

**Public Works and Irrigation and Public Health Departments****3.1 Miscellaneous Works Advances****3.1.1 Introduction**

Miscellaneous Works Advances (MWA) is a transitory suspense head which is intended to record transactions relating to sales on credit, expenditure incurred on deposit works in excess of deposits received, losses, retrenchment error, etc. and other items of expenditure, the allocation of which can not be adjusted to the final head of account. Various items recorded temporarily by the Public Works (PW) and Irrigation and Public Health (IPH) Departments are required to be cleared promptly either by actual recovery or by transfer to relevant head of account under proper sanction of the competent authority. Items which may become irrecoverable should not be cleared unless ordered to be written off. Accumulation of heavy balances for a long time involve the risk of Government money not being realised as also indicative of hidden expenditure which has not been charged to concerned service heads over long periods and thus, conceals actual expenditure. Besides, instances of misclassifications and other losses, misappropriations and other irregularities may remain undetected.

**3.1.2 Scope of Audit and Objective**

In the course of test-checks during compliance audit in April-May 2011 in respect of outstanding balances under MWA in 21 divisions (PW: 12 divisions<sup>1</sup> and IPH: 9 divisions<sup>2</sup>), audit noticed that there was heavy accumulation of balances. A review of outstanding balances covering the period 2006-11 has been attempted to assess whether the Departments effectively monitored the suspense head to reduce the balances under MWA by pursuing the cases vigorously.

**3.1.3 Audit Methodology**

The position of outstanding balances in both the Departments was taken from respective year's Appropriation Accounts, prepared by A&E office and also obtained from the offices of the Engineer-in-Chief (E-in-C). Audit conclusions were drawn after scrutiny of records in divisions, audit analysis of available data, issue of audit memoranda and examination of the responses of various functionaries. The audit

<sup>1</sup> Bilaspur-I, Bilaspur-II, Ghumarwin, Karsog, Mandi, Padhar, Palampur, Shimla-I, Shimla-II, Shimla-III, Sundernagar and Mechanical, Bilaspur.

<sup>2</sup> Bilaspur, Ghumarwin, Karsog, Mandi, Padhar, Palampur, Shimla-I, Shimla-II and Sundernagar.

findings were intimated to the Heads of the concerned Departments and their replies, wherever received, have been appropriately incorporated in the Report.

### 3.1.4 Audit Findings

#### 3.1.4.1 Position of Outstanding Balances

Mention was made in paragraph 4.16 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Civil), Government of Himachal Pradesh regarding outstanding balances under MWA head in Public Works Department.

The Public Accounts Committee (PAC) in its 42<sup>nd</sup> Report (11<sup>th</sup> Vidhan Sabha) had expressed dissatisfaction on reply furnished by the PW Department relating to outstanding balances and directed the Department to furnish complete details alongwith reasons therefor. Action taken notes (ATNs) in compliance to observations of the PAC had not been submitted by the PW Department as of September 2011.

The year-wise position of overall outstanding balances lying under the head in respect of both the departments during 2006-11 is given below:

**Table-3.1.1: Details of outstanding balances, additions vis-à-vis clearance under MWA**

(₹ in crore)

Sr.No.	Year	Public Works Department				Irrigation and Public Health Department			
		Opening Balance	Additions	Clearance	Closing Balance	Opening Balance	Additions	Clearance	Closing Balance
1	2006-07	62.56	90.74	80.46	72.84	291.62	227.49	156.37	362.74
2	2007-08	72.84	94.10	71.31	95.63	362.74	221.96	194.98	389.72
3	2008-09	95.63	102.08	88.70	109.01	389.72	219.14	219.17	389.69
4	2009-10	109.01	157.46	95.35	171.12	389.69	136.65	140.86	385.48
5	2010-11	171.12	159.27	158.65	171.74	385.48	349.77	284.36	450.89

Source: Appropriation Accounts prepared by the A&E office

It can be seen from the above that in PW Department increase in outstanding balances was 175 per cent (31 March 2011) as compared to balances as on 1<sup>st</sup> April 2006 whereas in IPH Department increase in balances was 55 per cent during the corresponding period. It was noticed in audit that old cases had not been attended to vigorously by the Executive Engineers (EEs) of test-checked divisions in both the Departments as pointed out in succeeding paragraph 3.1.4.3.

#### 3.1.4.2 Trend Analysis

Year-wise position of outstanding balances in 21 test-checked divisions for the period 2006-11 and category-wise break-up of these balances are depicted in the following tables:

**Table-3.1.2: Year-wise breakup of outstanding balances in test-checked divisions**  
(₹ in crore)

Period	PWD	IPH Department
Prior to 2005-06	3.95	292.52
2006-07	35.08	0.34
2007-08	1.17	1.00
2008-09	6.36	0.48
2009-10	42.80	131.63
2010-11	22.74	1.77
<b>Total</b>	<b>112.10</b>	<b>427.74</b>

Source: Figures supplied by the respective divisions

While in five<sup>3</sup> selected divisions audit noticed decreasing trend in balances, in the remaining 16 divisions<sup>4</sup>, there was increase in balances during the preceding five years in PWD whereas in IPH Department there was increase in balances noticed during the years 2007-08 and 2010-11 over the corresponding previous years as detailed below:

**Table-3.1.3: Balances under the head MWA in 16 test-checked divisions where increasing trend was noticed**

(₹ in crore)

Year	PWD				IPH Department			
	Opening Balance	Additions during the year	Clearance during the year	Closing Balance	Opening Balance	Additions during the year	Clearance during the year	Closing Balance
2006-07	19.68	26.66	18.34	28.00	276.74	204.13	138.62	342.25
2007-08	28.00	31.88	15.31	44.57	342.25	195.12	175.88	361.49
2008-09	44.57	30.65	15.76	59.46	361.49	189.76	192.98	358.27
2009-10	59.46	72.99	26.66	105.79	358.27	120.36	121.66	356.97
2010-11	105.79	83.03	76.91	111.91	356.97	328.45	259.02	426.40

Source: Data compiled by audit from records of the test-checked divisions

It would be evident that the outstanding balance as on 31 March 2011 showed an increase of four and half times in PW Department and 54 per cent in IPH Department over the balances as on 1 April 2006. The clearance of outstanding balances were thus, not being pursued vigorously by the respective Departments.

Category-wise breakup of balances outstanding in 21 selected divisions is depicted in the following table:

<sup>3</sup> PW divisions: Bilaspur-I and Ghumarwin.

IPH divisions: Karsog, Palampur and Sundernagar.

<sup>4</sup> PW divisions: Bilaspur-II, Karsog, Mandi, Padhar, Palampur, Shimla-I, Shimla-II, Shimla-III, Sundernagar and Mechanical Bilaspur.

IPH divisions: Bilaspur, Ghumarwin, Mandi, Padhar, Shimla-I and Shimla-II.

**Table-3.1.4: Category-wise breakup of outstanding balances**

Sr. No.	Category	PWD		IPH	
		No. of cases	₹in crore	No. of cases	₹in crore
1.	Advance payments to firms/suppliers awaiting receipt of material or adjustment	672	108.19	229	295.67
2.	Recoveries from departmental officials on account of shortages/non-accounting of stores, etc.	426	1.19	161	0.19
3.	Recoveries against various divisions/departments	3	0.28	150	131.06
4.	Recoveries from various firms/suppliers/contractors on account of short supply of material, excess payments, etc.	195	0.76	66	0.22
5.	Recoveries from Assistant Engineers/Junior Engineers on account of un-authorized/irregular expenditure	---	---	3	0.003
6.	Amount recoverable on account of hire charges of vehicles/Machinery	547	1.25	194	0.28
7.	Amount recoverable on account of telephone trunk call charges and travelling allowance advance	203	0.05	96	0.009
8.	Miscellaneous items recoverable from different government non-government agencies	185	0.38	107	0.31
	<b>Total</b>	<b>2231</b>	<b>112.10</b>	<b>1006</b>	<b>427.742</b>

Source: Figures supplied by the respective divisions

It was noticed in audit that in seven<sup>5</sup> divisions balances of ₹7.09 crore (as per MWA Register) did not tally with the total of ₹5.71 crore reported by these divisions through their quarterly progress reports for the quarter ended March 2011. Hence, EEs concerned were not reporting correct position through the quarterly progress reports to SEs/E-in-C. Besides, debits and credits were not found updated in the MWA registers. The concerned EEs stated (April-May 2011) that discrepancies were due to wrong carry forward of the figures which needs to be reconciled by the divisions.

### 3.1.4.3 Analysis of outstanding amounts

#### • Non-recovery of long outstanding amounts

In 11<sup>6</sup> divisions, 763 items amounting to ₹1.09 crore (PW-282 items of ₹0.76 crore; I&PH: 481 items of ₹0.33 crore) pertaining to the period upto March 2000 were outstanding due to non-recovery of amounts from the concerned firms/suppliers, contractors, departmental officers/officials on account of short supplies, excess payments made, shortage/non-accountal of material and other miscellaneous recoveries.

Of these, 400 items involving ₹31.72 lakh pertained to the period July 1952 to March 1990. Since, these are the oldest cases pending recovery/adjustment for more

<sup>5</sup> PW divisions: Bilaspur-I, Bilaspur-II, Mechanical Bilaspur, Padhar, Palampur, IPH divisions: Bilaspur and Padhar.

<sup>6</sup> PW divisions: Bilaspur-I, Bilaspur-II, Mechanical Bilaspur, Shimla-I, Shimla-II and Shimla-III.  
IPH divisions: Bilaspur, Mandi, Palampur, Shimla-I and Shimla-II.

than 20 years, the chances of recovery of outstanding amounts from the concerned parties had, thus, become very remote and the whole amount *prime-facie* have become irrecoverable. No action had been taken by the concerned division to take up the matter with the E-in-C/ Government to get the amount written off.

While admitting the facts the concerned EEs stated (April-May 2011) that action to get the items written off would be taken by them.

- **Inter-departmental adjustments not done**

(i) Between September 2005 and November 2010 an advance payment of ₹169.81 crore on account of energy charges was made by IPH division-II, Shimla to HPSEB on behalf of all the IPH divisions of the State on the basis of Letter of Credit made available by the Government. The payment was debited to MWA against HPSEB. It was noticed in audit that the clearance of advance was not ensured thereafter by obtaining account of energy charges actually paid by the respective division and the whole amount remained outstanding as of May 2011. The EE, I&PH division-II Shimla stated that either the divisions had not issued the cheques as per budget allotment or adequate budget had not been provided to the various divisions to reduce the balance. The reply is not acceptable as budget for payment of energy charges of all the divisions was provided to the EE and clearance of debit under MWA should have been ensured by him after obtaining details of energy charges from the respective divisions.

(ii) Between August 2007 and September 2009, two divisions of PW Department paid ₹13.45 crore on behalf of other divisions/circle to Himachal Pradesh Gram Sadak Development Agency on account of refund of inadmissible expenses incurred under PMGSY works and charged it to MWA. The amount was subsequently not adjusted/cleared by making recoveries from the concerned divisions/circle and remained outstanding as of May 2011 under the suspense head (MWA).

- **Non-reconciliation of receipt of material**

In IPH division-I Shimla, an amount of ₹259.38 crore was advanced to HPSCSC Limited upto March 2011 for procurement of pipes on behalf of various divisions of the State. Out of this, pipes valuing ₹138.44 crore received upto December 2009 was reconciled and receipt of pipes valuing ₹120.94 crore was yet (May 2011) to be reconciled. On this being pointed out in audit, the Executive Engineer stated (May 2011) that reconciliation was being done to adjust the balance outstanding amount against the aforesaid Corporation.

In two divisions viz., Shimla-II and Shimla-III of PW Department, MWA register showed an amount of ₹85.91 crore outstanding as of May 2011 against four suppliers

on account of non-supply of bitumen. These payments pertained to the period from February 2006 to March 2011, and requires urgent reconciliation.

- **Misclassification of expenditure**

(i) In Mechanical Division, Bilaspur, ₹1.22 crore on account of repair charges of vehicles/machinery of six PW divisions was pending for recovery. This amount had been charged to stock manufacture head instead of 'MWA' against concerned divisions by the PWD without ensuring the recovery of expenditure from concerned divisions.

(ii) In eight<sup>7</sup> divisions (Four each in PW and IPH Departments), advance payments totalling ₹19.67 crore was made between March 2007 and March 2011 to Himachal Pradesh Agro Industries Corporation (HPAIC) Limited (₹36.84 lakh) for procurement of bitumen, M/s Sood Steel Industries Private Limited, Kandrori, Bilaspur district (₹17.19 lakh) for supply of steel and Himachal Pradesh State Civil Supplies Corporation (HPSCSC) Limited (₹19.13 crore) for supply of cement and pipes. The cost of material was irregularly charged to various works instead of MWA pending receipt of material. In reply, the Executive Engineers stated that the advance was charged direct to work to utilise the budget available for the work. The reply is not acceptable as pending receipt of material, the amount should have been kept under suspense head.

(iii) In seven<sup>8</sup> divisions of IPH Department advance payment of ₹20.67 crore was made to Himachal Pradesh State Electricity Board (HPSEB) during March 2007 to March 2011 to execute works for supply of power to various water supply/irrigation schemes against the estimate furnished by the HPSEB. The amount advanced was charged to respective work instead of "MWA" pending execution of works thereby leaving no scope for control over the expenditure. The EEs concerned stated that the advance was charged direct to work to utilise the available funds under the work. The reply is not acceptable as depiction of expenditure in works accounts without actual execution of work showed incorrect preparation of works accounts, besides, concealment of expenditure.

- **Non-recovery of amount from daily wages/work charged staff on account of insurance premium**

On behalf of all the divisions of PW and IPH departments, PW division, Shimla-III and IPH division, Shimla-I, paid ₹6.49 crore and ₹50.84 lakh respectively to New India Assurance Company, Shimla on account of premium under Janta Personal

<sup>7</sup> PW divisions: Ghumarwin, Karsog, Padhar and Shimla-I.

IPH divisions: Karsog, Padhar, Shimla-I and Sundernagar.

<sup>8</sup> Bilaspur, Ghumarwin, Karsog, Mandi, Padhar, Palampur and Sundernagar.

Accident Assurance scheme in respect of daily wages workers and work charged staff employed in various divisions of both the departments.

The payment of premium in PW Department pertained to the period 1995-96 to 2004-05 whereas in IPH Department it pertained to 2004-05. Of this, ₹5.30 crore was recovered from the workers/staff and subsequently cleared from MWA, leaving ₹1.70 crore (PWD: ₹1.19 crore; IPH: ₹0.51 crore) outstanding as of April 2011, which needs to be reconciled by the respective Departments.

- **Other deficiencies**

In Palampur PW division, ₹10.78 lakh in 20 cases relating to supply of petrol during August 2006 to February 2008 was shown recoverable from AE Mechanical Sub-division Dharamsala. The Executive Engineer stated (April 2011) that the petrol was received but had not been properly reconciled with reference to voucher, goods received sheets and log book. Non-reconciliation of above items since long resulted in unnecessary accumulation of balances under MWA.

Similarly, in Bilaspur-II PW division, two *per cent* Value Added Tax (VAT) deducted at source from various contractors between February 2004 and January 2009, was not deposited into Government account immediately and penalty of ₹4.04 lakh by way of interest for late deposit was imposed by the Assistant Excise and Taxation Commissioner, Bilaspur. The amount of penalty paid (March 2010) was charged to MWA. No investigation for delay in this regard and irregular debiting of the amount in March 2010 was done by the Department. Further, action to clear this item was awaited (September 2011).

#### 3.1.4.4 Expenditure on deposit works in excess of deposits received

Expenditure incurred on 90 deposit works undertaken by 11 divisions (PWD: six; IPH: five) during the period from 1994-95 to 2010-11 amounting to ₹27.65 crore against deposits of ₹23.35 crore exceeded the deposits received. It was noticed in audit that expenditure incurred in excess of deposits (₹4.30 crore) received had neither been charged to MWA as required under the rules nor any efforts to recoup the excess expenditure was made by the concerned divisions.

#### 3.1.4.5 Negative Balances

In eight divisions<sup>9</sup>, 60 items amounting to ₹18.66 crore and pertaining to the period 1981-2009 represented negative balances. The negative balances were on account of non-linking of debits/credits, etc., and was indicative of improper maintenance of records by the divisions.

<sup>9</sup> PW Divisions: Bilaspur-I, Bilaspur-II, Padhar and Shimla-II.  
IPH Divisions: Bilaspur, Palampur, Shimla-I and Shimla-II.

#### **3.1.4.6 Defects in maintenance of records**

MWA registers had not been maintained properly in any of the divisions of PW and IPH Departments test-checked. Year-wise break up of outstanding items was not available and the registers had not been reviewed by the EE for taking effective steps to clear old outstanding items. Follow up action for the adjustment/recovery of items placed under MWA was lacking and thus, needs to be strictly followed up by the divisions concerned.

#### **3.1.5 Monitoring**

The position of outstanding balances under the head-MWA is reported by the divisions to the concerned Superintending Engineer through quarterly progress reports for onward transmission to the Engineer-in-Chief.

It was noticed that the system of monitoring did not prove to be effective as the reports submitted by the EE merely indicated the increase and decrease in balances. No attempt to analyse and conduct an in-depth study of old outstanding items to find out the constraints in settling the older items had been made and consequently, progress of clearance of older items was not satisfactory.

Government had not prescribed any system of monitoring the progress of clearance of outstanding balances. The absence of such a system also contributed to non-clearance of heavy balances and thus, a mechanism in this regard needs to be evolved.

#### **3.1.6 Recommendations**

- *Since heavy balances under suspense head are indicative of hidden expenditure, Government should consider evolving a time bound system of monitoring of balances and fix quarterly target for all the EEs for clearance of suspense account. Keeping huge amounts of nearly ₹600 crore in suspense account of these two Departments is not a healthy trend for a financially deficit State.*
- *Quarterly progress reports submitted by the EEs to Superintending Engineer and Engineer-in-Chief should also indicate efforts taken to reduce the balances and reasons for non-clearance of balances. In the event of inaction/ laxity on the part of EEs, responsibility should be fixed and appropriate action taken against them.*

The audit findings were referred to the Government in July 2011. Reply had not been received (September 2011).



## Horticulture Department

### 3.2 Market Intervention Scheme

#### 3.2.1 Introduction

In order to ensure remunerative price to apple growers and to protect them from exploitation by middlemen in the event of fall in prices below economical level, the State Government has been implementing Market Intervention Scheme (MIS) for the procurement of 'C' grade apples since 1990-91 in collaboration with GoI. The Department of Horticulture (Department) is the State administrative body responsible for ensuring its effective delivery. The Department submits the detailed proposals under the scheme for the approval of the State Government. Himachal Pradesh Horticultural Produce Marketing & Processing Corporation Limited (HPMC) and Himachal Pradesh State Cooperative Marketing and Consumers Federation Limited (HIMFED), are the designated procurement agencies (PAs) in the State. PAs procure apples from the growers and sell these in terminal markets, process certain quantity of apples in their own plants and get the deficit/loss, if any, reimbursed from the State Government. For quick and efficient implementation of MIS, GoI issued (July 2001) guidelines which, *inter alia*, stipulate that the:

- Market Intervention Price (MIP) should not exceed the cost of production;
- Stock will be purchased from Cooperative Societies, Farmers' organisations or directly from farmers; and
- Disposal price will be fixed by the implementing agency and monitored by the committee after considering the circumstances of each case.

#### 3.2.2 Scope of Audit and objective

Test-check of records of Senior Marketing Officer (SMO), Department of Horticulture and its PAs viz., HPMC and HIMFED covering the five years period (2006-11) was conducted with the objective of assessing MIS implementation and to assess if the intended benefits of the MIS accrued to the farmers.

#### 3.2.3 Financial Management

Total quantity of apples procured, their value and the loss reimbursed by the State Government and Central Government under MIS during 2006-11 are as follows:

**Table-3.2.1: Total loss under the scheme during the period 2006-11**

(₹ in crore)

Year	Quantity procured (In M.T.)	Value of procured fruit	Handling Charges	Total cost	Actual returns	Total loss	Percentage of loss against total cost
2006-07	9,569	4.07	1.38	5.45	2.95	2.50	46
2007-08	29,427	13.98	4.40	18.38	7.72	10.66	58
2008-09	45,741	24.01	6.23	30.24	4.86	25.38	84
2009-10	912	0.48	0.14	0.62	0.28	0.34	55
2010-11	1,11,154	58.36	16.26	74.62	6.91	67.71	91
<b>Total</b>	<b>1,96,803</b>	<b>100.90</b>	<b>28.41</b>	<b>129.31</b>	<b>22.72</b>	<b>106.59</b>	

Source: Departmental figures

As can be seen from the above table, under MIS during 2006-11 actual return was ₹22.72 crore against the total cost of ₹129.31 crore resulting in loss of ₹106.59 crore and the percentage of loss ranged from 46 to 91. There was an increasing trend in loss year after year except in the year 2009-10 and the PAs incurred huge losses during 2008-09 and 2010-11 respectively.

As per GoI's guidelines for apportionment of loss between Central and State Government in equal proportion, the amount of loss was required to be restricted to ₹32.34 crore i.e. 25 per cent of procurement cost (₹129.31 crore). Hence, the liability to reimburse the loss by Central and State Government was ₹16.17 crore each during 2006-11 as per details given below:

**Table-3.2.2: Excess reimbursement of loss by the State Government**

(₹ in crore)

Year	Total loss	Loss reimbursed by State Government	Loss reimbursed by Central Government	Actual 25 per cent of procurement cost to be reimbursed by GoI/State Government	State Govt. Share of loss to be reimbursed to PAs	Central Govt. share of loss to be reimbursed to the PAs through State Government	Excess payment of loss reimbursed by the State Government
2006-07	2.50	2.50	Nil	1.36	0.68	0.68	1.82
2007-08	10.66	8.76	1.90	4.60	2.30	2.30	6.46
2008-09	25.38	23.48	1.90	7.56	3.78	3.78	19.70
2009-10	0.34	0.34	Nil	0.16	0.08	0.08	0.26
2010-11	67.71	36.82 <sup>@</sup>	Nil	18.66	9.33	9.33	27.49
<b>Total</b>	<b>106.59</b>	<b>71.90</b>	<b>3.80</b>	<b>32.34</b>	<b>16.17</b>	<b>16.17</b>	<b>55.73</b>

Source: Departmental figures

@ Advance amount only.

Audit found that while the State Government reimbursed ₹71.90 crore to the PAs against its due share of ₹16.17 crore, the Central Government had reimbursed only ₹3.80 crore during 2006-08 and reimbursement of remaining ₹12.37 crore for the

years 2006-07 and 2009-11 was not made as of June 2011. Senior Marketing Officer (Horticulture) stated (July 2011) that the GoI did not sanction MIS for 2006-07 and 2009-10. It was further stated that during 2007-08, 2008-09 and 2010-11, the loss was on higher side because of increase in production of crop and heavy procurement.

The reply is not tenable as the Department should have taken steps to get the scheme approved for 2006-07 and 2009-10 from the GoI. Further, the contention that the increase in production and heavy procurement is also not valid as cost price should have come down due to heavy production/procurement.

- As shown in table 3.2.2, the Central Government did not release any amount under MIS during 2006-07, 2009-10 and 2010-11 because of the Department's failure to take timely action for getting the MIS approved by the GoI. As a result, the State Government had to bear the entire loss that occurred during these years.
- As per MIS guidelines, the loss, if any, under the MIS is to be shared on 50:50 basis between Central and State Government concerned. The Government shall, however, bear its share of loss incurred in the market intervention operations upto the extent of 25 *per cent* of the procurement cost which shall include the MIP paid to the farmers and overhead expenses. If there is any loss beyond this limit, the same shall be borne by the procuring agencies. At the same time, if there is any profit in the MIS operations, the same shall be retained by the procuring agencies.

As against the 50 *per cent* share of loss aggregating ₹16.17 crore to be reimbursed by the State Government during 2006-11 under the scheme, the State Government reimbursed ₹71.90 crore resulting in excess reimbursement of ₹55.73 crore which was actually to be borne by the PAs as required under MIS guidelines.

Against the loss of ₹67.71 crore sustained under MIS-2010 (July to October 2010), the State Government had released (between July 2010 and March 2011) ₹36.82 crore<sup>10</sup> to the PAs. Due to non-finalisation of claims by the State Government, the claim from the Central Government had also not been received as of May 2011. Resultantly, the farmers, being the ultimate beneficiaries, remained deprived of their dues since October 2010.

The Senior Marketing Officer (Horticulture) stated (July 2011) that the loss for the year 2010-11 would be sanctioned and released by GoI after vetting of accounts. The reply is not acceptable as the accounts should have been furnished in time to avoid delay in finalisation of claims of the beneficiaries.

<sup>10</sup> July 2010: ₹8.00 crore; January 2011: ₹3.02 crore; February: ₹3.40 crore and March 2011: ₹22.40 crore.

### 3.2.4 Sale of apples at lesser price by Procurement Agencies

The designated PAs were to procure “Fair Average Quality” (FAQ) apples in their collection centres and were required to dispose off these apples in the open market at maximum realisable rates. Further, as per July 2001 guidelines and GoI's instructions (August 2007 and July 2010), the Department was required to ascertain current ruling rates and expected rates during MIS operations at terminal markets to keep a watch over market rates. The State Government was required to provide market intelligence to the PAs for disposal of the stock at maximum realisable rates so as to reduce the burden of losses to the Government. During 2004-05, a Committee consisting of a member from Department of Horticulture alongwith members from PAs was constituted to watch auction process at Parwanoo but thereafter such committees were constituted by PAs at their own level.

Scrutiny of the subsidy claims for MIS-2006 to 2010 revealed that PAs had realised the amount by way of sale/processing of apples at lesser prices than the return assumed by the Government which resulted in short realisation of ₹15.29 crore<sup>11</sup> during 2006-09. These PAs did not even inform the Government about the selling rates of grade 'C' apples (FAQ) during MIS operations and had not sought prior approval of the Government to sell the apples at lesser prices. However, the Government accorded (May 2007, June 2008 and July 2009) ex-post facto approval for sale of apples at lesser value.

The Department while confirming the facts stated that daily sales reports were not received from PAs. The reply is unacceptable as the Department should have called for the daily sales records about the ruling market prices during MIS operations. Besides, the Department did not deploy any of its departmental officers to keep a watch over the market trend/sale realisation after 2004-05. Thus, acceptance of claims below the assumed return without ascertaining the causes of short realisation put the Government to a loss of ₹15.29 crore during MIS 2006 to 2009. However, claims of PAs amounting to ₹67.71 crore for MIS-2010 had not yet (August 2011) been finalised.

### 3.2.5 Opening of unsuitable collection centres

As per directions (November 2008) of the State Government, a Committee consisting of three members viz., Marketing Officer HPMC, Manager Marketing HIMFED and Joint Director (Horticulture Department) was constituted (November 2008) by the Director, Horticulture to assess the losses and write off of the rotten apples at procurement centres. During visits to 50 collection centres in November 2008, the

<sup>11</sup> 2006-07: ₹0.72 crore; 2007-08: ₹4.00 crore and 2008-09: ₹10.57 crore.

Committee found that 19 collection centres<sup>12</sup> were unsuitable as there was no space for grading/stacking of apple bags and the condition of road was also bad. The Committee recommended (November 2008) to minimise the number of centres in future and open centres only at places having proper infrastructure.

Scrutiny of records revealed that despite the committee's clear recommendations, 19 collection centres (HIMFED: 14 and HPMC: five) were again set up at the same places during MIS-2010. Consequently, there had been spoilage of 11,372.88 MTs of apples in these centres due to lack of proper space for grading/stacking and transportation facility, which created an avoidable liability on account of loss reimbursement of ₹5.97 crore for the State Government.

The Department, while confirming the facts, stated that the collection centres were opened with the approval of Government. The reply is not acceptable as these collection centres were opened in violation of the recommendations made by the Committee constituted during MIS-2008. Thus, opening of collection centres during MIS-2010, without ascertaining the feasibility resulted in avoidable liability of ₹5.97 crore to the Government as the final claims of PAs were yet (May 2011) to be adjusted.

### 3.2.6 Excess payment of handling charges

According to guidelines/instructions issued (July 2001 and October 2010) by GoI and further clarified (April 2011) by SMO that under the MIS, handling charges/overhead expenses (which include expenditure incurred on statutory taxes, i.e. the market/mandi sale/purchase tax, commission payable to the agents, grading, labour and packing charges, etc.) were permitted to be reimbursed to the PAs. However, handling charges/overhead expenses did not include TA-DA/salary of staff of PAs.

Scrutiny of records revealed that HPMC and HIMFED had been reimbursed ₹12.13 crore as handling charges/overhead expenses during 2006-09 by the State Government, which included ₹2.45 crore<sup>13</sup> on account of TA-DA/salary of staff engaged in the procurement of apples under MIS. Thus, inadmissible reimbursement of TA-DA/ Salary of staff as handling charges resulted in excess payment of ₹2.45 crore to the PAs. Further, these PAs had also claimed ₹21.67 crore (inclusive of TA-DA/ Salary) on account of handling charges during 2010-11 but the payment was yet (May 2011) to be released by the State Government.

The Department while confirming the facts, stated (April 2011) that the matter would be brought to the notice of HPMC/HIMFED as well as the State Government to adjust/recover the excess payment.

<sup>12</sup> Arhal, Bachhan Nalla, Bartoo, Bashla, Bindal Kainchi, Dalgaon, Giltari, Jachli, Jhagtan, Jharag, Mandal, Madot, Nakrari, Nalia, Nandpur, Pokta, Pujarli, Ramnagri and Shrontha.

<sup>13</sup> 2006-07: HPMC: ₹0.16 crore; HIMFED: ₹0.15 crore; 2007-08: HPMC: ₹0.49 crore; HIMFED: ₹0.42 crore; 2008-09: HPMC: ₹0.57 crore; HIMFED: ₹0.63 crore and 2009-10: HPMC: ₹0.02 crore; HIMFED: ₹0.01 crore.

### 3.2.7 Excess payment of subsidy

HPMC, Shimla had claimed (February 2009) subsidy of ₹12.15 crore on account of loss for MIS-2008, which was paid by the Director of Horticulture between July 2008 and June 2009. Later on (September 2009), ₹0.22 crore was disallowed on account of handling charges of spoiled fruit which was neither adjusted nor refunded to Government (May 2011). This resulted in excess payment of subsidy to the extent of ₹0.22 crore to HPMC.

Further, the State Government sanctioned (June 2009) ₹three crore in favour of HPMC to defray the pending liability of MIS-2008 and the amount was paid to HPMC (July 2009) which was over and above the claim of ₹11.93 crore (₹12.15 crore-₹0.22 crore) already paid to HPMC. Thus, ₹3.22 crore (₹0.22 crore + ₹3.00 crore) had been paid in excess to the HPMC for MIS-2008.

Thereafter, the State Government sanctioned (December 2009) ₹2.68 crore provided by the Planning Department under MIS to HPMC for clearing the pending liability of apple growers. The amount was paid to HPMC in December 2009. Audit scrutiny revealed that the Director of Horticulture did not intimate the factual position to the State Government that a sum of ₹3.22 crore had already been paid in excess to the HPMC against their claim for MIS-2008. Thus, against the claim of ₹11.93 crore, an amount of ₹17.83 crore<sup>14</sup> was paid to HPMC by the Director, Horticulture. This resulted in overall excess payment of ₹5.90 crore for MIS-2008.

The Department did not furnish any specific reasons for excess payment, but stated that in case, HPMC failed to deposit the said amount, the same would be adjusted in the final claims of MIS-2010.

### 3.2.8 Recommendations

The State Government may:

- *treat loss-reimbursement only a transitory phase towards achieving self-reliance in apple horticulture. The State Government should plan and evolve a time-bound scheme to promote self-reliance;*
- *evolve a system of ascertaining the actual amount of handling charges/overhead expenses payable to PAs;*
- *open viable collection centres at appropriate places for procurement of apples to reduce spoilage in the collection centres caused by lack of space, etc;*
- *release the amount of subsidy keeping in view the actual permissible claims of PAs; and*
- *devise an appropriate internal control and monitoring mechanism for effective, efficient and economical operation of MIS.*

The audit findings were referred to the Government in July 2011. Reply had not been received (September 2011).

<sup>14</sup> (₹12.15 crore + ₹3.00 crore + ₹2.68 crore).

## Industries Department

### 3.3 Illegal mining in Himachal Pradesh

#### 3.3.1 Introduction

To regulate exploitation of minerals in the State, minerals have been categorised as 'major' and 'minor' minerals. Building stone, gravel, ordinary clay, ordinary sand, boulder, limestone used for manufacture of lime, slates, shale, etc., used as building material fall under the category of minor minerals whereas gypsum, barytes, magnesite, dolomite, etc., are grouped under major minerals. Extraction of major minerals is governed by the Mines and Minerals (Development and Regulations) (MMDR) Act, 1957 and Mineral Concession Rules, 1960. The Himachal Pradesh Minor Minerals (Concession) Revised Rules (HPMMCRR) 1971, issued by the State Government under Section 15 of the Act *ibid*, govern the levy, assessment and collection of receipts from minor minerals which consist of royalty, dead/surface rent, fees and fines. Further, Rule 45, 53 and 57 of HPMMCRR, 1971 deal with penalty, unauthorised mining and illegal transportation of minerals.

Principal Secretary (Industries) is the administrative head while Director of Industries is the head of the Department assisted by State Geologist and eight Mining Officers (MOs) who are responsible for collection of mineral receipts and all other mining activities in the State.

#### 3.3.2 Scope of Audit

Records maintained in the offices of the State Geologist, Shimla, five MOs<sup>15</sup> and four Executive Engineers (Ees)<sup>16</sup> of HPPWD for the period 2006-11 was reviewed in Audit during April-May 2011.

#### 3.3.3 Audit Findings

##### 3.3.3.1 Non-preparation of comprehensive mining policy

Audit scrutiny revealed that the Department had neither made any assessment of the existence of total minor minerals in the State nor any vision document/comprehensive mining policy had been prepared for its exploitation. The Director stated (September 2011) that the Department had prepared survey documents of five<sup>17</sup> districts which depicted the details of mineral resources of various rivers/stream beds. It was further stated that study of other districts could not be taken up due to paucity of staff and implications of Forest Conservation Act (FCA), 1980. The survey documents for other districts are under preparation. The fact remains that the

<sup>15</sup> Bilaspur, Kangra, Mandi, Shimla and Solan.

<sup>16</sup> Bilaspur Div-I and Div-II, Solan and Theog.

<sup>17</sup> Hamirpur, Kinnaur, Kullu, Solan and Una.

Department could not prepare a comprehensive inventory of minerals and a vision document for scientific exploitation of minerals in the State.

### **3.3.3.2 Non-auctioning of mining sites falling in the forest land**

Minor minerals like sand, stone and bajri are abundantly available in the river beds/khuds/quarries, most of which fall in the forest land. Wastelands where the Government has proprietary rights was categorised as forest land in 1952 in all the districts in the State which attract the provisions of FCA, 1980. Since the FCA prohibits use of forest land for non-forestry purposes, mining activities have been confined to private land only. The demand for minor minerals increased due to its consumption in works of constructional departments/agencies like Himachal Pradesh Public Works Department (HPPWD), Housing Board, etc.

The Industries Department was not in a position to auction mines falling in the forest land and thus, all the mineral resources in forest lands remained untapped and stood exposed to illegal mining. As per statistics based on minor minerals consumption, 70 per cent of minor mineral consumption is reported in departments/agencies like HPPWD, Housing Board, IPH Department, etc. These departments/agencies had an indirect control of mining activity by way of verification of raw material at source. However, they did not take adequate steps to check the menace of illegal mining. On this being pointed out, the Director stated (September 2011) that to exploit the mineral wealth available in the forest land, the State Government is required to pay Net Present Value (NPV) to the GoI and when the cases were sent to Forest Department, the NPV assessed was much higher than the expected mineral wealth and therefore, the possibilities of exploiting mineral wealth in forest area was not explored by the Department.

The Forest Department clarified (September 2010) that 1952 notification is not applicable to lands vested in the State Government under Himachal Pradesh Land Ceiling and Land Holdings Act 1972; and Himachal Pradesh Village Common Land (Vesting and Utilisation) Act 1974, if not clearly declared as forest and thus, open for mining activities.

The Industries (Mining) Department, however, did not take steps to identify minerals on lands specified in above Acts for the past 37-38 years since the passage of above Acts. The Director stated (September 2011) that District Mining Officers are being asked to identify such land. This is indicative of the lackadaisical approach of the Department towards stoppage of illegal mining in the State.

### **3.3.3.3 Detection of offence cases of illegal mining**

(i) The MMDR Act, 1957 provides that no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the



terms and conditions of a reconnaissance permit or of a prospecting license or, as the case may be, a mining lease, granted under this Act and the rules made thereunder. The MOs in the State conducted raids on illegal mining operations. The year wise position of raids conducted, cases of illegal mining detected and fine realised during 2006-11 are as follows:

**Table-3.3.1: Illegal mining cases detected during the period 2006-11**

Sr.No.	Year	Raids conducted (In numbers)	Illegal mining cases detected (In numbers)	Cases compounded by the department (In numbers)	Fine imposed by the department (₹in lakh)
1	2006-07	2681	1623	417	25.13
2	2007-08	3392	2100	530	22.29
3	2008-09	3043	1611	445	18.60
4	2009-10	3691	2508	903	36.29
5	2010-11	3077	2537	1385	61.92
<b>Total</b>		<b>15884</b>	<b>10379</b>	<b>3680</b>	<b>164.23</b>

Source: Figures supplied by the Department

As no periodicity to conduct inspection/raids at different levels as well as to submit periodical returns was prescribed, the Department had not been regular in conducting raids which varied from 2681 to 3691 during 2006-11. Further, out of 10379 cases of illegal mining detected, 3680 cases were compounded. The details of illegal mining cases where fine was imposed by the courts during the period 2006-11 are as under:

**Table-3.3.2: Illegal mining cases where fine was imposed by Courts**

Sr. No.	Year	Cases lodged in the Court (In numbers)	Cases decided by the Court including old cases (In numbers)	Fine imposed by the Court (₹in lakh)	Total fine imposed during the period by the Department and Court (₹in lakh)
1	2006-07	884	1155	8.86	33.99
2	2007-08	1152	865	11.26	33.55
3	2008-09	986	861	13.91	32.51
4	2009-10	947	489	6.17	42.46
5	2010-11	797	321	4.10	66.02
<b>Total</b>		<b>4766</b>	<b>3691</b>	<b>44.30</b>	<b>208.53</b>

Source: Figures supplied by the Department

Of the 10379 illegal mining cases detected during 2006-11, 4766 cases were lodged in the courts and 3680 cases were compounded by the Department. There was nothing on record to indicate the action taken in respect of remaining 1933 cases. On this being pointed out, the concerned MOs<sup>18</sup> stated (April 2011) that due to shortage of staff and non availability of vehicles sufficient raids could not be conducted.

(ii) The State Government had authorised (March 2008) the departmental officers, Police, HPPWD, Irrigation and Public Health (IPH), Forest and Block Development

<sup>18</sup> Bilaspur, Mandi and Solan.

Officers (BDOs) to detect and make complaints in writing in the Court of competent jurisdiction.

Scrutiny of records revealed that 920 cases of illegal mining were detected by the officers/officials of SDOs (Civil), Police and Forest Departments during 2010-11. No case was reported by HPPWD and IPH departments which were major consumers of minor minerals whereas only one case was reported by BDO, Hamirpur.

The State Geologist stated (April 2011) that the officers of other Departments to whom powers had been delegated were not exercising their powers and that efforts were being made to coordinate with the departments to take effective steps for checking illegal mining.

#### **3.3.3.4 Non-imposition of penalty on contractors supplying minerals without Form 'M'**

The State Government rules stipulate that no person shall carry within the State a minor mineral by a vehicle, animal or any other mode of transport without carrying a pass in Form 'M'. The Rules also provide that holder of a mining lease or mining permit or a person authorised by him on his behalf shall issue a pass in Form 'M' duly countersigned by the concerned Mining Officer/General Manager, District Industries Centre or any other officer authorised on his behalf to every person carrying a consignment of minor mineral by a vehicle, animal or any other mode of transport. Further, the State Geologist issued (March 2007) instructions to all MOs, which, *inter alia*, provided that if illegal extraction is detected by engaging trucks, a fine not less than ₹0.05 lakh plus royalty, etc., would be imposed on the offender. The State Geologist had also requested (March 2009) the Chief Engineers, HPPWD and IPH departments that in order to ensure the legality of the materials (minor minerals like sand, stone aggregate, stone, etc.) brought in by the contractors, all EEs under their control be instructed to check Form 'M' at the time of payment of bills of the contractors. Cases in which the contractor fails to produce Form 'M', not only royalty as per rules should be recovered but penalty should also be imposed and matter reported to the concerned MOs.

Scrutiny of records of MOs Bilaspur, Shimla and Solan, EEs HPPWD Divisions, Bilaspur, Solan and Theog revealed that EEs deducted (September 2006-July 2010) ₹34.32 lakh as royalty from the contractors on 85,814.18 cubic metres<sup>19</sup> (160472.51 metric tonnes) of sand, stone and gravel supplied by them without producing Form 'M'. But neither the penalty on account of illegal mining was imposed nor was the matter reported to concerned MOs, for taking action under MMDR Act, resulting in a loss of ₹8.02 crore<sup>20</sup> to the Government due to non-imposition of penalty.

<sup>19</sup> Rate of Royalty ₹40 per cubic metre, 1 cubic metre = 1.87 tonne (calculated on average weight of sand, stone and concrete).

<sup>20</sup> Penalty @ ₹0.05 lakh per truck load i.e. 85814.19 cubic metres equal to 16047.25 truck load (one truck load = 10 tonne), worked out to ₹8,02,36,250/- or say ₹8.02 crore.

EEs, HPPWD, Bilaspur, Solan and Theog accepted (May 2011) that the sources from where the material was supplied by the contractors were not known. However, the royalty was being recovered wherever required. The fact, however, remains that they had failed to impose the required penalty and reporting the matter to concerned MOs for legal action under the Act.

MO, Solan stated (May 2011) that it was obligatory on the part of HPPWD not to take supplies from illegal sources of mining. State Geologist in his reply stated (May 2011) that the minerals consumed in the HPPWD works were extracted from legal source and there was no point of illegal activity. The reply of State Geologist does not explain as to how the minerals procured from contractors were extracted from legal source in the absence of requisite Form 'M'.

Thus, the inaction on the part of both the departments to detect illegal mining resulted in non imposition of penalty and consequential loss of ₹8.02 crore to the Government.

#### **3.3.3.5 Setting up of check posts**

The Minor Mineral Rules provide that the State Government may establish a check post for any area included in any mining lease or permit and when a check post is so established, public notice shall be given of the fact by publication in the Gazette and in such other manner as may be considered suitable by the State Government.

Scrutiny of records revealed that except in Kangra district, no other check posts had been established by the Department owing to non-availability of staff. Non-setting up of check posts resulted in non-checking of Form 'M' on the spot with consequent increase in cases of illegal mining which cannot be ruled out in such a situation.

#### **3.3.3.6 Manpower position in Mining Offices**

The shortages of staff in Mining Offices ranged between 16 and 63 *per cent* in different cadres which adversely affected checking of illegal mining and illegal transportation of minerals. The shortage at the MOs and Mining Inspectors (MIs) level in the Department was 63 and 40 *per cent* respectively.

- For Hamirpur, Kinnaur and Lahaul and Spiti districts neither any posts of MOs/MIs had been sanctioned by the State Government nor these were filled-up from amongst the existing staff.
- For Kullu district, the post of MO had not been sanctioned.

On this being pointed out, the Director stated (September 2011) that the Government is making serious efforts to fill these vacancies. Increase in cases of clandestine mining and illegal transportation of minerals due to shortage of staff especially key posts cannot be ruled out.

These shortages at various key positions implied that there is no control mechanism in place to check illegal mining activity in the State.

The persistent vacancies in various cadres had an adverse impact on mining operations which needs to be addressed by the State Government.

### **3.3.3.7 Training to officers/officials of the departments**

In the meeting of the State Geological Programming Board, the Principal Secretary (Industries) advised (July 2010) to chalk out a training programme, at each Sub-Division level, to impart training to officers/officials of the departments to whom the powers for checking illegal mining have been delegated, so that the incidence of unauthorised mining could be minimised. The State Geologist informed the Principal Secretary that MOs had been asked to conduct such trainings.

Audit scrutiny, however, revealed that no such training had been imparted to any official/officer of other departments as of April 2011 except one training session during 2010-11 held in Solan district for officers of Nalagarh Sub-Division.

In the absence of any training, the officials/officers of other departments to whom powers had been delegated were not well versed with the procedure to tackle the menace of illegal mining and therefore, training needs would require to be addressed properly by the Department.

### **3.3.3.8 Non-implementation of recommendation of State Level Committee**

The State Government Minor Mineral rules provide that no person shall undertake any operation in any area, except in accordance with the terms and conditions of the mining lease, contract or permit and any contravention shall be punishable with fine which may extend upto ₹5000 per truck load. The State Level Committee (SLC) under the Chairmanship of Principal Secretary (Industries) was constituted (January 2004) by the State Government to review action taken against illegal mining. In its meeting held in February 2007, SLC recommended amount of compounding fee not less than ₹5000 per offence if the illegal extraction is detected by engaging trucks. Further, the Hon'ble High Court of Himachal Pradesh passed an order (May 2010) directing the State Geologist to charge penalty by way of compounding fee in terms of amount prescribed by the SLC.

Scrutiny of records revealed that though the State Geologist issued (March 2007) instructions to all MOs to comply with the directions of SLC, no steps were taken to notify the change for incorporation in Rules. However, as per orders (May 2010) passed by the High Court, the Department took action to levy the compounding fee as recommended by SLC. Consequently, the parties involved were issued notices to deposit the enhanced compounding fee of ₹24.03 crore (₹24.09 crore minus ₹0.06 crore already realised). Audit scrutiny further revealed that an amount of ₹one crore had been recovered and the balance amount of ₹23.03 crore remained unrecovered as of April 2011 as the concerned parties moved the Court.

Thus, inaction on the part of the Department/Government to immediately implement the recommendations of SLC/ directions of Hon'ble High Court and also carry out necessary amendment in Rules, resulted in non-realisation of compounding fee of ₹23.03 crore.

**3.3.4 Recommendations**

The State Government may consider to:

- *prepare comprehensive mining policy for the State;*
- *prepare category-wise inventory of mines in the State;*
- *setting up of check posts in the authorised mining area;*
- *put in place a system for conducting inspection/raids at all mining sites at regular intervals by officers of the Department at different levels to check illegal mining;*
- *amend the penalty provisions in the HPMMCRR, 1971 to have deterrent effect on the offenders;*
- *address manpower issues in the Department; and*
- *evolve an effective system for proper coordination with other departments viz; Revenue, Forests, I&PH, HPPWD, Police and BDOs for checking illegal mining/transportation of minerals.*

The audit findings were referred to the Government in July 2011. Reply had not been received (September 2011).



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