (DCF) referred (January 2008) the matter to the Chief Conservator of Forests (CCF) and the CCF instructed (March 2009) the DCF after one year to initiate action as per the Apex Court's order. Accordingly, the DCF issued (August 2009) a demand notice to the agency for recovery of the NPV for 32 hectares of land at the rate of ₹ seven lakh per hectare (₹ 2.24 crore) plus interest at the rate of 5.5 *per cent* per annum from November 2005. The amount was still to be recovered (March 2011).

The delay in issue of the demand notice at the initial stage was further compounded by the delay at the CCF level. Further inaction by departmental authorities resulted in loss of interest of ₹ 65.71 lakh to CAMPA fund calculated at the rate of 5.50 *per cent*, besides the non-recovery of NPV of ₹ 2.24 crore.

The matter was referred to the Government (May 2011) and their reply is awaited (October 2011).

HEALTH DEPARTMENT

3.4.2 Irregular procurement of equipment

Goa Medical College procured Central Sterile and Supply Development equipment without observing the prescribed procedure of publicity.

The Central Vigilance Commission (CVC) Guidelines prescribe practices to be adopted for improvement in the procurement system. The guidelines call for issue of advertised/global tender inquiries and publication of the tender notices in International Trade Journals (ITJ) and selected national newspapers. The copies of the tender notices should be sent to all the registered/past/likely suppliers by registered post and also to the Indian missions/embassies of major trading countries in case of imported stores. Further, the guidelines also entail that technical specifications should be made generic in nature to provide equitable opportunities to the prospective bidders.

The Goa Medical College (GMC) decided (November 2008) to procure a new Central Sterile and Supply Development (CSSD) equipment under a buyback condition of the existing old equipment. A tender notice for supply and installation of the equipment was advertised (February 2009) and five offers were received. On opening of the technical bids, the purchase committee rejected the offers of three companies as they had submitted part offers. The full technical offers of M/s Maquet, Mumbai and M/s Entrack Corporation, New Delhi were considered. The technical offer of M/s Maquet, Mumbai was also rejected on the grounds of deviation from specifications for some items mentioned in the tender documents. Thus, the single financial offer of M/s Entrack Corporation was opened on 31 March 2009. The total financial offer was for CHF[1] 8,79,157 equivalent to ₹ 3.80 crore (at the then exchange rate) which was accepted without negotiation. An order was placed in October 2009 for supply of the equipment. The equipment was supplied in April 2010 at a total cost of ₹ 4.35 crore. (inclusive of all taxes, duties applicable, handling charges and cost of essential accessories).

Audit scrutiny (December 2010) revealed that M/s Entrack Corporation had initially approached (July 2008) the Health Minister with an offer to supply CSSD equipment manufactured by their Principal, M/s Belimed AG, Switzerland. The Minister forwarded the offer (July 2008) to the Secretary, Health, with instructions to put up the same to the Purchase Committee for early decision. The Purchase Committee decided (October 2008) to float tenders for the procurement. The Medical Superintendent, GMC prepared the tender documents, adopting the specifications of the equipment manufactured by M/s Belimed AG (as drawn from the catalogues and literature supplied by the Company). The tender specifications specifically indicated 'Belimed' make for some items. The department published the tender in two local dailies and one national daily only. Thus the department ignored the guidelines of the CVC for publishing in ITJs, as the equipment was an imported one.

The CSSD equipment offered by M/s Maquet was manufactured by their Principal M/s Getinge AG, Sweden, and their technical offer was as per the specifications of M/s Getinge. The purchase committee rejected the offer of M/s Maquet, without analyzing it, for not conforming to the specifications called for in the tender, even though the equipment currently in use at GMC had been supplied by M/s Getinge. M/s Maquet had also objected (February 2009) to the insertion of proprietary specifications, which were specific only to M/s Belimed, in the tender.

Audit observed that the process of procurement was clearly marked by a lack of transparency. The entire process of tendering and selection of the agency was pre-determined as the tender specifications were tailor-made for the equipment manufactured by M/s Belimed AG. Along with non-analysis of the specifications of M/s Getinge AG, the tendering process culminated in the consideration and acceptance of the single offer of M/s Entrack. Further, there was no specific demand for replacement of the existing equipment from GMC. The procurement was initiated at the instance of the Health Minister's directions on M/s Entrack's proposal.

Audit also observed that though the equipment was delivered in April 2010, it was installed and commissioned only in May 2011 as the site preparation and civil work was not completed by the Public Works Department. Consequently, the equipment procured at a cost of ₹ 4.35 crore remained idle for a year and major portion of the warranty period was exhausted without the equipment being put to use.

[1] Swiss Franc.

Thus, the Goa Medical College ignored the tendering requirements and failed to ensure the reasonableness of the single offer of ₹ 4.35 crore by eliminating the competitive offers in predetermined and non-transparent manner.

The matter was referred to the Government (May 2011) and their reply is awaited (October 2011).

FINANCE DEPARTMENT

3.4.3 Non-recovery of Labour Welfare Cess

Non-compliance of Government orders resulted in non-recovery of mandatory cess amounting to ₹ 9.21 crore.

The Government of India had enacted the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction workers' Welfare Cess Act, 1996. The Act aimed to regulate the employment and conditions of service of such workers and to provide for their safety, health and welfare.

The Government of Goa decided to collect cess under the above Acts from 1 January 2009. For this purpose, the Goa Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2008 was framed and notified in April 2008. The Goa Building and other Construction Workers' Welfare Board (Board) was constituted in July 2008 for providing and monitoring social security schemes and welfare measures for the benefit of the building and other construction workers in the state. Order for implementation of the Rules was issued in December 2008.

Under the provisions of these Rules, all Government departments, local bodies, public undertakings and other Government bodies, while executing construction works through contractors, were required to deduct a mandatory one *per cent* of the contractor's bill towards welfare cess. The cess so collected was to be remitted to the Board within 30 days, after appropriating one *per cent* of the amount so collected, towards cost of collection. In respect of private constructions, the local bodies were required to collect upfront an amount of one *per cent* of the estimated cost furnished along with the building plans submitted for approval and remit the same to the Secretary of the Board.

Test check (August 2010/March 2011) in audit revealed that the Government departments and Local Bodies in Goa failed to comply with the requirements of the above Act/Rules and were not collecting the cess as required. The observations made on inspection of various agencies were:

- Twenty five Public Works Divisions had together incurred expenditure of ₹ 736.23 crore on construction works during the period April 2009 to March 2011. However, labour welfare cess amounting to ₹ 7.36 crore was not recovered from the contractors.

- The Margao and Mormugao Municipal Councils had issued 511 construction licences during the period January 2009 to December 2010. Test check of 178 of these licences revealed non-recovery of the labour welfare cess amounting to ₹ 1.32 crore. Further, ₹ 7.84 lakh was also not collected from contractors bills paid during the same period.
- The Ponda Municipal council had issued 198 construction licences/ renewals during the period February 2009 to January 2011. Test check of 42 cases revealed non recovery of the cess amounting to ₹ 24.71 lakh.
- The North and South Goa Zilla Panchayats had paid ₹ 20.17 crore to the contractors in respect of 687 works executed during January 2009 to December 2010. However, cess amounting to ₹ 20.17 lakh was not collected.

Non-compliance of the Government orders therefore resulted in non-recovery of mandatory cess amounting to ₹ 9.21 crore (January 2011 to March 2011) and consequent non-availability of funds for labour welfare.

The matter was referred to the Government (June 2011). Their reply is awaited (October 2011).

3.5 General Paragraphs

3.5.1 Lack of response to audit findings

The Accountant General, Goa conducts periodical inspections of Government Departments as per the Audit Plan to test check the transactions and to verify the maintenance of accounting and other records as per the prescribed rules and procedures. These inspections are followed up with Inspection Reports (IRs) which are issued to the heads of offices and the next higher authorities to comply with the audit observations and to report compliance to the Accountant General. Half-yearly reports of pending IRs are sent to the Secretaries of each Department to facilitate monitoring of the audit observations and their compliance by the departments.

A review of the IRs issued upto December 2010 pertaining to 37 departments showed that 1,384 paragraphs relating to 369 IRs were outstanding at the end of June 2011. Failure to comply with the issues raised by Audit facilitated the continuation of financial irregularities and losses to the Government.

Year-wise position of the outstanding IRs and paragraphs is given in **Appendix 3.2**. Even the initial replies which were required to be received from the heads of offices within six weeks from the date of issue of the IRs, were not received upto June 2011 in respect of 358 paragraphs of 48 IRs.

It is recommended that Government should take appropriate steps to revamp the system of proper response to audit observations in the departments and ensure that a procedure exists for (a) action against the officials who fail to send replies to IRs/paragraphs as per the prescribed time schedule, and (b) action to recover loss/outstanding advances/ overpayments pointed out in audit, in a time-bound manner.

3.5.2 Follow-up on Audit Reports

As per the provisions contained in the Internal Working Rules of the Public Accounts Committee of the Goa Legislative Assembly, Administrative Departments were required to furnish Explanatory Memoranda (EM) duly vetted by the Office of the Accountant General, Goa within three months from the date of tabling of Audit Reports to the State Legislature in respect of the paragraphs included in the Audit Reports. In spite of this, there were 22 paragraphs/reviews in respect of which the EMs were not received as of August 2011 from the Administrative Departments, as shown below.

Audit Report	Date of tabling the Report	Number of Paragraphs & Reviews	Number of Ems received	Balance
2006-07	19 August 2008	14	10	4
2007-08	24 March 2009	10	8	2
2008-09	25 March 2010	12	4	8
2009-10	17 March 2011	8	--	8
	Total	**44**	**22**	**22**

Department-wise details are given in **Appendix 3.3**.