

## CHAPTER-II

### 2.1 Review of the performance of Compensatory Afforestation in Uttar Pradesh

#### Executive summary

Section 2 (ii) of the Forest (Conservation) Act, 1980 provides that no State Government or other authority shall make, except with the prior approval of the Central Government any order directing that any forest land or any portion thereof may be used for any non-forest purpose. Forest land is usually diverted for non-forest purposes to facilitate developmental activities and whenever forest land is to be diverted for non-forest purposes, conditions such as providing equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation are to be imposed.

The Supreme Court of India directed (October 2002) that a Compensatory Afforestation Fund shall be created in which all the monies received from the user agencies shall be deposited. The Supreme Court of India later observed (May 2006) that the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) had still not become operational and ordered the constitution of an ad-hoc body (known as 'Ad-hoc CAMPA'), till CAMPA became operational. The Government of Uttar Pradesh established (August 2010) the Uttar Pradesh Compensatory Afforestation Fund Management and Planning Authority (UP State CAMPA) to promote conservation, protection, regeneration and management of existing natural forests and wildlife and compensatory afforestation in the State.

Major audit findings are discussed below:

#### **Diversion of forest land and Compensatory Afforestation**

Non-forest land measuring 8,790.18 hectare valuing ₹ 615.31 crore was not received from user agencies in respect of forest land diverted for non-forest purposes.

*The Government should ensure that equivalent non-forest land is received in all eligible cases of diversion of forest land.*

**(Paragraph 2.1.9)**

Forest land measuring 438.936 hectares was used for non-forest purposes by user agencies without approval of the Government of India (GoI).

*The Government should ensure that forest land is not diverted for non-forest purposes without prior approval of GoI and recovery of applicable charges.*

**(Paragraph 2.1.10)**

#### **Collection of Compensatory Afforestation Funds**

The funds remitted by the UP State CAMPA to Ad-hoc CAMPA were not reconciled resulting in difference of ₹ 58.58 crore.

**(Paragraph 2.1.14)**

The UP State CAMPA remitted revenue collected from user agencies to Ad-hoc CAMPA with delay ranging between one and 394 days. Similarly, Divisions of the Forest Department which collected the funds from user agencies remitted the money with delay ranging between one and 805 days.

*The Government should ensure that funds collected from user agencies are remitted to the Ad-hoc CAMPA timely.*

**(Paragraph 2.1.15)**

A sum of ₹ 16.23 crore realised as premium of land from user agencies was not remitted to Ad-hoc CAMPA and was irregularly treated as revenue receipt of the State.

**(Paragraph 2.1.17)**

Demand of ₹ 54.11 crore for cost of land equivalent to 10 meter strip was not raised to National Highways Authority of India.

**(Paragraph 2.1.18)**

Net Present Value amounting to ₹ 3.01 crore was not recovered from a user agency and excess Net Present Value of ₹ 80.58 lakh was recovered from user agencies due to wrong classification of diverted forest land.

*The Government should ensure that the amount of net present value is recovered from user agencies as per guidelines/norms.*

**(Paragraph 2.1.19)**

#### **Utilisation of Compensatory Afforestation funds**

The UP State CAMPA utilised only 53.51 *per cent* of the total amount released by Ad-hoc CAMPA leading to accumulation of ₹ 52.50 crore with the UP State CAMPA.

**(Paragraph 2.1.20)**

#### **Monitoring Mechanism**

No independent system of monitoring and evaluation was evolved by the UP State CAMPA.

*The Government should ensure that proper monitoring and evaluation system is evolved to implement the scheme of afforestation approved under CAMPA.*

**(Paragraph 2.1.27)**

### **Introduction**

**2.1.1** Section 2 (ii) of the Forest (Conservation) Act, 1980 provides that no State Government or other authority shall make, except with the prior approval of the Central Government any order directing that any forest land or any portion thereof may be used for any non-forest purpose. Forest land is usually diverted for non-forest purposes<sup>1</sup> to facilitate developmental activities like construction of power projects, irrigation projects, roads, railways, schools, hospitals, rural electrification, telecommunication, drinking water facilities, mining etc.

As per clause 4.2 of the Guidelines issued for implementation of the Forest (Conservation) Act, 1980 (Act), forestry clearance for diversion of forest land will be given in two stages. In the first stage, the proposal shall be agreed to in

<sup>1</sup> "Non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants; (b) any purpose other than reforestation; but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes (explanation to Section 2 of Forest (Conservation) Act, 1980).

principle in which usually the conditions relating to transfer, mutation and declaration of Reserve Forest/Protected Forest under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof are stipulated and after receipt of compliance report from the State Government in respect of the stipulated conditions, formal approval under the Act shall be issued.

The Supreme Court of India directed (October 2002) that a ‘Compensatory Afforestation Fund’ (CAF) shall be created in which all the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, catchment area treatment plan funds, etc. shall be deposited. Such funds were to be used for artificial regeneration (plantation), assisted natural regeneration, protection of forests and other related activities.

#### ***Formation of Ad-hoc CAMPA***

**2.1.2** The Government of India (GoI) constituted<sup>2</sup> (April 2004) the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) for management of money collected towards compensatory afforestation, net present value, etc.

In May 2006, the Supreme Court of India observed that CAMPA had still not become operational and ordered the constitution of an ad-hoc body (known as ‘Ad-hoc CAMPA’), till CAMPA became operational. After constitution of the Ad-hoc CAMPA all the monies collected from 30 October 2002 by the State Governments and the Union Territories were to be transferred to the Ad-hoc CAMPA.

#### ***Formation of State CAMPA***

**2.1.3** The GoI framed (July 2009) ‘The Guidelines on State Compensatory Afforestation Fund Management and Planning Authority (State CAMPA)’ for establishing CAMPAs in the States/ Union Territories and putting in place a funding mechanism for enhancing forest and tree cover and conservation and management of wildlife by utilising funds received towards Compensatory Afforestation, Net Present Value (NPV), etc. currently available with the Ad-hoc CAMPA. The guidelines were approved (July 2009) by the Supreme Court of India and circulated (July 2009) by the GoI to all States/Union Territories.

As per the guidelines, State CAMPA was mandated to promote:

- conservation, protection, regeneration and management of existing natural forests;
- conservation, protection and management of wildlife and its habitat within and outside protected areas including the consolidation of the protected areas;
- compensatory afforestation; and
- environmental services, research, training and capacity building.

In compliance to the aforesaid guidelines, the Government of Uttar Pradesh (GoUP) established (August 2010) the ‘Uttar Pradesh Compensatory Afforestation Fund Management and Planning Authority’ (UP State CAMPA)<sup>3</sup>.

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<sup>2</sup> Order No.5-1/98-FC dated the 23 April, 2004, published in the Gazette of India Extraordinary vide S. O. 525(E)  
<sup>3</sup> Registered as a Society under the Societies Registration Act, 1860.

The State CAMPAs function through a three-tier committee hierarchy comprising of the Governing Body, the Steering Committee and the Executive Committee.

The review of the performance of compensatory afforestation in Uttar Pradesh was conducted to review the compliance of the concerned Acts, Rules and guidelines by the GoUP as well as by the UP State CAMPA.

### **Audit Objectives**

**2.1.4** The objectives of this review of the performance of compensatory afforestation in Uttar Pradesh were to examine:

- whether the diversion of forest land for non-forest purposes was permitted as per extant laws and all conditions in this regard were complied with;
- whether measures taken for conservation, afforestation and preservation of forest lands consequent to diversion of portions of these lands for non-forest purposes was as per provisions of extant legislations, rules and judgments/orders of the Supreme Court of India; and
- whether the collection, utilisation, monitoring, accounting and arrangements for safeguarding of Compensatory Afforestation Funds was in compliance with applicable legislations, rules and judgments/orders of the Supreme Court of India.

### **Audit Criteria**

**2.1.5** The review of the performance of compensatory afforestation in Uttar Pradesh was benchmarked against the criteria derived from the following sources:

- Indian Forest Act, 1927
- Wild Life (Protection) Act, 1972
- Forest (Conservation) Act, 1980 as amended up to 1988.
- Forest (Conservation) Rules, 2003 as amended up to 2004.
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- Various Guidelines and orders issued by the GoI as per directives of Supreme Court of India.

### **Scope of Audit and Audit Methodology**

**2.1.6** This review of the performance of compensatory afforestation in Uttar Pradesh was conducted covering the period of six years from 2006-07 to 2011-12<sup>4</sup>. We covered 39 Forest Divisions out of 79 Forest Divisions where funds were released by the UP State CAMPA along with the headquarters of UP State CAMPA.

We explained the audit objectives to the Department during an ‘Entry Conference’ held on 4 December 2012. An Exit Conference with the Principal Secretary of the Forest Department, Principal Chief Conservator of Forests and Chief Conservator of Forests/Chief Executive Officer of UP State CAMPA was held on 4 September 2013. The replies and views of the UP

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<sup>4</sup> As per the orders of the Supreme Court of India, money was to be deposited with Ad-hoc CAMPA from May 2006, hence, the period was covered from 2006-07.

State CAMPA/Government have been duly considered while finalising the review of the performance of compensatory afforestation in Uttar Pradesh.

### Audit Findings

**2.1.7** The audit findings that emerged as a result of the review of the performance of compensatory afforestation in Uttar Pradesh have been discussed in the succeeding paragraphs:

### Compensatory Afforestation Fund of the State

#### *Irregular formation of UP State CAMPA*

**2.1.8** The UP State CAMPA was registered (August 2010) as a society under the Societies Registration Act, 1860. In the fourth meeting of the National CAMPA Advisory Council, it was decided (January 2012) that State CAMPAs should not work as Societies registered under the Societies Registration Act and wherever States have registered the State CAMPAs as Societies, they should disband these so as to conform to the State CAMPA Guidelines and further release of fund to such States would be subject to their disbanding of these societies.

We noticed that despite the decision taken by the National CAMPA Advisory Council to disband the State CAMPAs registered as societies, the UP State CAMPA is still functioning as a society. However, it was noticed that funds are being released by Ad-hoc CAMPA to the UP State CAMPA regularly.

The UP State CAMPA stated (August 2013) that it is nowhere mentioned in the State CAMPA Guidelines that State CAMPA should not be registered as a society. It further stated that after the decision of the National CAMPA Advisory Council; a proposal<sup>5</sup> was sent to the GoI to constitute the UP State CAMPA under Section 3 (3) of Environment (Protection) Act, 1986. During Exit Conference the Government stated that in absence of clear-cut directions from Ad-hoc CAMPA there were difficulties regarding the legal status of the Authority.

Thus, in absence of clear-cut directions from Ad-hoc CAMPA to the States regarding the form in which the State CAMPAs are to be registered, the UP State CAMPA continues to function as a society.

### Diversion of forest land and Compensatory Afforestation

#### *Non-receipt of non-forest land in lieu of diverted forest land*

**2.1.9** Clause 3.2 of the Guidelines issued for implementation of the Forest (Conservation) Act, 1980 stipulates that Compensatory Afforestation shall be undertaken over equivalent area of non-forest land.

As per information made available by the Nodal Officer of the Forest Department, 40,969.35 hectare forest land was diverted for non-forest purposes up to September 2013. According to the Guidelines issued for implementation of the Forest (Conservation) Act, 1980, non-forest land measuring 14,025.24<sup>6</sup> hectare was receivable after excluding exempted

<sup>5</sup> No. 498 dated 19 February 2013.

<sup>6</sup> (A) Total forest land diverted for non-forest purposes ----- 40,969.35 hectare  
 Less: Exempted categories for which equivalent land was not required to be received-  
 (i) Projects up to one hectare ----- 222.20 hectare  
 (ii) Firing range ----- 25,885.64 hectare  
 (iii) Transmission lines up to 220 KV ----- 328.694 hectare  
 (iv) Optical Fibre cable ----- 15.519 hectare  
 (v) Link roads and other utilities ----- 181.7932 hectare  
 (vi) Central Government Departments ----- 310.2563 hectare  
 (B) Total exempted categories ----- 26,944.11 hectare  
 (C) Non-forest land receivable in lieu of forest land diverted (A-B) ----- 14,025.24 hectare

categories, but against this only 5,235.06 hectare land was received. Thus, 8,790.18 hectare of non-forest land (62.67 *per cent* of the receivable non-forest land) was not received. The value of non-forest land not received works out to ₹ 615.31 crore<sup>7</sup>.

The UP State CAMPA stated (August 2013) that in view of the Guidelines it is not mandatory to receive non-forest land in lieu of forest land diverted in all cases. It further stated that only 5,662.04 hectare land was required to be received in lieu of the forest land diverted for non-forest purposes.

The reply is not acceptable as Clause 3.2 (vi) to (ix) of the Guidelines issued for implementation of the Forest (Conservation) Act, 1980 specify the circumstances under which providing equivalent non-forest land is exempted<sup>8</sup> and audit has calculated the receivable non-forest land of 14,025.24 hectare after taking into consideration all such exemptions. Besides, the details of calculation of 5,662.04 hectare of land to be received in lieu of forest land diverted for non-forest purposes was still awaited, though called for (April 2014).

### ***Use of forest land for non-forest purposes without approval from GoI***

**2.1.10** Section 2 (ii) of the Forest (Conservation) Act, 1980 (Act) provides that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be used for any non-forest purpose.

Some instances where forest land was used for non-forest purposes without approval of the GoI are discussed below:

- Irrigation Department of the State executed work on four irrigation projects<sup>9</sup> on 70.836 hectare forest land without obtaining approval of the GoI. The *ex-post-facto* approval of the GoI to the proposal sent between February 2006 and July 2008 was awaited as of September 2013.

While accepting the facts, the UP State CAMPA stated (August 2013) that the Irrigation Department has been asked to submit the proposals with commitment of penal provisions. However, the proposal was awaited as of August 2013.

- Forest land measuring 368.10 hectare was used by Irrigation Department of the State for construction of Shahjad Dam during 1974-75 to 1991-92 without approval of the GoI. As the Forest (Conservation) Act, 1980 came into force before completion of the project, proposal for *ex-post-facto* approval for diversion of forest land was sent by GoUP in July 2000 against which first stage approval was granted by GoI in June 2001. The final approval of the project is still awaited.

Moreover, against the demand (April 2002) of ₹ 43.11 crore<sup>10</sup> the Irrigation Department had deposited (January 2005) ₹ 2.10 crore only and a sum of ₹ 41.01 crore still remained unrecovered as of September 2013.

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<sup>7</sup> Calculated on the basis of latest available circle rate of ₹ 7.00 lakh per hectare in Sonbhadra district in respect of agricultural land, which is lowest rate from amongst categories of land for which circle rates are finalised..

<sup>8</sup> Clearing of naturally grown trees to reuse it for reforestation; Proposals involving land up to one hectare; Underground mining below three meters; Renewal of mining lease for the area already broken/used for mining, dumping or overburden etc.; Central Government/Central Government Undertaking Projects; Extraction of minor minerals from river beds; Construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospitals, tiny rural industrial sheds; Laying of transmission lines up to 220 kV; Mulberry plantation; Laying of telephone/ optical fibre lines and Field firing ranges.

<sup>9</sup> Thana minor – 2.155 hectare, Sunaori Rajbaha – 0.287 hectare, Pawa Rajbaha – 1.200 hectare and Utari Dam – 67.194 hectare.

<sup>10</sup> Compensatory Afforestation - ₹ 2.31 crore, Penal Compensatory Afforestation - ₹ 6.93 crore and Net Present Value - ₹ 33.87 crore.

While accepting the audit observation the UP State CAMPA stated (August 2013) that the GoI has already given in-principle approval for the project with penal provisions of the Act and the Irrigation Department has been asked to comply with the conditions in the in-principle approval.

### ***Grant of mining lease in violation of rules***

**2.1.11** Clause 4.16 of the Guidelines issued for implementation of the Forest (Conservation) Act, 1980 provides that the approval under the Forest (Conservation) Act, 1980 for diversion of forest land for grant/ renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted under Mines and Minerals (Development and Regulation) Act, 1957 or rules framed thereunder but not exceeding 30 years.

We during audit of Forest Division, Renukoot noticed that in contravention to the aforesaid Guidelines, approval for mining lease to Northern Coalfields Limited, Dudhi Chua and Kharia was granted by GoI for a period of 40 years (4 January 1991 to 3 January 2031).

The UP State CAMPA stated (August 2013) that the Government has issued the letter of approval after due consideration, hence, the question of violation does not arise. It further stated that the proponent has to pay the lease rent accordingly for 40 years.

The reply is not acceptable as grant of approval for mining lease in excess of 30 years was against the Guidelines.

### ***Construction of approach roads for road side commercial establishments in the State without obtaining approval for diversion***

**2.1.12** As per Section 2 (ii) of the Forest (Conservation) Act, 1980, no forest land can be used for non-forest purposes except with the approval of the GoI. The Forest Advisory Committee of GoI noticed (August 2012) that approach roads are being constructed for petrol pumps, hotels and other commercial establishments alongside the protected forest area without the permission of GoI and directed the State Governments to submit proposals for *ex-post-facto* approval of such cases under Forest (Conservation) Act, 1980.

We noticed that despite the directions of the Forest Advisory Committee of GoI, no action has been taken to identify the cases which may require *ex-post facto* approval by the GoI as of August 2013.

While accepting the audit observation, the UP State CAMPA stated (August 2013) that the Divisional Forest Officers have been instructed (October 2012) to follow the circular.

## **Collection of Compensatory Afforestation Funds**

**2.1.13** The Divisions covered in audit<sup>11</sup> collected an amount of ₹ 427.31 crore<sup>12</sup> during the period 2002-2012 as detailed in **Appendix-2**. The deficiencies noticed in collection of compensatory afforestation funds are discussed in the succeeding paragraphs:

<sup>11</sup> 39 Forest Divisions out of 79 Forest Divisions.

<sup>12</sup> Compensatory Afforestation - ₹ 122.92 crore, Net Present Value - ₹ 237.64 crore, Additional Compensatory Afforestation - ₹ 0.70 crore, Penal Compensatory Afforestation - ₹ 0.40 crore, Catchment Area Treatment - ₹ 0.35 crore and others - ₹ 65.29 crore.

### ***Non-reconciliation of funds transferred by UP State CAMPA to Ad-hoc CAMPA***

**2.1.14** The UP State CAMPA collected a sum of ₹ 584.52 crore<sup>13</sup> from user agencies up to March 2012 which was remitted to the Ad-hoc CAMPA from time to time. The accounts of Ad-hoc CAMPA, however, showed receipt of ₹ 643.10 crore.

We noticed that despite the directions of Ad-hoc CAMPA issued in 2006 and 2007 regarding maintaining proper records of receipts and periodic reconciliation, no such reconciliation was done resulting in difference of ₹ 58.58 crore<sup>14</sup> in the status of funds reported as received by Ad-hoc CAMPA and claimed to have been transferred by the UP State CAMPA.

Thus, un-reconciled difference between the amounts claimed to have been transferred by UP State CAMPA and the amount reported as received by the Ad-hoc CAMPA is indicative of laxity in the financial controls.

The UP State CAMPA agreed (August 2013) that reconciliation of funds remitted to Ad-hoc CAMPA for the year 2006-07 only has been done up to January 2013 and the date of next reconciliation has been sought from Ad-hoc CAMPA.

### ***Delay in transfer of funds to Ad-hoc CAMPA***

**2.1.15** In May 2006, while directing the creation of Ad-hoc CAMPA, the Supreme Court of India directed that it was to be ensured that all the revenue realised on behalf of CAMPA and lying with various officials of the State Government were transferred to the bank account(s) to be operated by the Ad-hoc CAMPA.

We noticed that there were delays in remittance of the funds from Divisions to UP State CAMPA and also from UP State CAMPA to Ad-hoc CAMPA as discussed below:

- The Divisions of the Forest Department remitted ₹ 109.45 crore, collected from 32 user agencies in 238 cases, to the UP State CAMPA with delay<sup>15</sup> ranging between one and 805 days (**Appendix-3**).
- The UP State CAMPA remitted ₹ 130.47 crore, collected from 41 user agencies in 419 cases (received from the Divisions), to Ad-hoc CAMPA with delay<sup>16</sup> ranging between one and 394 days (**Appendix-4**).

No reasons for delay in remission of funds were furnished.

### ***Funds not remitted to Ad-hoc CAMPA***

**2.1.16** According to the orders (October 2002 and May 2006) of the Supreme Court of India, all monies collected by the State Governments and the Union Territories from the user agencies towards compensatory afforestation, net present value of forest land, etc., with effect from 30 October 2002, were to be transferred to the Ad-hoc CAMPA. The Ad-hoc CAMPA releases the funds to the State CAMPAs for afforestation works on the basis of Annual Plan of

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<sup>13</sup> Compensatory Afforestation - ₹ 147.50 crore, Net Present Value - ₹ 356.09 crore and Wildlife and Others - ₹ 80.93 crore.

<sup>14</sup> Receipt as per accounts of Ad-hoc CAMPA: ₹ 643.10 crore less Amount remitted to Ad-hoc CAMPA by UP State CAMPA: ₹ 584.52 crore = ₹ 58.58 crore

<sup>15</sup> The cases covered are of transfers after formation of Ad-hoc CAMPA in May 2006. The delays reported here have been calculated after allowing a period of 14 days to arrange for transfer.

<sup>16</sup> The cases covered are of transfers after formation of Ad-hoc CAMPA in May 2006. The delays reported here have been calculated after allowing a period of 14 days to arrange for transfer.



Operations (APOs) approved by the Steering Committee of the State CAMPA. Thereafter, the State CAMPAs carry out compensatory afforestation as per the site specific schemes approved in the APOs.

We, during audit of State CAMPA noticed that Awadh Forest Division collected a sum of ₹ 81 lakh between November 2004 and June 2006 from user agencies in respect of four projects but instead of remitting the same to Ad-hoc CAMPA, spent a sum of ₹ 12.69 lakh and remitted balance amount of ₹ 68.31 lakh only to the Ad-hoc CAMPA (**Appendix-5**). Non-remittance of compensatory afforestation funds of ₹ 12.69 lakh to the Ad-hoc CAMPA and utilisation of the same for other purposes without approval of APO was irregular.

The UP State CAMPA stated (August 2013) that since there were no guidelines for depositing the money with Ad-hoc CAMPA till May 2006, the amount was spent towards on-going projects of afforestation.

The reply is not acceptable as in view of specific orders of the Supreme Court of India of October 2002 and May 2006, all monies collected towards compensatory afforestation, net present value etc., with effect from 30 October 2002, were to be transferred to the Ad-hoc CAMPA. Moreover, other Divisions test checked in audit, had remitted all monies collected towards compensatory afforestation.

#### ***Non-deposit of premium with Ad-hoc CAMPA***

**2.1.17** The approval letters<sup>17</sup> of GoI for diversion of forest land for non-forest purposes *inter-alia* provides that the user agencies were required to comply with any additional condition imposed by the concerned State Governments. The GoUP while approving the diversion of forest land imposed an additional condition (in some cases) that the user agencies shall pay premium at the prevailing circle rate<sup>18</sup> of the respective Districts for the land being diverted along with lease rent. As premium at the prevailing circle rate is also recovered against additional condition in respect of forest land diverted for non-forest purposes, it should also be remitted to the Ad-hoc CAMPA.

We noticed that premium of ₹ 16.23 crore realised during June 2006 to June 2011 in six cases<sup>19</sup> was not remitted to the Ad-hoc CAMPA and the same was irregularly retained by the GoUP under revenue head.

The UP State CAMPA stated (August 2013) that the conditions requiring premium and lease rent are not governed by Forest (Conservation) Act, 1980 rather these are State conditions imposed by the GoUP vide circular no. 6450/14-3-930/17 dated 2 July 1979; hence, retaining the revenue receipt is not an irregular act.

We do not agree with the reply as all monies collected from user agencies in lieu of diversion of forest land for non-forest purposes has to be remitted to the Ad-hoc CAMPA.

#### ***Loss due to inaction***

**2.1.18** While according approvals for diversion of forest land for construction/widening of National Highways by the National Highways Authority of India (NHAI), the GoUP imposes an additional condition that the

<sup>17</sup> Six in number in respect of cases test checked in audit.

<sup>18</sup> Fixed by the District Collector.

<sup>19</sup> Five cases in Renukoot- ₹ 13.93 crore and one case in Kaimoor- ₹ 2.30 crore.

NHAI shall make available 10 meter wide strip of land along the Highway and pay for the cost of plantation on this strip.

Further, in view of difficulties in providing land in populated areas and markets along the highways, the GoUP vide its order (November 2005) relaxed the aforesaid condition and provided that area equivalent to the 10 meter strip may be made available in the same district elsewhere. The GoUP vide its order (December 2007) further relaxed the aforesaid condition and provided that the NHAI shall pay the market price of land equivalent to the 10 meter strip along with the cost of plantation. The GoUP vide its order (November 2009) further waived the condition and provided that apart from land or its cost made available by NHAI up to 14 January 2009, no additional demand in this respect shall be raised.

We noticed that despite the Government Order of December 2007, no demand in 15 cases (**Appendix-6**), wherein approval was accorded during the period November 2004 to June 2007, for the cost of land equivalent to the 10 meter strip amounting to ₹ 54.11 crore was raised to NHAI. The projects were completed in the year 2009-10 and in view of the Government Order of November 2009 no demand can be raised now. Thus, due to inaction on the part of concerned Divisions, the UP State CAMPA was deprived of revenue of ₹ 54.11 crore (**Appendix-6**) in respect of 652.31 hectare land involved in the projects.

The UP State CAMPA stated (August 2013) that the Government Order of November 2009 waived the condition for providing 10 meter wide strip of land/equivalent money by the user agency, hence, there was no reason to realise money for compensatory afforestation.

The reply is not acceptable as the land was made available to NHAI prior to the issue of Government Order of November 2009 and the concerned Divisions had failed to raise the demand of funds to NHAI as per the Government Order of December 2007 for 23 months (December 2007 to October 2009) which had resulted in loss of revenue to the extent of ₹ 54.11 crore.

### ***Recovery of Net Present Value***

**2.1.19** Net Present Value (NPV) represents the loss of value of forest resources to the stakeholders or the users as at the time of diversion of forest land for non-forest use. The Supreme Court of India in its order dated 29 October 2002 directed that NPV should be recovered at the rate of ₹ 5.80 lakh per hectare to ₹ 9.20 lakh per hectare of forest land depending upon the canopy density of the land<sup>20</sup>. In March 2008, the Supreme Court of India revised the rates of NPV which ranged between ₹ 4.38 lakh per hectare and ₹ 10.43 lakh per hectare depending on various factors.

We noticed instances of non/excess recovery of NPV which are discussed below:

- Lalitpur Forest Division did not recover NPV of ₹ 3.01 crore<sup>21</sup> from the user agency<sup>22</sup> in case of diversion of forest land for Jakhlaun Pump Canal for which in-principle approval of GoI was accorded in February 2001 but final approval was still awaited.

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<sup>20</sup> For canopy density below 0.1 - ₹ 5.80 lakh per hectare, for canopy density 0.1 to 0.4 - ₹ 7.50 lakh per hectare and for canopy density above 0.4 - ₹ 9.20 lakh per hectare.

<sup>21</sup> 32.718 hectare x ₹ 9.20 lakh = ₹ 3.01 crore.

<sup>22</sup> Irrigation Department of the State.

The UP State CAMPA while confirming the audit observation stated (August 2013) that the user agency has been requested to deposit NPV at the rate of ₹ 9.20 lakh per hectare.

- Three Forest Divisions<sup>23</sup> recovered (March 2006 to April 2008) excess NPV of ₹ 80.58 lakh from user agencies<sup>24</sup> due to incorrect classification of diverted forest land (Appendix-7).

UP State CAMPA stated (August 2013) that the range of ₹ 5.50 lakh per hectare to ₹ 9.20 lakh per hectare was specified as a broad spectrum and as a matter of abundant precaution, NPV at the highest rate was realised.

The reply is not acceptable as the criteria of canopy density for calculating NPV was prescribed in October 2002 itself, hence, the correct amount of Net Present Value to be recovered could have been calculated considering the applicable rates for the concerned canopy density.

### Utilisation of Compensatory Afforestation Funds

#### Accumulation of funds with UP State CAMPA

2.1.20 All monies collected by State Governments and Union Territories towards compensatory afforestation, net present value, etc. are remitted to the Ad-hoc CAMPA. The Ad-hoc CAMPA then releases the funds to the State CAMPAs for afforestation works on the basis of approved Annual Plan of Operations (APOs). Thereafter, the State CAMPAs carry out compensatory afforestation as per the site specific schemes approved in the APOs.

The details of funds remitted by the UP State CAMPA to Ad-hoc CAMPA, funds released by Ad-hoc CAMPA to UP State CAMPA and expenditure incurred there against by UP State CAMPA during the period 2006-07 to 2012-13 are given in table below:

**Table 2.1: Details of remittances of funds**

Year	(₹ in crore)			
	Amount remitted to Ad-hoc CAMPA	Amount received by UP State CAMPA from Ad-hoc CAMPA	Expenditure incurred by UP State CAMPA	Accumulation of funds with UP State CAMPA
2006-07	303.37	Nil	Nil	Nil
2007-08	91.21	Nil	Nil	Nil
2008-09	35.97	Nil	Nil	Nil
2009-10	16.90	Nil	Nil	Nil
2010-11	95.23	47.10	38.62	8.48
2011-12	41.84	35.35	21.81	13.54
2012-13	36.64	30.48	Nil	30.48
<b>Total</b>	<b>621.16</b>	<b>112.93</b>	<b>60.43</b>	<b>52.50</b>

(Source: Information furnished by UP State CAMPA)

As is evident from the table above that the UP State CAMPA utilised only ₹ 60.43 crore (53.51 per cent) out of ₹ 112.93 crore released by Ad-hoc CAMPA leading to accumulation of ₹ 52.50 crore (46.49 per cent) with the UP State CAMPA resulting in non-execution of compensatory afforestation works envisaged in the APOs.

The UP State CAMPA stated (August 2013) that money against APOs for the years 2009-10 and 2010-11 were released by Ad-hoc CAMPA in March 2011 and February 2012 and then the money was released to the Divisions to execute the APO. The reply is not acceptable as the money released in March 2011 and February 2012 remained unutilised till March 2013.

<sup>23</sup> Bahraich, Najibabad and Barabanki.

<sup>24</sup> Indian Railways, Power Grid Corporation of India Limited and Ministry of Road Transport and Highways.

### ***Funding of Annual Plan of Operations***

**2.1.21** The Ad-hoc CAMPA releases fund to State CAMPAs on the basis of approved Annual Plan of Operations (APOs). Clause 12 (2) of the State CAMPA Guidelines provides that after receipt of money, the State CAMPA shall accomplish the afforestation for which money is deposited in the Compensatory Afforestation Fund, within a period of one year or two growing seasons after project completion, as may be appropriate.

We noticed that UP State CAMPA allocated (2009-10 to 2010-11) compensatory afforestation funds without linkage to funds collected and deposited in the Compensatory Afforestation Fund by the Divisions (**Appendix-8**). For example, Fatehpur Division and Firozabad Division were allocated ₹ 96.84 lakh and ₹ 49 lakh respectively as against their total receipt from compensatory afforestation of ₹ 5.09 lakh and ₹ 29.17 lakh respectively. However, seven districts<sup>25</sup> were allocated funds amounting to less than five *per cent* of their total receipts from compensatory afforestation (**Appendix-8**). This indicates that the funds were allocated by the UP State CAMPA without considering the actual receipt for the compensatory afforestation by the respective Divisions.

The UP State CAMPA stated (August 2013) that allocation of compensatory afforestation fund depends upon the diversion of forest land in certain district and thereupon availability of non-forest/degraded forest land in that district in lieu of the diverted forest land. Hence, allocation of fund has no correlation with the availability of total funds.

We do not accept the reply as funds collected from a Division indicates the extent of forest land diverted and therefore requires compensatory afforestation to that extent for which allocation of funds should be made in proportion to the funds collected. Therefore, the allocation of funds made was not in line with Clause 12 (2) of the State CAMPA Guidelines.

Thus, the UP State CAMPA did not exercise due diligence while allocation of funds in which one major criteria was extent of diverted forest land.

### ***Excess expenditure on afforestation***

**2.1.22** Faizabad Division procured (February 2012) 17,207 Reinforced Cement Concrete (RCC) pillars at the rate of ₹ 281 per piece whereas as per approved estimate only ₹ 242.69 per piece was admissible. Thus, the Division incurred extra expenditure of ₹ 6.59 lakh<sup>26</sup>.

The UP State CAMPA stated (August 2013) that the model rate for RCC pillars was decided long back in November 2007.

The reply is not acceptable as no revised estimate was submitted for approval before executing the work on rates higher than approved.

### ***Non-compliance of Supreme Court's order for execution of work***

**2.1.23** As per the orders (July 2009) of the Supreme Court of India, the broad guidelines adopted by the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) are to be followed while carrying out work with the funds received from Ad-hoc CAMPA and the work is to be allotted mostly to rural unemployed people maintaining the minimum wages level. Guidelines of MNREGA provided that work was to be given to rural people having job cards and payment was to be made directly into their bank accounts.

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<sup>25</sup> Bulandshahar Forest Division, Kaimoor Wildlife Division, Meerut Forest Division, , Mirzapur Forest Division Renukoot Forest Division, Saharanpur Forest Division and Shahjahanpur Forest Division.

<sup>26</sup>  $17,207 \times (281.00 - 242.69) = ₹ 6.59 \text{ lakh.}$

We noticed that all Forest Divisions, test checked in audit, made cash payments to the labourers through muster roll. Besides, the payments were made at the rate of ₹ 100 per day instead of at the prescribed rate of ₹ 120 per day (up to March 2011) and ₹ 125 per day (since April 2012).

The UP State CAMPA stated (August 2013) that payment was made as per the process laid down in Financial Handbook Volume-VII which allows payment to the labourers through muster rolls and the rates have been revised with effect from April 2013. The fact remains that cash payments at lower rates were made to the labourers in contravention to the Guidelines of MNREGA which stipulates that payments should be made through banks at prescribed rates.

***Discrepancy in utilisation certificates***

**2.1.24** The UP State CAMPA released (September 2011) a sum of ₹ 70.05 lakh for installation of 300 solar lights at the rate of ₹ 23,351 per light to various Divisions.

We noticed that the Divisions purchased the solar lights from Non-conventional Energy Development Agency (NEDA) at subsidised rates of ₹ 16,251 per light (Total Cost - ₹ 23,351 per light less subsidy - ₹ 7,100 per light) but submitted Utilisation Certificates (UCs) for expenditure at the rate of ₹ 23,351 per light instead of at the rate of ₹ 16,251 per light. Thus, ₹ 7,100 per light was irregularly shown as utilised.

During Exit conference, the Government stated that in some cases the UCs have been revised. The fact remains that UCs submitted were not based on the actual amount utilised.

***Loss of interest due to late opening of interest bearing bank accounts***

**2.1.25** According to Clause 10.3 of the State CAMPA Guidelines issued by GoI in July 2009, the monies received in the State CAMPA shall be kept in interest-bearing account(s) in nationalised bank(s) and periodically withdrawn for the works as per the APOs approved by the Steering Committee. Further, Clause 16 (3) of State CAMPA Guidelines provides that the State CAMPA shall maintain proper accounts and other relevant records and prepare an annual statement of accounts.

We noticed that while disbursing funds to the Forest Divisions, the UP State CAMPA did not issue instructions to this effect and released (25 March 2011) a sum of ₹ 6.01 crore<sup>27</sup> for execution of works approved under APO 2009-10. These Divisions, instead of opening an interest bearing savings bank account in a nationalised bank, kept the money in Government account under 'Forest Deposit' (Account Head – 8443). The divisions however, transferred the money in savings bank account in a nationalised Bank in August 2011. Thus, delay in opening of interest bearing account resulted in loss of interest amounting to ₹ 14.20 lakh<sup>28</sup>.

We further observed that UP State CAMPA released ₹ 6.70 crore to Basti Forest Division on 25 March 2011 which was kept in Government account under 'Forest Deposit' (Account Head – 8443) instead of in a separate savings bank account. Further expenditure was made through the normal treasury system. As the funds were not kept in a separate bank account and separate

<sup>27</sup> Awadh Forest Division - ₹ 2.12 crore, Gorakhpur Forest Division - ₹ 2.40 crore and Faizabad Forest Division - ₹ 1.49 crore.

<sup>28</sup> Calculated at the rate of 7 per cent being the interest rate on savings bank account with auto sweep facility

cash book was not maintained, the entire amount remained out of account of UP State CAMPA.

The UP State CAMPA stated (August 2013) that the GoUP directed to open interest bearing account in July 2011.

The reply confirms that State CAMPA Guidelines of July 2009 were implemented after a lapse of two years resulting in loss of interest of ₹ 14.20 lakh.

## **Monitoring Mechanism**

### ***Inadequate monitoring and supervision***

**2.1.26** As per Clause 14 of State CAMPA Guidelines, the Governing body headed by the Chief Minister of the State was to lay down the broad policy framework for the functioning of the State level CAMPA and review its working from time to time. The Steering Committee headed by the Chief Secretary was to approve the APOs and monitor the progress of utilisation of funds released by the State CAMPA and it was to meet at least once in six months. The Executive Committee headed by the Principal Chief Conservator of Forests (PCCF) was to prepare the APOs, take all steps for giving effect to State CAMPA and overreaching objectives and core principles and to supervise the works being implemented in the State out of the funds released from State CAMPA.

We noticed that two meetings of Governing Body, four meetings<sup>29</sup> of the Steering Committee and ten meetings of the Executive Committee were held during the period August 2010 to date (August 2013). Thus, the meetings of these bodies of the State CAMPA were not being held at prescribed intervals (once in six month in case of Steering Committee) due to which preparation of APOs, supervision of utilisation of funds and progress of projects being run out of the CAMPA fund etc. could not be monitored as per the State CAMPA Guidelines.

The UP State CAMPA did not furnish any specific reply and only confirmed the factual position in its reply (August 2013).

### ***Absence of monitoring and evaluation system***

**2.1.27** Clause 17 (1) of the State CAMPA Guidelines provides that, an independent system for concurrent monitoring and evaluation be evolved and implemented to ensure effective and proper utilisation of funds.

We during audit of the UP State CAMPA noticed that no independent system of concurrent monitoring and evaluation has been evolved by it till date (February 2014). Although a sum of ₹ 35 lakh and ₹ 65 lakh was earmarked during 2010-11 and 2011-12 respectively for monitoring and evaluation, no expenditure was incurred by the UP State CAMPA for the purpose till date (February 2014)<sup>30</sup>.

Thus, lack of proper monitoring and evaluation system contributed to non-detection of irregularities pointed out *supra* and hence, no mid-course corrective action was taken.

<sup>29</sup> As against six meetings required to be held.

<sup>30</sup> As per information made available to audit, no amount was allocated during 2012-13 as the amount allocated during 2010-11 and 2011-12 was not utilised.

The UP State CAMPA without giving details of the system adopted, stated (August 2013) that evaluation has to be done after three years of plantation and hence, the money will be utilised in subsequent years.

The reply is not acceptable as norms of evaluation, after three years, as quoted above by UP State CAMPA, are for plantation work only and not for other related works being carried out by the UP State CAMPA. Moreover concurrent monitoring and evaluation was to be done for proper utilisation of funds.

### Status of Accounts and Audit of State CAMPA

#### *Absence of an appropriate and effective accounting process*

**2.1.28** As per Clause 16 (3) of State CAMPA Guidelines, State CAMPA would maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Accountant General concerned.

We noticed that the State CAMPA did not approach the Accountant General for consultation to prescribe a format of accounts. A uniform format of accounts was prescribed by the office of the Comptroller and Auditor General of India for the State/Union Territory CAMPA in May 2012<sup>31</sup> which was yet to be implemented.

The UP State CAMPA stated (August 2013) that it has been constituted under the Societies Registration Act, 1860 hence the bylaws of the society were made applicable.

The reply is evasive as the Societies Registration Act in no way impedes evolving an appropriate and effective accounting process for maintenance of accounts and other relevant records.

### Conclusion

**2.1.29** The UP State CAMPA failed to receive equivalent non-forest land against forest land diverted for non-forest purposes. Forest land was diverted for non-forest purposes without approval of the Government of India. Fund collected from user agencies for compensatory afforestation and Net Present Value was not remitted to Ad-hoc CAMPA timely. Instead of remitting the entire fund to Ad-hoc CAMPA, divisions incurred expenditure out of the fund collected without approval of Annual Plan of Operations. Net Present Value was not/excess recovered in some cases. 46.49 per cent of the funds received for compensatory afforestation remained unutilised. Proper monitoring and evaluation system was not evolved.

### Recommendations

**2.1.30** The Government should ensure that:

- *Equivalent non-forest land is received in all eligible cases of diversion of forest land for non-forest purposes;*
- *Forest land is not diverted for non-forest purposes without prior approval of GoI and recovery of applicable charges;*

<sup>31</sup> The same was communicated to the UP State CAMPA by the Accountant General (Economic and Revenue Sector Audit) Uttar Pradesh in June 2012.

- *The amount of compensatory afforestation and net present value is recovered from user agencies as per guidelines/norms;*
- *Funds collected from user agencies are remitted to the Ad-hoc CAMPA timely;*
- *Proper monitoring and evaluation system is evolved to implement the scheme of afforestation approved under CAMPA.*



## 2.2 Review of Construction of Memorials

### Executive Summary

The Government of Uttar Pradesh sanctioned construction of four memorials at Lucknow (Dr. Bhim Rao Ambedkar Samajik Parivartan Sthal, Manyavar Shri Kanshiram Ji Smarak Sthal, Bauddh Vihar Shanti Upvan and Eco park and Manyavar Shri Kanshiram Ji Green (Eco) Garden) and the New Okhla Industrial Development Authority sanctioned construction of one memorial at Noida (Rashtriya Dalit Prerna Sthal and Green Garden). Uttar Pradesh Rajkiya Nirman Nigam Limited was the main Executing Agency (EA) for construction of these memorials and was allocated 98.61 *per cent* of the total financial outlay of ₹ 4,558.01 crore.

Major audit findings are discussed below:

#### Financial management

Expenditure Finance Committee did not examine the necessity and expediency aspects of the projects.

The original sanctioned outlay of ₹ 943.73 crore for these projects was finally revised to ₹ 4,558.01 crore with hikes ranging from 192 to 986 *per cent*.

Excess expenditure of ₹ 10.53 crore was incurred by the EA due to imprudent financial management.

EA made excess/avoidable payment of taxes of ₹ 4.05 crore and failed to deduct VAT at source of ₹ 3.64 crore.

*We recommend that the Government and its executing agencies should exercise proper financial and administrative controls in all projects.*

*(Paragraphs 2.2.9 to 2.2.12)*

#### Planning

Selection of consultants for comprehensive Consultancy and Architectural Services was not made through competitive bidding.

Excess payment of ₹ 2.31 crore was made to the consultants due to payment at higher rates for repetitive works and incorrect calculation of project.

The projects were never conceived as a whole resulting in additions of new works of ₹ 3,537.68 crore during execution phases of works.

There were frequent amendments in the drawings and designs of the projects entailing dismantling/demolition of recently constructed structures resulting in infructuous expenditure of ₹ 29.62 crore.

Improper planning of works resulted in re-execution of works which led to extra expenditure of ₹ one crore.

*We recommend that the Government and its executing agencies should properly plan to conceive the project so as to avoid extra expenditure*

*(Paragraphs 2.2.13 to 2.2.17)*

#### Execution of projects

The Administrative Departments and EA did not maintain proper records of re-use and value of scrap materials retrieved from dismantling of pre-existing structure.

Rates for majority of the items were decided by the EA itself without obtaining approval of the High Level Committee constituted for approving rates.

The EA failed to generate adequate competition leading to receipt of higher rates which could not be detected due to incorrect analysis of the rates obtained, resulting in award of works at higher rates and excess expenditure of ₹ 397.90 crore.

The EA did not initially segregate works having two different features and awarded higher rates of composite features resulting in excess expenditure of ₹ 18.41 crore.

The EA procured both rough size and cut size Mirzapur sandstone at the same rates during the same period resulting in extra expenditure of ₹ 16.11 crore.

Lack of prudence and due diligence prior to finalisation of bid led to extra expenditure of ₹ 18.37 crore.

The EA did not consider lowest available rates of electrical items and placed orders at higher item-wise rates resulting in extra expenditure of ₹ 2.34 crore.

The Committees constituted to oversee execution of art works were neither involved in the price determination process nor in the process for selection of art works.

Excess expenditure of ₹ 12.74 crore was incurred on procurement of bronze murals, fountains and capitals due to incorrect computation of rates, award of excess rates and non-consideration of actual weight for payment respectively.

*We recommend that the Government and its executing agencies should ensure compliance of extant laws, rules and provisions of their manual.*

*(Paragraphs 2.2.19 to 2.2.22, 2.2.26, 2.2.31, 2.2.32, 2.2.34 and 2.2.36)*

#### **Environment related issues**

The EA started construction work of the projects at Lucknow even before applying for No Objection Certification/Environmental Clearance.

*(Paragraph 2.2.38)*

#### **Monitoring and evaluation**

The High Level Committee was not formed by the Government to supervise and monitor the projects. Besides, the Committees constituted by the Departments were not fully functional resulting in lack of proper monitoring and supervision of the projects.

*We recommend that the Government and its executing agencies should strengthen their monitoring mechanism for works of special nature*

*(Paragraph 2.2.40)*

### **Introduction**

**2.2.1** The Government of Uttar Pradesh (GoUP) sanctioned (during 2007-08 to 2009-10)<sup>32</sup> construction of four memorials at Lucknow. The New Okhla

<sup>32</sup> Please refer to Sl. No. 5 of Table 2.2.

Industrial Development Authority (NOIDA) had also sanctioned construction of one memorial at Noida under intimation (27 August 2009) to GoUP.

### **Status of the projects**

**2.2.2** A brief mention about the projects of memorials showing land area, main buildings of the memorials, date of sanction and handing over to ‘Smarkon, Sangrahalayon, Sansthano, Parkon Va Upvano Aadi Ki Prabandhan Suraksha Evam Anurakshan Samiti’ (SSPUPSAS)<sup>33</sup> has been summarised as under:

**Table 2.2: Nature of work done and details of sanctioned and actual cost of the memorials**

Sl. No.	Particulars	Dr.Bhim Rao Ambedkar Samajik Parivartan Sthal, Lucknow (Samajik Parivartan Sthal)	Manyavar Shri Kanshiram Ji Smarak Sthal, Lucknow (Smarak Sthal)	Bauddh Vihar Shanti Upvan and Eco Park, Lucknow (Bauddh Vihar)	Manyavar Shri Kanshiram Ji Green (Eco) Garden, Lucknow (Eco Garden)	Rashtriya Dalit Prerna Sthal and Green Garden, Noida (Prerna Sthal)	Total
1.	Objective	To provide longevity, grandeur and qualitative improvement to the existing Dr. B.R. Ambedkar Smarak and Dr. B.R. Ambedkar Samajik Parivartan Pustakalaya Evam Sangrahalay and its premises	To pay tribute to Manyavar Shri Kanshiram Ji for his struggle to create awareness regarding the Constitutional rights provided to the Dalit and Backward classes of the society	To strengthen, beautify and develop the right bank of Sharda Canal and construct Bauddh Vihar Shanti Upvan and Eco Park	To promote ecological balance in the city of Lucknow	To honour the Sants, Gurus and Mahapurush born from time to time in Dalit and Backward classes	-
2.	Client organisation	Housing and Urban Planning Department (HUPD) and Department of Culture (DoC)	HUPD, Public Works Department (PWD) and DoC	Department of Irrigation (DoI) and DoC	HUPD	New Okhla Industrial Development Authority	-
3.	Land area (acres)	107.10	40.00	30.00	194.00	82.50	453.60
4.	Main Buildings of Memorials	Smarak, Sangrahalaya, Gallery, Pratibimb Sthal, Drishya Sthal, Gautam Buddha Sthal, Samajik Parivartan Stambh, Forecourt and Elephant Gallery	Main Smarak bhawan and Elephant Gallery	Main Bauddh Vihar Parisar, Eco park and Administrative block	Main Eco Park, Rock Garden and Eco thematic ornamental work	Central Park Plaza, Elephant Gallery, Dr. Ambedkar Statue, and Column Plaza	-
5.	Date of sanction	4 October 2007	2 November 2007	22 February 2008	16 September 2009	10 April 2008	-
6.	Status of Handing over	October 2011	September 2011	September 2011	November 2011	Project is completed and opened to public in October 2013. However, it is not yet handed over.	-

(Source: Compiled from the records of Departments and Executing agency)

### **Budget for the projects of Memorials**

**2.2.3** The GoUP made budgetary provisions during 2007-08 to 2011-12 for construction of four Memorials at Lucknow involving four Departments<sup>34</sup>.

<sup>33</sup> Constituted as a society under the general control of Lucknow Development Authority and authorised by the GoUP for management, security and maintenance of these Memorials vide Office Memorandum no. 1891/8-1-2009-01/Budget/2009 Dated 29 May 2009 of Housing and Urban Planning Department.

<sup>34</sup> Housing and Urban Planning Department (HUPD), Department of Culture (DoC), Public Works Department (PWD) and Department of Irrigation (DoI).

NOIDA provided funds during 2008-09 to 2011-12 for construction of one Memorial at Noida. Details of funds provided for construction of the projects of the Memorials through various Government Departments and NOIDA to the main executing agency Uttar Pradesh Rajkiya Nirman Nigam Limited (hereinafter referred as EA) and other Construction Agencies are summarised in **Appendix-9**.

As can be seen from **Appendix-9**, EA was allocated 98.61 *per cent* of the total financial outlay of ₹ 4,558.01 crore during 2007-08 to 2011-12. A nominal fund allocation was also made to other construction agencies<sup>35</sup>. Lucknow Development Authority (LDA) worked as Nodal agency for the projects funded by Housing and Urban Planning Department (HUPD).

#### **Audit objectives**

**2.2.4** The main objectives of the review of construction of memorials were to ascertain whether:

- Prescribed rules and procedures were followed while according necessary approvals;
- Effective and efficient cost control mechanism was in place;
- Construction work was planned properly and executed economically, efficiently and effectively in accordance with the prescribed procedures;
- Environmental safeguards were given due care; and
- Proper supervision and monitoring of works was done.

#### **Audit scope and methodology**

**2.2.5** The review of construction of memorials was conducted with a view to examine the conceptualisation, administrative and financial sanctions, execution and monitoring of the projects. For this purpose we examined<sup>36</sup> the records of the Government Departments<sup>37</sup> and the main executing agency viz, Uttar Pradesh Rajkiya Nirman Nigam Limited (for all the projects including the project funded by NOIDA). An Entry conference with the Executing Agency (EA) was held on 18 April 2012. Exit conferences were held on 16 April 2013 and 26 April 2013 with Principal Secretary, Housing and Urban Planning Department (HUPD); Special Secretary/Representatives of the concerned Departments/ EA. The review on Construction of memorials was issued to the Government and EA in July 2013. Replies of the concerned Departments/EA (September 2013 to January 2014) were considered while finalising this review. Public Works Department (PWD) did not furnish their replies.

The audit findings on the construction work of Samajik Parivartan Sthal and Smarak Sthal was also featured in Paragraph 3.6 of Report No. 4 (Commercial) of the Comptroller and Auditor General of India for the year ended 31 March 2010, GoUP.

Our methodology included explaining the audit objectives to the top Management of EA during entry conference, scrutiny of records, interaction

<sup>35</sup> Public Works Department: ₹ 45.60 crore (1 *per cent*); DoI: ₹ 3.07 crore (0.07 *per cent*); Construction and Design Services wing of Uttar Pradesh Jal Nigam: ₹ 0.67 crore (0.01 *per cent*); and Uttar Pradesh State Bridge Corporation Limited: ₹ 14.09 crore (0.31 *per cent*).

<sup>36</sup> Records of EA were examined between October 2011 to June 2012 and records of the Departments/LDA were examined between July 2012 to September 2012 intermittently depending upon the availability of records as and when made by the Department and EA.

<sup>37</sup> Housing and Urban Planning Department (HUPD), Lucknow Development Authority (LDA), Department of Culture (DoC), Public Works Department (PWD) and Department of Irrigation (DoI).

with auditee personnel, analysis of data with reference to audit criteria and raising audit queries followed by discussion with Management.

#### Audit criteria

2.2.6 The review of Construction of memorials was benchmarked against the criteria derived from the following sources:

- Terms and condition of the Administrative approvals and Financial sanctions;
- Directions of the Government/Expenditure Finance Committee (EFC);
- Orders regarding roles and functioning of the EFC;
- Working Manual of the EA;
- Central Vigilance Commission (CVC) guidelines regarding award of work, appointment of Consultants and mobilisation advance;
- Uttar Pradesh Public Works Department (UPPWD)/Central Public Works Department (CPWD) specifications and Schedule of Rates; and
- Acts, Rules and Guidelines relating to environment and taxation.

#### Audit findings

2.2.7 The audit findings relating to financial management, planning, execution of projects and environmental issues that emerged from our audit are discussed in the succeeding paragraphs.

#### Financial management

##### *Cost control mechanism*

2.2.8 The Government of Uttar Pradesh (GoUP) controls examination of all aspects of the projects and its financial sanctions through Expenditure Finance Committee<sup>38</sup> (EFC). On the proposal of the Government Departments, the EA is required to prepare Preliminary Estimates (PE)/Detailed Estimates (DE) and submit it to the Project Formulation and Appraisal Division (PFAD)<sup>39</sup> for screening of the projects. The PFAD after screening is required to send the PE/DE to EFC for its approval. EFC is responsible<sup>40</sup> for examination and approval of the projects mainly with regard to necessity, expediency, justification, financial and technical aspects. After approval of EFC, the Administrative Departments accord Administrative approval and issue financial sanctions of the project. EA executes the projects only after obtaining Administrative approval, financial sanctions and receipt of requisite funds from the Government Department. EA is required to exercise cost control as prescribed in its working manual.

##### *Failure of EFC in discharging its responsibilities*

2.2.9 EA through concerned Departments sent (September 2007 to January 2011) 38 estimates (**Appendix-10**) for four Memorials viz., Samajik Parivartan Sthal, Smarak Sthal, Eco Garden and Bauddh Vihar to EFC for

<sup>38</sup> **Chairman:** Principal Secretary/Secretary, Finance Department; **Members:** 1. Principal Secretary/Secretary Planning Department 2. Principal Secretary/Secretary, Department of Environment 3. Principal Secretary/Secretary of the Administrative Department 4. Engineer-in-Chief of PWD or his representative, not below the rank of Executive Engineer; **Member Secretary:** Director, PFAD; **Special Invitee:** Managing Director of the concerned construction agency.

<sup>39</sup> The Secretariat of the Expenditure Finance Committee.

<sup>40</sup> In terms of Government Order of 3 April 1996 read with order of 24 July 1998

evaluation. We noticed that EFC failed to discharge its duties in respect of all the four projects as discussed below:

- It did not examine the necessity and expediency aspects of the projects and cited that necessary approvals were already accorded by Administrative Departments; hence, it had not commented on these aspects.
- It did not examine the proposed quantities and stated that the works proposed in the projects were of special nature and involved excessive ornamental work; hence, the quantities proposed in the estimates had been kept unchanged and only the rates had been examined.

PFAD/EFC stated (December 2013) that proposals were sent by the concerned Department after examination of necessity and expediency aspect at their own level and the works were approved by PFAD/EFC keeping in view the urgency and priority of the projects. Further, due to special nature of work, the calculation of quantity was not possible at PFAD level.

The reply is not acceptable as PFAD/EFC being an expert body which examines and approves such projects cannot abdicate its responsibility on the ground of special nature of the works. Moreover, it was not the first time such memorials<sup>41</sup> with special nature of work were constructed in the state. Urgency and priority does not imply there should not be a complete examination of the proposals. Moreover the fact that there were an average of eight revisions of estimates per project in a span of 16 to 34 months approved by the EFC which indicates lack of thorough examination by the EFC.

***Enormous hike in project outlay***

**2.2.10** The outlay of the projects from the month of commencement to its completion is depicted in the table below:

**Table 2.3: Details showing initial and final sanctioned cost, hike in project outlay and expenditure incurred for the projects**

Sl. No.	Particulars	Samajik Parivartan Sthal	Smarak Sthal	Bauddh Vihar	Eco Garden	Prerna Sthal	Total
1.	Initial sanctioned cost (₹ in crore)	366.83	254.17	80.68	157.47	84.58 <sup>42</sup>	943.73
2.	Final sanctioned cost (₹ in crore)	1362.62	742.45	458.76	1075.63	918.55	4558.01
3.	Percentage increase over the initial sanction	271.46	192.11	468.62	583.07	986.03	382.98
4.	Expenditure incurred as on January 2014 (₹ in crore)	1320.66	716.28	393.02	1057.83	685.78	4173.57

(Source: Compiled from the records of EA)

From table above, it is clear that the original sanctioned outlay of ₹ 943.73 crore for all these projects were revised finally to ₹ 4,558.01 crore with hikes ranging from 192 to 986 *per cent* during the period of construction from October 2007 to November 2011.

***Excess expenditure due to imprudent financial management***

**2.2.11** We noticed various instances of excess expenditure incurred by the EA due to imprudent financial management as discussed below:

<sup>41</sup> The work of Dr. Bhim Rao Ambedkar Smarak began in 1995.

<sup>42</sup> Being the value of first sanctioned estimate for the construction of boundary wall of the project

- The EA did not ensure award of work at approved rates in case of 211 items of work pertaining to 170 agreements, resulting in excess payment of ₹ 8.71 crore to 83 contractors.  
After this being pointed put by Audit, EA recovered ₹ 6.80 crore and assured (September 2013) to recover remaining amount (**Appendix-11**) after verifying the same.
- The EA approved (8 November 2007 and 10 October 2007) the rates of two items<sup>43</sup> of work higher than the lowest quotations obtained, resulting in an excess expenditure ₹ 9.28<sup>44</sup> lakh.  
In reply EA assured to recover excess payment of ₹ 9.28 lakh.
- The EA executed three items of work at the higher rates by extending the contracted quantity in three existing agreements instead of entering into fresh agreements at the prevailing lower rates, resulting in excess expenditure of ₹ 16.96 lakh.  
On this being pointed put by Audit, EA recovered ₹ 16.96 lakh from the contractors.
- The EA awarded works at higher rates for 33 items in 15 agreements by pre-dating the agreements to a date when rates were higher, resulting in extra expenditure of ₹ 68.81 lakh.  
On these being pointed out by Audit, EA recovered ₹ 18.57 lakh and stated that recovery of remaining amount (**Appendix-12**) could not be made since work got completed before the revision of rates.
- Different rates were awarded for supply of Bottle Palm, Cycas Revoluta and Date Palm plants of same size during the same period resulting in excess expenditure of ₹ 86.91 lakh.  
On this being pointed out by Audit, EA recovered ₹ 25.85 lakh and was silent regarding the remaining amount of ₹ 61.06 lakh (**Appendix-13**).

**Excess/avoidable payment of taxes and non-deduction of VAT at source**

**2.2.12** The EA made excess/avoidable payment of taxes and failed to deduct Value Added Tax (VAT) at source as summarised in the table below:

**Table 2.4: Audit observations on tax issues**

Sl. No.	Audit observation	Reply/Remarks
1.	<p><b>Avoidable payment of value added tax:</b> In works contract, EA did not separately pay VAT on material portion<sup>45</sup> and Service Tax on labour portion which resulted in the extra expenditure of ₹ 1.72 crore.</p> <p><b>Non deduction of VAT at source:</b> EA failed to deduct VAT at source of ₹ 3.64 crore as per section 34(1) of VAT Act though it made a payment of ₹ 90.94 crore towards work contracts. This omission attracts liability for payment of penalty of twice the TDS not deducted under section 34(8) of VAT Act.</p>	<p>EA stated (September 2013) that bronze items such as statues, fountains, deep malas and pillar capitals were taken through supply orders and were bought out items, therefore, UP VAT was paid on the total price and no tax was deducted at source. NOIDA supported (January 2014) the reply of EA.</p> <p>The reply is not acceptable as all these works pointed out by us were not mere supply of the items but involved supply and installation or supply and fabrication at site.</p> <p>Further no reply was given for non deduction of TDS.</p>

<sup>43</sup> For supply and fixing of granite free standing columns, rates were approved at ₹ 7,730 per cft though lowest quotation was ₹ 7,700 per cft. For supply and fixing of bronze work in domes and fountains, rates were approved at ₹ 1,110 per kg though lowest quotation was ₹ 1,100 per Kg.

<sup>44</sup> ₹ 2.18 lakh on execution of 7,250.02 cft granite work and ₹ 7.10 lakh on purchase of 63,064 Kg bronze work.

<sup>45</sup> As per rule 9 of UP VAT Rules

Sl. No.	Audit observation	Reply/Remarks
2.	<b>Payment of VAT at higher rate:</b> The EA procured various items <sup>46</sup> listed in Schedule II of the VAT Act wherein VAT rate was defined as 4 per cent. The VAT was however paid to suppliers at the rate of 12.5 per cent instead of at four per cent resulting excess payment of VAT ₹ 76.94 lakh to the suppliers	On being pointed out by the Audit, EA recovered an amount of ₹ 7.31 lakh. For remaining amount of ₹ 69.63 lakh ( <b>Appendix-14</b> ), it stated (September 2013) that stainless steel items/cuplock pipes were fabricated items and hence tax was paid at the rate of 12.5 per cent. The reply is not acceptable as the items we have commented upon are listed in Schedule II of the VAT Act on which tax was payable at the rate of four per cent only.
3.	<b>Irregular payment of Service tax:</b> Construction of the Memorials was of monumental and cultural in nature and not intended for commerce or industry, hence, Service Tax was not applicable; even then, Service Tax of ₹ 1.56 crore was paid on various items <sup>47</sup> for three works <sup>48</sup> .	EA stated (September 2013) that in some specific cases Service Tax was paid as they were classifiable under erection, commissioning and installation service. Further, the matter was referred to service tax authorities which replied that the service tax was payable. The reply is not acceptable as the cases pointed out by us were classifiable as construction of monuments and not under erection, commissioning and installation service. Further, the case referred to service tax Department was for pumping of RMC and not relevant to the points raised by us.

## Planning

### *Selection of Consultants*

**2.2.13** Office Memorandum<sup>49</sup> of Central Vigilance Commission (CVC) provides (25 November 2002) that the selection of the consultant should be made in a transparent manner through competitive bidding.

We observed that selection of consultants for comprehensive Consultancy and Architectural Services was not made through competitive bidding in accordance with CVC Guidelines in four projects<sup>50</sup> (**Appendix-15**).

EA stated (September 2013) that selection of consultant was done by LDA in case of Smarak Sthal and DoI in case of Baudhh Vihar. Selection for remaining project was done at the level of Headquarter of EA. NOIDA stated (January 2014) that EA has clarified the issue. Lucknow Development Authority (LDA) submitted (September 2013) to consider the reply of EA.

The fact remains that selection in the four projects was made in disregard to CVC guidelines.

### *Shortcomings in payments made to the consultants*

**2.2.14** The EA incurred expenditure of ₹ 42.09 crore on consultancy as detailed in **Appendix-15**. We noticed various shortcomings in payments made to the consultants as discussed below:

- Payment<sup>51</sup> of ₹ 6.08 crore was made without entering into agreements.
- No clause in the consultancy agreements of Samajik Parivartan Sthal, Smarak Sthal and Prerna Sthal specified lower rate of fee<sup>52</sup> payable in

<sup>46</sup> Flats, angles, plates and rods of stainless steel, RCC pipe and collars, MS pipe and Pipes.

<sup>47</sup> Waterproofing and longevity treatment, Fixing of laminated glass, Providing and applying of Geo-Textile, Core cutting of main hole on boundary wall, Drilling and core cutting, Laying of pipes, Concrete cutting and breaking work, Erection of dome/vaults and Pouring of protekta flexpoint works.

<sup>48</sup> Samajik Parivartan Sthal, Smarak Sthal and Prerna Sthal.

<sup>49</sup> No. OFF 1 CTE 1.

<sup>50</sup> Smarak Sthal, Eco Garden, Baudhh Vihar and Prerna Sthal.

<sup>51</sup> ₹ 4.62 crore to Architect Bureau and ₹ 1.46 crore to Design Associates.

<sup>52</sup> The EA normally pays 0.25 per cent of the cost for repetitive works.



case of repetitive<sup>53</sup> nature of work. In absence of such clause, Consultants were paid at the full rate of 1.50 *per cent*. This resulted in excess payment of ₹ 1.74 crore (**Appendix-16**) to the Consultants in case of these memorials.

- As per Para 5<sup>54</sup> of the consultancy agreements of Smarak Sthal, cost of project to calculate the consultant fee shall be the sanctioned cost of the project by the GoUP after deduction of prescribed items. The EA failed to make relevant deductions in calculation of the project cost of Smarak Sthal by ₹ 38.13 crore, which resulted in excess payment of ₹ 0.57 crore to the consultants.

The EA revised the fee payable to architects in case of Eco garden and Prerna Sthal based on the audit observations and reduced expenditure of ₹ 0.95 crore towards fee. For the remaining projects, EA stated (September 2013) that no work of repetitive nature was there and it has correctly calculated the fee. The reply is not acceptable as the works we have pointed out are of repetitive nature. Further computation of architectural fee made by EA did not have deductions as per Para 5 of the consultancy agreements.

### ***Incorporation of additional works***

**2.2.15** The projects were never conceived as a whole; rather additional works were added in several phases from time to time. The Departments, EA and the Consultants failed to properly conceptualise the project at the start of the work on the projects resulting in additions of new works in all the five memorials during execution phases of works as detailed below:

**Table 2.5: Details showing project-wise additions of work and increase in financial outlay**

(₹ in crore)

Sl. No.	Name of Memorials	No. of new works added	Financial outlay of additions
1.	Samajik Parivartan Sthal	11	957.99
2.	Smarak Sthal	8	449.48
3.	Eco Garden	3	918.16
4.	Bauddh Vihar	8	378.08
5.	Prerna Sthal	19	833.97
<b>Total</b>			<b>3537.68</b>

(Source: Compiled from information furnished by EA)

Department of Irrigation (DoI) accepted (November 2013) that due to incorporation of additional works, seven revisions were made. Housing and Urban Planning Department (HUPD) stated (December 2013) that due to incorporation of new works, revisions were made. NOIDA stated (January 2014) that new works were added according to the requirements. Department of Culture (DoC) did not offer (October 2013) specific comment.

### ***Changes in drawings and designs***

**2.2.16** The planning aspect of the projects was largely consultant-driven and there were frequent amendments in the drawings and designs of the projects and many of these amendments entailed dismantling/demolition of structures

<sup>53</sup> Work where a standardised drawing prepared for one is used for other work also. In these projects, Boundary wall, Ashokan column, Bronze fountains, etc were identified as repetitive work.

<sup>54</sup> Para 5 of other consultancy agreements (where fee was payable at the rate of 1.5 *per cent* of project cost) provided for deduction of following items from the sanctioned cost to arrive at the project cost: Contingency charges sanctioned, Centage charges/supervision charges sanctioned, Payment allowed for external power, connection, sewerage, water supply, etc and development authority to sanction the corporation maps etc. and any type of eligible taxes as applicable and any other payment made directly to Government agency. The above project cost should not exceed the sanctioned cost at any condition, Cost of earth filling required as sanctioned by EFC and any other items sanctioned for which architectural services are not required/approved.

that were recently constructed which led to infructuous expenditure of ₹ 29.62 crore as depicted in table given below:

**Table 2.6: Details showing infructuous expenditure due to change in drawing and design**

(₹ in crore)						
Name of the Project	Period of construction	Period of dismantling	Construction Cost of items dismantled	Cost of material recovered	Cost of dismantling	Infructuous expenditure
(1)	(2)	(3)	(4)	(5)	(6)	(7) (Col. 4 - Col. 5 + Col. 6)
Samajik Parivartan Sthal	October 2007 to April 2010	June 2008 to August 2010	12.69	4.33	0.99	9.35
Smarak Sthal	April 2008 to March 2009	April 2008 to March 2011	13.88	5.04	2.49	11.33
Eco Garden	April 2008 to July 2011	April 2010 to March 2012	2.52	0.13	0.78	3.17
BauddhVihar	July 2008 to August 2009	January 2009 to February 2011	4.93	1.29	0.71	4.35
PrernaSthal	N.A.	July 2008 to October 2009	2.98	1.57	0.01	1.42
<b>Total</b>						<b>29.62</b>

(Source: Compiled from the information furnished by the EA)

Thus, due to lack of proper planning infructuous expenditure of ₹ 29.62 crore was incurred. This also indicates ineffective utilisation of the fund and lack of monitoring by the Departments/EA.

DoI accepted (November 2013) that frequent changes were made in the drawing/design of the work of Bauddh Vihar. HUPD stated that (December 2013) that the EA proposed additional work citing the orders of higher authorities. The above replies endorse our finding of lack of planning.

***Avoidable expenditure due to re-execution of work***

**2.2.17** During audit we noticed various instances of re-execution of works due to improper planning of works which resulted in extra expenditure of ₹ one crore as discussed below:

- In Samajik Parivartan Sthal, Lucknow, the EA re-executed (November 2008 to August 2009) the work of 40 mm granite flooring at a cost of ₹ 0.44 crore as repair work due to damage caused by movement of heavy vehicles at Fore court area which could have been avoided by planning the flooring work after completion of other works for which movement of heavy vehicles were required.

HUPD accepted (November 2013) that flooring was damaged due to movement of heavy vehicle and no further comment was possible on the issue.

- In Prerna Sthal, Noida, the EA dismantled 3,761.84 cft Mirzapur sandstone boundary wall to construct an additional entrance gate due to change in design. Out of the total dismantled material, it reused 1410.72 cft stone and rest remained unutilised besides avoidable cost of dismantling (₹ 7.56 lakh) and labour cost on refixing of stone (₹ 15.05 lakh).

NOIDA endorsed (January 2014) the reply of EA, which stated (September 2013) that only 838.73 cft boundary wall was dismantled for construction of entrance gate as it was sanctioned at a later date and remaining quantity was dismantled in compliance of the order of Hon'ble Supreme Court. The reply confirms that dismantling of boundary wall for

gate was avoidable by proper planning of the construction of the Gate and other dismantling was caused by the initial violation of the environmental rules, which were subsequently enforced by the Hon'ble Court.

- In Prerna Sthal, Noida, the EA constructed a boundary wall with an expenditure of ₹ 37.04 lakh measuring 2,849.55 cft. The constructed boundary wall was dismantled (November 2008) due to change in drawings by the Consultants of the project and a new boundary wall was constructed as per revised drawings at a cost of ₹ 37.04 lakh without re-using the dismantled sandstone boundary wall. Thus due to non-firming up of the drawings and designs before construction, avoidable expenditure of ₹ 33.62 lakh<sup>55</sup> was incurred.

NOIDA accepted (January 2014) that the boundary wall was dismantled due to change in layout.

### Execution of the projects

**2.2.18** Expenditure Finance Committee (EFC) while sanctioning the estimates (September 2007 to January 2011) recommended that all works related to stone/marble, statues, elephants, pedestals etc. shall be carried out by the administrative Department/EA at their own responsibility with minimum rates and for minimum requirement under the relevant financial rules.

We noticed that the recommendations of EFC were not adhered to in execution of the projects mainly due to lack of supervision and monitoring at the level of Government Departments/EA. This resulted in uneconomic and inefficient execution of works caused by incorrect rate analysis, award of higher rates for civil, electrical and horticulture works and art works for bronze murals, fountain etc. as discussed in succeeding paragraphs.

### Dismantling of pre-existing structures

**2.2.19** EFC recommended (September 2007 to June 2010) that Administrative Department shall ensure deposit of the value of scrap material obtained during dismantling in treasury, after deciding their depreciated value or the possibilities of the re-use of the scrap of material.

Commencement of construction activities of four of memorials of Lucknow entailed dismantling of pre-existing structures at the premises to clear the site for the projects. Details of dismantled structures and expenditure incurred thereon are given in the **Appendix-17**.

As can be seen from the **Appendix-17**:

- In contravention of the recommendations made by EFC, neither the administrative Department nor EA kept proper records of re-use and value of scrap materials retrieved from dismantling in all the four Memorials except deposit (15 May 2010) of a sum of ₹ 61 lakh.

For Eco Garden, EA stated (September 2013) that all the usable materials were taken away by the Department of Jails (DoJ) except scrap which was sold by the EA. Department of Jails (DoJ) rejected (October 2013) the contention of EA and stated that EA was responsible for disposal of scrap and to maintain its records.

The replies are contradictory and not acceptable as *post facto* approval accorded by the DoJ prescribed responsibility of Director General, Karagar, DoJ to ensure record/accounts with the help of EA.

<sup>55</sup> Cost of construction (₹ 37.04 lakh) + Cost of dismantling (₹ 0.85 lakh) - Cost of waste stone (₹ 4.27 lakh)

For Bauddh Vihar, which was constructed by dismantling Parikalp Nagar, Department of Irrigation (DoI) accepted (November 2013) that all buildings of Parikalp Nagar were safe and had not completed their useful life and dismantling of these buildings resulted in loss of ₹ 118.47 crore excluding cost of land. Further, the act of dismantling was also found *ultra-vires* and inappropriate by a committee<sup>56</sup> set up to examine the same. EA stated that disposal of scrap was not done by it. The reply confirms that proper procedures were not followed.

For Samajik Parivartan Sthal, Housing and Urban Planning Department (HUPD) stated (December 2013) that the scrap material were un-usable hence, it was used in filling. Reply is not acceptable as no documentary support regarding location where filling was done and volume of filling done was provided.

- In Eco Garden and Bauddh Vihar, dismantling was done on the written instruction (28 August 2009 and 21 November 2008) of the Administrative Department; formal procedures such as administrative and financial sanctions were not followed and necessary sanctions/approval have also not been obtained so far (February 2014).

For Eco Garden, DoJ stated (October 2013) that sanctions was not given as Director General, Karagar did not make available all records as desired by the Government. For Bauddh Vihar, DoI stated (November 2013) that the act of dismantling was found *ultra-vires* and inappropriate by a committee set up to examine the same. EA stated (September 2013) that dismantling was done as per instruction of the client and efforts for receipt of sanctions and funds are made. The reply confirms our observation.

We further noticed the following:

- In follow up of EFC directions (27 March 2008) HUPD constituted (28 April 2008) a Technical Committee (TC) to finalise the rates of dismantling of old buildings to commence construction of gallery in Samajik Parivartan Sthal. EA submitted quotations received from three parties<sup>57</sup> to the TC which approved (29 April 2008) the lowest quoted rates of Maglink Infra Projects (P) Limited (MIPPL) for ₹ 2.10 crore.

We observed that even prior to submission of quotations to TC, the EA issued (24 April 2008) Letter of Intent (LoI) to MIPPL. Further, District Magistrate, Lucknow had issued (26 April 2008) permission order<sup>58</sup> for dismantling through explosive to MIPPL, even before formation of the TC. This indicates that formation of TC was a formality in view of the fact that party and rates had already been finalised. Further more, as the blasting was done during 21 April to 15 May 2008, it clearly shows that the work was started even prior to issue of LoI. This indicates the failure of monitoring and supervision by the HUPD.

EA confirmed the facts and stated (September 2013) that seeing the urgency of work and lowest quotation of MIPPL, work was awarded to them and no financial irregularity was caused. HUPD did not furnish (December 2013) any reason for issue of LoI without prior approval of the rates by the TC set up by HUPD.

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<sup>56</sup> S.A.T. Rizvi Committee.

<sup>57</sup> Maglink Infra Project (P) Limited, Tirupur, Tamil Nadu (MIPPL), Deluxe Earthmovers and Contractors and Sri Vari Construction Company

<sup>58</sup> Issued by Office of the District Magistrate, Lucknow under rule 155 (8) (ii) of the Explosive Rules, 1983

### Civil and Stone works

#### *Formation of High Level Committee for fixation of rates*

**2.2.20** On the recommendations (10 September 2007) of the EFC, the HUPD ordered<sup>59</sup> (4 October 2007) LDA (the nodal agency) and EA to constitute a High Level Committee (HLC) for deciding rates of various stone works for which rates were not available in the Schedule of Rates (SOR). Similarly, the EFC/GoUP also recommended<sup>60</sup> for formation of HLC for approval of rates for other projects at Lucknow by other concerned Departments.

In compliance to the order of the GoUP, an HLC<sup>61</sup> was constituted (25 October 2007) to which LDA also nominated (31 October 2007) its representatives. The concerned Project Managers of units of the EA were required to conduct detailed market survey for works of special nature and submit survey reports to HLC for taking appropriate action thereafter.

Further, Para 102 A of the Working manual of EA provides that all Project Managers of units in the city and an accounts man nominated by the Financial Advisor of the UPRNN shall be the members of Joint Purchase Committee.

Based on the quotations obtained, the Committee of the Project Managers of the EA recommended (8 November 2007) final rates for 20 items of stone works which were approved (14 November 2007) by the HLC.

We noticed that:

- The Departments except HUPD did not form any HLC.
- In addition to the above 20 items, the rates for 365 items for all four projects at Lucknow were decided<sup>62</sup> by EA at its own level, without obtaining approval of HLC. Thus, there was total abdication of responsibilities by HLC which was not functional after one meeting (14 November 2007). The HUPD did not monitor the work of HLC. The EA finalised the rates of various items at higher rates due to failure to obtain competitive rates and deficient analysis of rates etc. as discussed in subsequent paragraphs.
- The committee of the EA did not have members of Accounts/Finance wing. Therefore, the rates remained un-vetted by the finance wing.

HUPD stated (December 2013) that there was no need for further approval of rates from HLC as the lower market rates/scheduled rates were available later on. The EA accepted (September 2013) that approval of HLC was not sought and works were done in accordance with its working manual. DoI accepted (November 2013) that no HLC was formed by it and stated that approval of rates from competent authority was responsibility of EA.

The replies are not acceptable as in the instant cases, it was obligatory to make the HLC and take its approval for all rates till they were included in the Scheduled rates.

#### *Finalisation of higher rates*

**2.2.21** Construction of the memorials involved massive expenditure and the procedure<sup>63</sup> prescribed in Para 102A and 103 of the working manual of the

<sup>59</sup> Vide order no. 4004/आठ-1-07-50 एल.डी.ए. dated 4 October 2007.

<sup>60</sup> Vide order nos. -4232/आठ-1-07-71 विविध/07-टी.सी - 4 dated 2 November 2007; 718/आठ-27-सी-04-03-डब्लू परि/08 dated 22 February 2008.

<sup>61</sup> Members: Financial Advisor, General Manager (Technical), General Manager (Sodic), General Manager (Central Zone), Concerned Unit in charge (as presenter) of EA along with Authorised representative of LDA During 10 October 2007 to 25 April 2011

<sup>63</sup> By shortlisting suppliers/contractors through publication of advertisement/notice in newspapers.

EA was to be followed to execute the works in the most economic manner by obtaining competitive rates.

We noticed that the laid down procedure was not followed while finalising the rates of 365 items out of total 385 items test checked by us. The EA finalised the rates by obtaining limited quotations without proper advertisements in the newspapers. Besides, other actions of EA, such as, award of work to firms<sup>64</sup> who did not quote the rates, non award of work to firms<sup>65</sup> quoting lowest rates (L-1) in some cases etc. were non-transparent and arbitrary leading to failure of the EA in generating competition.

Further, the EA prepared analysis of rates to justify the rates approved by it which were deficient<sup>66</sup> as discussed in detail in **Appendix-18**, which resulted in wrong analysis of rates. A comparison of the rates approved by the EA and the rates arrived at by Audit after removal of the said deficiencies, revealed that even the lowest rates approved by EA<sup>67</sup> were higher by 9.51 per cent to 56.50 per cent as detailed in **Appendix-19**.

Thus, failure to generate adequate competition led to receipt of higher rates which were not detected due to incorrect analysis of the obtained rates. This resulted in award of works at higher rates which led to excess expenditure of ₹ 397.90 crore (**Appendix-20**).

EA stated (September 2013) that the Purchase Committee used to decide lowest rates and not vendor concerned. Further, in most cases work were awarded to lowest bidder but in few cases it was given to other contractors only after making an assessment of capability of lowest bidder to manage the quantum of work in time. The rates approved were also lower than the UPPWD SOR rates of January 2009. The analysis of rates were not the criterion for deciding the rates of actual execution of work, which were decided on the basis of quotations and market survey.

The reply is not acceptable as it does not address the reasons for not following the prescribed procedure to obtain most economical rates through open advertisements. Moreover, the incorrect analysis of the obtained rates also contributed to finalisation of higher rates. Further, despite the fact that EA ignored the HLC and finalised the rates at its own level, the HUPD and other Departments failed to monitor the same and ensure execution of the works at minimum rates despite specific directions of the EFC.

### ***Excess expenditure due to delayed differentiation in rates***

**2.2.22** The EA approved same rate and awarded work for two different features of a work viz, coffee brown granite and white galaxy granite work in Granite columns works; carved portion and uncarved portion in Boundary wall work; red stone and pink stone in case of Banshi Paharpur stone work. Later on the rates for coffee brown granite work, uncarved portion in boundary wall and Banshi Paharpur red sand stone work were segregated and rates for these were fixed at lower side than the white galaxy granite work, carved boundary wall and Banshi Paharpur pink sand stone.

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<sup>64</sup> Example: Chinamay Constructions, Anchor Constructions, G.K. Tiles and Marbles KTS Associates Marble Centre, Wood workers Pragati Infra Promoters etc.

<sup>65</sup> M/s Raj Kamal Marbles – Granite free standing columns; Super stone constructions – 15 ft. high Mirzapur sandstone elephant sculptures; Gem Granite – Granite boundary wall and Granite in fountain; J.P. Stone – 850 mm Mirzapur sandstone Jalebi pattern railing.

<sup>66</sup> Excess wastage was allowed, basic rates of stones were higher, Items not required such as cost of thermocol were included, Freight charges were higher due to application of incorrect conversion factor and volumetric weight, calculation errors etc., for detail please refer to **Appendix-18**.

<sup>67</sup> For projects at Lucknow

We noticed that, the EA did not segregate the works having two different features for eight to 37 months and made payment on the awarded higher rates of composite features. This lapse of not fixing rates based on different features, led to the excess expenditure of ₹ 18.41 crore as discussed in **Appendix-21**.

EA stated (September 2013) that earlier it could not be visualised that differential rates were possible for and accordingly composite rate were decided by the High Level Committee (HLC), but later on with execution of work over a logical period, it was felt more logical to obtain separate offers for differentiated features. The EA, however, recovered ₹ 0.08 crore in case of granite column works on being pointed out by Audit.

The reply confirms award of works at composite rates but is not acceptable as the EA is a specialised construction agency with requisite experience and knowledge of executing similar works.

### ***Enhancement in the rate of granite flooring***

**2.2.23** The EA approved (16 February 2009) the rates for ivory fantasy granite flooring (40 mm) and Kanakpura multi-red granite flooring at ₹ 5,850 per sqm and ₹ 5,400 per sqm respectively which were subsequently revised (12 August 2010) to ₹ 5,450/5,300 per sqm. Thereafter, the EA citing difficulties in getting the work done at the revised rates, again restored (24 September 2010) the original rates of ₹ 5,850/5,400 per sqm.

Para 119 of the Working Manual of EA provides that, it is essential for a purchase committee deciding about a rate, to enquire rate/rates of similar items being allowed in other units in the vicinity, and after that only to finalise its decision. We noticed that the EA did not fix the rates after considering the prevailing rates in all the Units of Lucknow as required in the aforesaid para of the Working Manual. We also found that, out of total nine units<sup>68</sup> of Lucknow, four units<sup>69</sup> executed 4,220.10sqm same granite flooring work at the rate of ₹ 5,450/5,300 per sqm against 18 agreements made after 24 September 2010. From these rates it is clear that the lower rate of ₹ 5,450/5,300 per sqm was workable. Thus, despite same work being done at the lower rates in many units, EA did not follow the provisions of the Working Manual and unnecessarily restored the original higher rate. This led to excess expenditure of ₹ 20.31 lakh on execution of 5,199.46 sqm granite flooring.

EA stated (September 2013) that the quantum of work was very huge and it was very difficult for contractors to execute the works on reduced rates. The reply is not acceptable as, even after restoration of the rates; out of 15 contractors, nine contractors executed the work at ₹ 5,450/5,300 per sqm, four contractors worked at enhanced rate of ₹ 5,850/ 5,400 per sqm and two contractors simultaneously worked in one unit at lower rate and in another unit at higher rate.

### ***Incorrect fixation of rates for Solakunda multi-red granite flooring***

**2.2.24** We noticed that the same rates i.e. ₹ 5,150 per cft, for supply and fixing of granite<sup>70</sup> in kerb stone and steps works for both Solakunda multi-red

<sup>68</sup> Unit-19, Balrampur Hospital Unit, Medical College Kannauj (NR) Unit, Lohia-2 Unit, LMI Unit, Pratapgarh Unit, MKRSS (Entrance Plaza) Unit, CSA Kanpur Unit and Eco Park Unit-II.

<sup>69</sup> Pratapgarh Unit, MKRSS (Entrance Plaza) Unit, CSA Kanpur Unit and Eco Park Unit-II.

<sup>70</sup> Rates approved on 16 February 2009.

granite and Kanakpura multi-red granite were fixed. We noticed that for flooring work, the rate of Solakunda multi-red granite and Kanakpura multi-red granite was different i.e ₹ 5850 per sqm and ₹ 5,400 per sqm respectively. Since the composite rate for supply and fixing of both Solakunda multi-red granite and Kanakpura multi-red granite was same in case of kerb stone work and steps work, approving a higher rate by ₹ 450 per sqm<sup>71</sup> for flooring for Solakunda multi-red granite flooring was incorrect. The higher rate resulted in extra expenditure of ₹ 17.94 lakh in execution of 3,987.456 sqm flooring of Solakunda multi-red granite.

EA stated (September 2013) that the rates were decided after detailed market survey and on the basis of offers received. The reply is not acceptable as the EA despite being a technical agency, did not detect the difference in flooring rates received and did not obtain and award same rates of flooring for both stones.

Thus, due to inaction of High Level Committee (HLC), the rates were decided by the EA at higher side resulting in increase in project cost as discussed in paragraphs 2.2.21 to 2.2.24.

***Excess payment on Bansi Paharpur sandstone works in dry cladding***

**2.2.25** In Prerna Sthal, Noida, EA had decided (19 March 2009) that rates of Bansi Paharpur sandstone works at Noida shall be ₹ 100 per cft below than the rates approved at Lucknow as the distance from Bansi Paharpur to Lucknow was longer than the distance from Bansi Paharpur to Noida. The rates of supply and fixing of Bansi Paharpur sandstone in dry cladding at Lucknow were ₹ 1076<sup>72</sup> per cft. Accordingly, the rates for Noida should have been ₹ 976 per cft. Instead the rates paid were ₹ 2400/2550 per cft in Noida.

We noticed that the units (PMC-2 and Noida Unit-2) of EA at Noida paid higher rates which led to excess expenditure of ₹ 2.83 crore as detailed below:

**Table 2.7: Details of excess expenditure due to payment of works at higher rates**

Name of the item	Rates at Lucknow (₹ per cft rate)	Rates to be paid by Units at Noida (₹ per cft)	Rates actually paid by Units at Noida (₹ per cft)	Higher rates awarded (per cent) (5)*100/(4)	Qty. executed (cft)	Excess payment (₹ in crore) 8= (5-4) x 7
1	3	4	5	6	7	8
Providing and fixing of Bansi Paharpur sandstone in dry cladding	1076 <sup>73</sup>	976	2400	245.90	15853.91	2.26
			2550	261.27	3592.58	0.57
<b>Total</b>					<b>19446.49</b>	<b>2.83</b>

(Source: Compiled from information furnished by EA)

EA stated (September 2013) that the rates of ₹ 2,400/2,550 per cft were paid for dry cladding with intricate carving. The reply is not acceptable as the measurements recorded by units were for plain cladding and not for intricate carving.

***Purchase of Mirzapur sandstone***

**2.2.26** The EA finalised (18 July 2007) rates for rough size Mirzapur sandstone at ₹ 150 per cft for the projects of Lucknow which were applicable

<sup>71</sup> Solakunda multi-red granite ₹ 5850 per sqm - Kanakpura multi-red granite ₹ 5,400 per sqm = ₹ 450 per sqm.

<sup>72</sup> 1 sqm of 50 mm thick cladding = 1.7657 cft cladding; considering the rate of ₹ 1,900 per sqm for 50 mm thick cladding, the per cft rate comes to ₹ 1,076 per cft.

<sup>73</sup> Arrived at on the basis of rate of ₹ 1,900 per sqm for providing and fixing of Bansi Paharpur sandstone in 50 mm cladding at height above 3 ft.



upto February 2009. During the same period it procured dressed size/cut-size of Mirzapur sandstone for Prerna Sthal, Noida at the same rate.

The procurement of rough size and cut size Mirzapur sandstone at the same rates during the same period was unjustified<sup>74</sup> and led to an extra expenditure of ₹ 16.11<sup>75</sup> crore.

EA stated (September 2013) that initially there was no infrastructure available at Mirzapur and nearby areas and only rough blocks were available at Mirzapur, hence, the rates for rough size blocks was decided. It further stated that as regards procurement of cut size stone by units at Prerna Sthal, the circumstances would be different as no cut size stone was available at Mirzapur when stone was purchased at Lucknow. The reply is not acceptable as the rough sized and cut sized stones for Lucknow and Noida were purchased during the same period. There is no justification for buying rough sized stones at same price as cut sized stone. Since the period is the same, and stones were procured from Mirzapur in both cases, the contention of the EA that the circumstances are different also does not hold good.

#### ***Award of work to non-empanelled firms for stone works***

**2.2.27** The EA had shortlisted (10 September 2007) only six firms for execution of Stone work but the stone works were got executed by 246 contractors<sup>76</sup>. The value of stone works executed was ₹ 994.17 crore. We noticed following deficiencies in the execution of stone works:

- Though six firms were shortlisted, works of ₹ 331.93 crore were awarded to five firms only.
- Works amounting to ₹ 3.38 crore were executed by two<sup>77</sup> contractors who were disqualified during shortlisting.
- Works amounting to ₹ 658.87 crore were executed by 239 contractors who did not participate in shortlisting process done by the EA and therefore their credentials were not verified by the EA.

Thus, only 33.38 *per cent* of the total stone works amounting to ₹ 331.93 crore, were executed by 5 contractors who were shortlisted by the EA indicating work was randomly awarded to the contractors and not on the basis of their competence and experience.

EA stated (September 2013) that due to huge quantum of work; it was not possible to get the work done through the six shortlisted firms. The reply is not acceptable as EA could have short listed additional firms after following due procedure.

#### ***Excess payment for supply of Ready Mix Concrete***

**2.2.28** The EA entered (21 January 2008) into an agreement with Ambalika Constructions, for installation of a Batching Plant<sup>78</sup> at the site of Smarak Sthal to produce Ready Mix Concrete (RMC). The provisions of agreement,

<sup>74</sup> As the wastage in case of rough size blocks was 47.44 per cent as compared to negligible 0.62 per cent in case of cut size blocks.

<sup>75</sup> For fixing of 927052.80 cft finished sand stone work, 1763782.50 cft Mirzapur rough size sandstone was used instead of 932836.39 cft cut size sand stone. Thus 830946.11 cft rough size sand stone was excess purchased and issued to the contractor resulting in loss of ₹ 16.11 crore as the rates of cut size and rough size stone were same (i.e., ₹ 193.85 per cft)

<sup>76</sup> As per information furnished by 17 units of the EA.

<sup>77</sup> Goel Marbo Granite and G.M. Granite.

<sup>78</sup> A batching plant also known as a concrete plant, is a device that combines various ingredients (such as sand, water, stone aggregates, fly ash, potash etc) to form concrete.

deviation there from along with its impact have been shown in the table below:

**Table 2.8: Audit observations on violation of contractual provisions and resultant excess expenditure**

Sl. No.	Provision of the Agreement	Audit Observation
1.	The basic rate of RMC was decided at the rates approved. In case of supply of RMC from the batching plant at site, five <i>per cent</i> of the rate of RMC was to be paid additionally for captive batching plant at site.	In 14 cases, payments were made for supply of RMC at the rate higher than the rates approved by EA for the period of supply. This resulted in excess payment of ₹ 3.98 lakh to the supplier. Further, Additional five <i>per cent</i> amounting to ₹ 26.69 lakh in 24 cases was paid despite the fact that RMC was not supplied through captive plant installed at the site but through other batching plant at far off site.
2.	The rate for transportation of RMC from captive batching plant to the pouring point within campus was to be paid at the rate of ₹ 83 per cum In case of supply of RMC from any batching plant other than the plant installed at Site to the pouring point, transportation charges was to be paid at the rate of ₹ 17 per Km per cum which was subsequently revised to ₹ 20 and ₹ 22 per Km per cum by the EA in terms of price variation clause.	For procurement of RMC from other suppliers, transportation charges were payable for a maximum distance of 12 Kms. This limiting provision was not incorporated in the agreement executed with Ambalika Constructions. We noticed that transportation charges were paid for up to 25 Km. Further, the contractor had been submitting bills separately for RMC and transportation. After cross checking and linking these separate bills, we found that the contractors had charged for excess quantity of RMC than actually supplied. This coupled with payment of transportation charges for more than 12 Kms and payment at higher rates than approved by the EA resulted in excess expenditure of ₹ 18.83 lakh.

*(Source: Compiled from information furnished by EA)*

Thus, due to ignoring the contractual provisions an excess payment of ₹ 49.50 lakh was made.

EA stated (September 2013) that excess payments of ₹ 0.42 lakh have been recovered. It further stated that as the requirement of RMC was huge, additional five *per cent* was paid for supply from other plants being captive. It also stated that the rates for cartage were approved without restriction of distance.

The reply is not acceptable as contractual provisions were not adhered to. Further, restriction of distance was made by the EA because quality of RMC starts deteriorating after a certain time; hence it was not logical to relax the restriction of distance for Ambalika constructions only.

***Excess consumption of cement in preparation of RMC***

**2.2.29** Design mix concrete is preferred to nominal mix as by using design mix concrete in place of nominal mix, cement consumption can be minimised by controlling the water cement ratio. Further, design mix is mandatory for concrete of above M-20 grade.

We noticed excess consumption of cement in preparation of RMC resulting in extra expenditure of ₹ 2.74 crore as discussed below:

- The EA prescribed (January 2009) consumption of cement for M-10, M-15 and M-20 grade RMC at 4.50 bags, 6.00 bags and 7.00 bags respectively for per cum of RMC. We noticed that the EA failed to prescribe the norms since beginning of the projects in October 2007 resulting in different units issuing cement bags at varying rate. By not specifying the norms, an extra expenditure of ₹ 49.97 lakh on issue of 28,074.46 bags (calculated at the rate of ₹ 178<sup>79</sup> per bag) during October 2007 to January 2009 in Samajik Parivartan Sthal was incurred as detailed in table below:

<sup>79</sup> Being the lowest rate at which cement was procured by the EA during the period October 2007 to January 2009.

Table 2.9: Details showing excess issue of cement bags

Grade of cement	EA norms (January 2009) for cement consumption (Bags/Cum)	Quantity of RMC procured (Cum)	Actual issue of bags per cum of RMC (in bags)	Total issue of cement (in bags)	Excess issue of bags, had the EA norms spelt out since beginning of the project. (in bags)	Extra expenditure due to non specifying the norms since beginning (Amount in ₹)
M-10	4.5	34462.98	4.5 - 6.12	180247.9	25164.50	4479281
M-15	6	1193.66	6 - 6.12	7200.96	39.00	6942
M-20	7	54301.45	7 - 8.16	382981.11	2870.96	511031
<b>Total</b>					<b>28074.46</b>	<b>4997254</b>

(Source: Compiled from information furnished by EA)

EA stated (September 2013) that there is no fix and universal norms for using cement in RMC at all times because availability of grade of fine aggregate and course aggregate differs from time to time and the cement for making RMC was issued on the basis of cement used for making of RMC at different times. The reply does not give reasons for not having prescribed norms in time.

- For M-25, M-30 and M-35 grade RMC, EA did not adhere to any design mix and issued cement bags at varying rates i.e, 8 to 9.06 bags per cum for M-25; 8.67 to 9 bags per cum for M-30; and 9.5 bags to 10.60 bags for M-35 grade RMC. The failure of EA to prescribe consumption norms on the basis of design mix resulted in excess expenditure of ₹ 1.94 crore (calculated at the rate of ₹ 178<sup>80</sup> per bag) on excess issue of 1,09,152 cement bags<sup>81</sup> during the period October 2007 to October 2009.

EA stated (September 2013) that as per CPWD there is no fixed and universal norms for using cement content in RMC at all times. The reply is not acceptable as the CPWD norms for RMC works were in place and the EA should have either followed CPWD norms or framed their own norms for RMC works on the basis of design mix.

### **Expenditure on cultural ceremonies**

**2.2.30** Para 210 of the Working Manual of the EA prescribes that in case of foundation and opening ceremonies the EA shall not incur expenditure of more than ₹ 2500 in one function, if it is performed by a State Government Chief Minister or Minister and ₹ 5000 in one case if it is performed by a Governor, Central Government Minister or a high dignitary of that status.

We noticed that the EA incurred an expenditure of ₹ 4.25 crore on inaugural and cultural ceremonies<sup>82</sup> organised (between 14 April 2008 and 14 October 2011) by it on various occasions. Out of above, an amount of ₹ 2.10 crore was borne by the EA from its own sources, whereas an amount of ₹ 2.15 crore was charged on the works. Expenditure of such a huge amount on inaugural and cultural ceremonies is against the provisions of the Working manual of the EA.

EA stated (September 2013) that it was asked to make suitable arrangement to perform inaugural and cultural ceremonies organised on various occasions through their respective clients/administration. Reply is not acceptable as EA violated provisions of its own working manual by exceeding the laid down limits and has borne expenditure of ₹ 2.10 crore from its own sources instead of raising a demand for funds from the client Departments.

<sup>80</sup> Being the lowest rate at which cement was procured by the EA during the period October 2007 to January 2009.

<sup>81</sup> By using CPWD/DSR norms of cement consumption for M-25, M-30 and M-35 grade RMC at the norms of 7.6 bags, 8 bags and 8.4 bags respectively for per cum of RMC.

<sup>82</sup> Tents, electrical arrangements, snacks and refreshments, decoration of site etc.

**Irregularities in the Contract awarded for works in Eco Garden**

2.2.31 The EA awarded (17 February 2010) the work<sup>83</sup> for ₹ 251.53 crore to BPR Infrastructure and Parmitha (Joint venture), Hyderabad (BPRIP) on item rate basis. Out of the total work of ₹ 1,057.83 crore executed at Eco Garden, works of ₹ 591.63 crore was executed by the EA Departmentally and works of ₹ 466.20<sup>84</sup> crore were executed by the BPRIP.

In respect of the aforesaid contract, we noticed the following deficiencies:

- The EA was executing similar work Departmentally in Eco Garden. Hence, the rates of items were available with the EA prior to finalisation of the tender as a yardstick for checking the reasonableness of the rates quoted by BPRIP and as basis for negotiation with the lowest tenderer to obtain lower rates in the tender.

We found that the rates paid to the BPRIP for 20 items were higher than the rates earlier approved at which work was being executed. Lack of prudence and due diligence prior to finalising the bid led to an undue benefit to the Contractor and an extra expenditure of ₹ 18.37 crore on execution of these items<sup>85</sup> (Appendix-22).

EA stated (September 2013) that individual item rates of contract should not be compared with other rates at which work was being done. Reply is not acceptable as the contract was awarded on item rate basis indicated in the Bill of Quantity (BOQ) and EA had not made any effort to bring down the item rates of contract to the rates on which similar work was being executed by the EA Departmentally as per its normal working procedures.

- The EA, besides the item-rate contract with BPRIP, was also simultaneously executing work at Eco Garden. After award of item-rate contract to BPRIP, the EA had options either to award the work through BPRIP at the lower tendered rates or through other contractors at higher rates approved by it. The tenets of economy of expenditure are clear and the work should be executed at the lower of the two rates.

We found that the EA awarded four items of work to other contractors at Departmentally approved higher rates, despite the rates tendered by the BPRIP being lower. By getting the four items of work done at higher rates the EA made an avoidable extra expenditure of ₹ 2.46 crore as detailed in Appendix-23.

EA stated (September 2013) that the work mentioned by audit were of that area which was not in the scope of BPRIP and was done separately by it on Departmentally. Reply is not acceptable as the BOQ awarded to BPRIP did not earmark any specific scope or physical area for execution of the work.

- Clause 37.2.1 of the agreement with BPRIP provided that for new items of works not covered in the agreement, latest rates available in the Uttar Pradesh Public Works Department Schedule of Rates (UPPWD SOR), if available were to be considered. Otherwise latest rates available in the

<sup>83</sup> Civil, plumbing, water supply and sanitary works, sewerage, electrical services, stone works, landscape works, horticulture and finishing work of Eco Garden

<sup>84</sup> (₹ 350.75 crore for items included in the contract and ₹ 115.45 crore for additional/ extra items)

<sup>85</sup> Further, as the contract was an item-rate contract the EA was not bound to get the work done by BPRIP at the higher rates and it could have got the same done by other contractors as well according to its normal working procedure.

Delhi Schedule of Rates (DSR) were to be considered. Further, if the items of work were not available in both the Schedule of Rates, the analysed rates were to be applied on the basis of market rates.

The EA awarded the work of providing and laying of RMC grade M-30 and M-15 from BPRIP as new items and paid at the rate of ₹ 6,375 per cum and ₹ 5,700 per cum respectively. We noticed that the rates approved by the EA was on higher side not only in comparison of UPPWD SOR but were also higher than the rates of work already being executed i.e. ₹ 5,600 per cum for M 30 and ₹ 5,000 per cum for M 15 by other contractors at the same site during the same period. Hence, there was no rationale to pay higher rates to BPRIP which resulted in excess expenditure of ₹ 6.23 crore<sup>86</sup>.

EA stated (September 2013) that the rates were derived from the nearest BOQ of M-25 so there is no excess expenditure. The reply is not acceptable as the EA failed to award the work at the available lower M-15 and M-30 rates.

- The Letter of Intent (LoI) issued (12 February 2012) to BPRIP provided grant of interest free mobilisation advance of 15 per cent of contract value to the BPRIP.

We noticed that mobilisation advance of ₹ 41.73 crore was released to BPRIP which was ₹ four crore higher than the prescribed limit<sup>87</sup> which was an undue benefit to BPRIP.

No reply on this issue was furnished by the Housing and Urban Planning Department and EA.

### Electrical Work

**2.2.32** Supply and installation of electrical items at the projects involved an outlay of ₹ 241.68 crore<sup>88</sup> including expenditure of ₹ 61.33 crore<sup>89</sup> on purchase of imported luminaries/fixtures/fittings for lighting arrangement of the projects.

We noticed following irregularities in procurement of electrical items:

- The EA approved (January 2008) rates of 26 items on overall comparison basis<sup>90</sup> to procure from Light Sound Image System (I) Private Limited (LSI) for Samajik Parivartan Sthal, Lucknow. We noticed that rates quoted by Edison Projects (P) Limited (EPPL) for 12 items were lower than the rates quoted by LSI. However, the EA did not consider lowest quoted item-wise rates for the individual items and placed orders at higher item-wise rates resulting in extra expenditure of ₹ 1.78 crore.
- Different rates (₹ 1.03 lakh per unit at Lucknow during January 2009 to June 2010 and ₹ 0.71 lakh per unit at Noida during May 2010 to July 2010) for an item (ING 8) resulted in extra expenditure of ₹ 56.09 lakh on purchase of 156 such units.

EA stated (September 2013) that rates of the fittings cannot be compared as the specification and brands of fittings at different units were different. The reply is not acceptable as extra expenditure has been calculated by us only in

<sup>86</sup>  $79,427 \times (\text{₹ } 6,375 - \text{₹ } 5,600) + 999 \times (\text{₹ } 5,700 - \text{₹ } 5,000)$

<sup>87</sup> ₹ 37.73 crore, being 15 per cent of the contract value of ₹ 251.53 crore

<sup>88</sup> Samajik Parivartan Sthal - ₹ 91.52 crore; Smarak Sthal - ₹ 38.13 crore; Eco Garden - ₹ 46.80 crore; Bauddh Vihar - ₹ 14.64 crore; Prerna Sthal - ₹ 50.59 crore

<sup>89</sup> Samajik Parivartan Sthal - ₹ 30.28 crore; Smarak Sthal - ₹ 3.94 crore (including electrical fittings of ₹ 2.26 crore installed at buffer area); Eco Garden - ₹ 6.50 crore; Bauddh Vihar - ₹ 3.77 crore; Prerna Sthal - ₹ 16.84 crore.

<sup>90</sup> LSI: ₹ 22.37 crore and EPPL: ₹ 23.46 crore

case of different rates awarded/available for same fittings at both Lucknow and Noida.

### Horticulture Work

2.2.33 Expenditure of ₹ 17 crore<sup>91</sup> was incurred on horticulture works (including ornamental plants: ₹ 5.84 crore and creation of grassy lawns: ₹ 10.76 crore) at the projects undertaken at Lucknow. Audit findings on horticulture works are discussed below:

- There were huge variations ranging between 178 to 774 *per cent* in the prices of plants of same species and size during a short span of three to six months. (Appendix-24)
- It can be seen from the Appendix-24 that plants, such as, Peepal, Imli and Maulsri were purchased from private parties at the rates which were 543 to 1,329 *per cent* higher than the rates of Forest Department.
- Out of plantation of ₹ 17 crore, 40,330 plants, valued at ₹ 12.84 crore only were handed over along with the memorials at Lucknow to the *Smarkon, Sangrahalayon, Sansthano, Parkon Va Upvano Aadi Ki Prabandhan Suraksha Evam Anurakshan Samiti* (SSPUPSAS). Records and details of remaining plants valued at ₹ 4.16 crore were not maintained. It indicates that all the Government Departments<sup>92</sup> individually and collectively failed in monitoring the horticulture work and control/ correct the lapses of the EA.

EA stated (September 2013) that the rates of plants differ due to different sizes and specifications of plants and maintenance clause involved. Further, the plants removed/replaced were handed over to the LDA. The reply is not acceptable as we have pointed out variations in the prices of plants of the same species and sizes procured within a short span of time. No document showing handing over of the removed/replaced plants to LDA has been provided to audit except 272 thuja plants and 112 imli plants at Samajik Parivartan Sthal.

The lack of supervision of the work by the Government Departments<sup>93</sup> led to unaccounted expenditure ₹ 4.16 crore.

### Art work for bronze murals, fountains etc.

#### Abdication of responsibilities by Committees

2.2.34 The Department of Culture (DoC) constituted<sup>94</sup> (19 September 2007) a Work Monitoring and Verification Committee<sup>95</sup> (WMVC) to supervise and guide the EA; to recommend the statues/art items; nature of statues; construction material to be used and to ensure quality and timely execution of work.

The Lucknow Development Authority (LDA) also formed<sup>96</sup> (25 October 2007) a Committee<sup>97</sup> to recommend a panel of artists and sculptors, to

<sup>91</sup> Which constituted 0.49 *per cent* of the total expenditure of the projects.

<sup>92</sup> HUPD, DoC, DoI and PWD.

<sup>93</sup> HUPD/DoC/DoI/PWD

<sup>94</sup> Vide order no. 2409/चार-2007-203वि/2007

<sup>95</sup> WMVC: Chairman – Director, Culture; Members – Secretary, Lalit Kala Academy; Director, Archaeology; Addl. Secretary, LDA; Director, Museum; Director, Anveshanalay evam Gunvatta Niyantaran Prakosth, PWD; Joint Director, Geology and Mining; Dy. Director, Avas Bandhu and General Manager, EA.

<sup>96</sup> Vide order no. 167/प्रो.स्- 1/07

<sup>97</sup> Members - Dy. Director, Culture and Secretary, Rajya Lalit Kala Academy; Chief Engineer, LDA; Finance Controller, LDA; Jt. Secretary, LDA; Executive Engineer of Development Authority concerned with the project; General Manager (Sodic) and General Manager (Technical), EA; Two Project Managers and One Assistant Accounts Officer of EA.

evaluate the quotations received from empanelled artists/sculptors and to recommend the rates after negotiation.

The DoC again constituted<sup>98</sup> (6 November 2007), a Price Determination Committee<sup>99</sup> (PDC) to ensure the quality of material to be used and to determine the appropriate price of various statues, sculptures and fountains.

These Committees were set up to guide and supervise the EA on art works as the EA lacked the core competency in this field since it is a construction Company.

We observed that there was no laid down procedure regarding the working of these Committees. The WMVC, the PDC and the Committee constituted by LDA were neither involved in price determination process nor in the process for selection of art works, despite the fact that these were in their scope of responsibilities. Artefacts worth ₹ 252.82 crore<sup>100</sup> were procured for the projects at the rates and from the suppliers finalised by the EA itself without involvement of any committee. This was a clear abdication of laid down responsibilities by the Committees.

DoC stated (October 2013) that it has repeatedly directed the EA to obtain competitive rates. Further, the WMVC also directed the EA from time to time for fixation of rates but the EA did not pay heed to their direction hence it is not possible for them to decide the rates. Further, the PDC also stated (12 July 2011) that it was not responsible for finalisation of rates as it was done by the EA itself. From the reply of DoC it is clear that rates were finalised by EA in disregard to WMVC. The EA stated (September 2013) that all estimates were recommended and forwarded to GoUP by PDC/WMVC only. The reply of the EA is contradictory to the reply of the DoC and the PDC. It is also clear from the reply of the DoC that it did not monitor the working of the Committees set up by it and allowed the EA a free hand.

### ***Irregular selection of firm for bronze work***

**2.2.35** Out of artefacts of ₹ 252.82 crore, all bronze art works (except bronze gates and bronze coffers) were executed by Ram Sutar Fine Arts Private Limited (RSFAL) for ₹ 174.05 crore. We noticed that:

- The DoC sent (27 August 2007) to EA a list of 33 sculptors empanelled<sup>101</sup> with it.
- The EA formed (26 September 2007) a Joint Market Survey Committee (JMSC)<sup>102</sup> to finalise suppliers and rates for various items of bronze art works.

<sup>98</sup> Vide order no. 2911(1)/चर – 2007-264(वि.)/2007

<sup>99</sup> **PDC:** Chairman – Director, Anveshanalaya evam Gunvatta Niyantaran Prakosth, PWD; Members – Joint Director, Geology and Mining; Special Secretary, Finance, GoUP; Director, U.P. State Archaeology Directorate; Dy. Director, Avas Bandhu; Director, PFAD; Consultant, Samajik Parivartan Sthal; Chief Engineer, PWD; Managing Director, EA; Secretary, National Lalit Kala Academy; Secretary, Lalit Kala Academy, U.P.; Workshop Superintendent, Institute of Technology, Lucknow

<sup>100</sup>

Sl. No.	Artefacts	Value (₹ in crore)
1.	Bronze items: Statues (₹ 13.02 crore), Fountains and capitals (₹ 56.08 crore), Eco thematic ornamental work (₹ 63.10 crore), Murals (₹ 19.97 crore) and others (₹ 21.88 crore)	174.05
2.	Marble statues	19.13
3.	Sand stone elephant sculptures	59.33
4.	Paintings	0.31
	<b>Total</b>	<b>252.82</b>

<sup>101</sup> Empanelled with the Directorate of Culture, GoUP. List provided by the Director, Directorate of Culture, GoUP to EA vide letter no. 1014/सं०नि० – 25(35)/2007 dated 27. August 2007.

<sup>102</sup> Members – two General Managers; two Unit In-charges and one Assistant Accounts Officer of EA.

- None of the empanelled sculptors of DoC was considered by the JMSC.
- The JMSC surveyed (27 September 2007 to 28 September 2007) three workshops (RSFAL, Noida; Anand Niketan, Jaipur and Arjun Arts, Jaipur), however, the survey was a mere formality as Director of RSFAL (27 September 2007) informed JMSC that they had already submitted (20 September 2007) their quotation to the EA and also has started work on the project.
- The EA formally selected (1 October 2007) RSFAL for execution of bronze art work and rates for various items were approved (10 October 2007) by the EA.

We further noticed that, after approval (10 October 2007) of rates, notice for prequalification for empanelment of artists for bronze and marble art work, was published (13 October 2007), but no further action on this bid was taken as no records in this regard were available. Thus, it is evident that the selection of RSFAL was pre-determined and formation of the JMSC was merely a formality. Moreover, RSFAL was not even in the list of 33 empanelled sculptors sent by the DoC to the EA.

DoC stated (October 2013) that it had made available the list of sculptors to EA on which further action was required to be taken by the EA. EA stated (September 2013) that the JMSC found that RSFAL was the only firm capable of doing such a quantum of work. Reply is not acceptable as RSFAL had started the work for the project before formation of JMSC, indicating pre-determined selection of RSFAL which was violation of all laid down procurement/selection procedures.

#### ***Finalisation of rates for Bronze and Steel items***

**2.2.36** The price of the art and sculpture depends on the artist and sculptors, therefore, we have restricted our scrutiny of the prices submitted by individual artists/firms and we noticed that an extra expenditure of ₹ 12.74 crore was incurred on procurement of various items as discussed below:

- **Bronze Murals:** One bronze mural of size 3.4m x 5.8m was installed at site at ₹ 42.00 lakh *plus* VAT which was based on pro rata calculation of length and width. Subsequent orders for murals of sizes 4m x 8m and 6.27m x 7m were placed respectively at ₹ 75 lakh per mural *plus* VAT and ₹ 120.00 lakh *plus* VAT. We cross checked the pro-rata calculations of RSFAL and found that rate comes to ₹ 68.16 lakh<sup>103</sup> and ₹ 93.49 lakh<sup>104</sup> per mural for mural of sizes 4m x 8m and 6.27m x 7m respectively. This incorrect computation led to extra expenditure of ₹ 2.27 crore<sup>105</sup> on purchases of 12 murals at Samajik Parivartan Sthal and Smarak Sthal.

The EA stated (September 2013) that increase in size of bronze murals causes increase in depth, weight of casting, frame work and dye work of Mural so firm quoted the rates separately and the rates were not comparable on the basis of surface area as done by Audit.

The reply is not acceptable as RSFAL itself quoted rates on the pro-rata basis but the calculations were not checked by the EA. Moreover, audit has also calculated the rates of the murals on the same basis on which rates were quoted by the RSFAL. Thus, lack of due diligence in checking the rates quoted by the RSFAL led to extra expenditure of ₹ 2.27 crore.

<sup>103</sup> ₹ 42 lakh x (4 m x 8 m)/(3.4 m x 5.8 m) = ₹ 68.16 lakh.

<sup>104</sup> ₹ 42 lakh x (6.27 m x 7 m)/(3.4 m x 5.8 m) = ₹ 93.49 lakh.

<sup>105</sup> [(₹ 120.00 lakh - ₹ 93.49 lakh) x 6] + (₹ 75.00 lakh - ₹ 68.16 lakh) x 6] x 1.135] = ₹ 227.11 lakh



- **Bronze and steel items:** The rates of bronze and stainless steel for Lucknow were finalised in October 2007 without limitation of quantity against which the RSFAL made supplies till November 2011 at the same rate. We noticed that EA did not procure these items at Noida at rates finalised in October 2007 despite the fact that there was no limitation on quantity to be supplied. Instead, it awarded the work at Noida in January 2011 at ₹ 1700 per kg and ₹ 1100 per Kg for bronze and steel items respectively which were higher by ₹ 600 per kg and ₹ 150 per kg respectively than the rates awarded at Lucknow. This resulted in extra expenditure of ₹ 9.85 crore<sup>106</sup>.

The EA stated (September 2013) that the rates of bronze and steel items for Lucknow were approved in 2007 whereas the rates for Noida were approved in 2011.

The reply is not acceptable as these items could be procured for Noida also against the rate finalized for Lucknow as there was no limitation of quantity and the same were supplied at the lower rates till November 2011 while the order at Noida was placed in January 2011. Moreover, both works at Lucknow and Noida were being executed simultaneously by the EA itself.

- **Bronze capitals:** The rates of bronze capitals were approved (October 2007 and February 2009) in Lucknow and Noida at ₹ 7.10 lakh each. However, payment in Lucknow was made on the basis of actual weight of the capital which worked out to ₹ 5.28 lakh per capital. Had the units of EA at Noida, made payment on the basis of actual weight, it could have avoided an excess expenditure of ₹ 0.62 crore<sup>107</sup>.

The EA stated (September 2013) that the rates of bronze capital (₹ 1,100 per kg) for Lucknow was approved in 2007, whereas, the bronze capitals were purchased for Noida during 2009 to 2011 at the rate of ₹ 7.10 lakh per capital.

The reply is not acceptable as at Lucknow, though the rates of bronze capital were approved at ₹ 7.10 lakh per capital, the actual payment was made on the basis of actual weight of the capital (₹ 1,100 per kg) till November 2011. Moreover, both works at Lucknow and Noida were being executed simultaneously by the EA itself and there is no justification for not making payment on basis of actual weight as was done at Lucknow.

### **Excess release of advance**

**2.2.37** As per the terms and conditions of supply order dated 17 January 2011 placed with RSFAL for supply of two bronze fountains, the supplier was to get an advance of 40 per cent of the total cost of work (₹ 30.90 crore), which worked out to ₹ 12.36 crore. We noticed that the EA released advance of ₹ 24 crore to RSFAL which was in excess of the prescribed limit by ₹ 11.64 crore. This excess release of advance of ₹ 11.64 crore, was indicative of undue favour to the supplier and also resulted in loss of interest of ₹ 15.69 lakh.<sup>108</sup>

NOIDA stated (January 2014) that the EA has made payment as per the terms and condition of the agreement. EA stated (September 2013) that it released advance within terms and conditions of agreement. The reply is not

<sup>106</sup> 1,25,066.13 kg bronze and 78,235.00 kg stainless steel

<sup>107</sup> 30 capitals (₹ 7.10 lakh - ₹ 5.28 lakh) + VAT at the rate of 13.5 per cent

<sup>108</sup> Calculated at the rate of four per cent per annum on ₹ 5.82 crore for 103 days and ₹ 5.82 crore for 143 days being the rate of interest on savings bank account.

acceptable as excess advance of ₹ 11.64 crore was made over and above the prescribed limit.

### Environment related issues

#### *Irregularities in obtaining mandatory Environmental Clearances*

**2.2.38** Under the existing pollution control laws,<sup>109</sup> all construction activities require a No Objection Certificate (NOC) for Environment Clearances from Uttar Pradesh Pollution Control Board (UPPCB) before start of work. Further, as per the notification dated 14 September 2006 issued by the Ministry of Environment and Forests (MoEF), townships and area development projects covering an area of more than 50 hectares and/or having built up area<sup>110</sup> greater than 1.50 lakh sqm, are required to obtain prior Environmental Clearance (EC) from the State Environment Impact Assessment Authority (SEIAA), before commencement of any construction work. The notification further provides that such projects require an Environmental Impact Assessment (EIA) report of the project from SEIAA prior to grant of EC.

We observed that though as per the extant laws, NOC and/or EC from UPPCB was required before start of work, the EA started construction work of four projects at Lucknow even before applying for the NOC and/or EC from UPPCB and SEIAA respectively. The status of NOC and EC for the projects is depicted below:

**Table 2.10: Details of NOC and EC taken for the projects**

Sl. No.	Name of project	Commencement of work	NOC		EC		Reasons/Remarks
			Date of submission of application	Date of grant of NOC	Date of submission of the application	Date of grant of EC	
1.	Samajik Parivartan Sthal	October 2007	29 March 2008	25 August 2008	29 March 2008	Not Applicable	The SEIAA opined that the project does not come under the preview of MoEF notification, 2006 as built up area was less than 1.50 lakh sqm.
2.	Smarak Sthal	October 2007	4 August 2008	12 December 2008	Not Applicable		EC not required as project area was less than 50 hectare.
3.	Eco Garden	September 2009	28 May 2010	27 July 2010	11 April 2011	4 July 2011	--
4.	Bauddh Vihar	June 2008	2 March 2009	27 August 2009	Not Applicable		EC not required as project area was less than 50 hectare.
5.	Prerna Sthal	February 2008	NOC taken by NOIDA		24 April 2009	Not Applicable	The SEIAA opined that having regard to the nature and area of the project it was not covered by the schedule of the notification dated 14 September 2006.

(Source: Compiled from the records of EA)

<sup>109</sup> Section 21 (1) of the Air (Prevention and Control of Pollution) Act, 1981 provides that "Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area".

Further, Section 25 (1) of the Water (Prevention and Control of Pollution) Act 1974 provides that " Subject to provision of this section, no person shall, without the previous consent of the State Board, (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or (b) bring into use any new or altered outlets for the discharge of sewage; or (c) begin to make any new discharge of sewage.

<sup>110</sup> The built up area for covered construction, as classified in the Notification dated 16 September 2006, it will be the activity area in the case of facilities open to the sky.

Department of Irrigation (DoI) stated (November 2013) that NOC was to be obtained by EA. Housing and Urban Planning Department (HUPD) stated (December 2013) that the first estimate of Samajik Parivartan Sthal was prepared for renovation work hence environmental clearances were not required however, due to addition of new works NOC/EC were sought. EA, however, stated (September 2013) that it applied for NOC at all projects as required.

The reply of HUPD is not acceptable as the works approved in October 2007 at Samajik Parivartan Sthal, Lucknow included additional construction works and not merely renovation works. This is also evident from the approved estimate. Further, no justification was provided for commencement of work prior to obtaining NOC at other projects.

We further noticed that the Departments and EA did not ensure compliance of environmental rules and regulations and furnished incorrect data to the SEIAA to avoid environmental clearances as discussed in table given below:

**Table 2.11: Audit observations on environmental issues**

Sl. No.	Particulars	Audit observation
1.	Ministry of Environment and Forests (MoEF) notification (September 2006) clarified that the built up area includes the activity area. The Central Empowered Committee <sup>111</sup> appointed by Hon'ble Supreme Court was of the view that for the purpose of environmental clearances, the building bye laws of the state Government have no relevance and the area under the memorials; utilities and facilities; area used for hard landscape including platforms, plinth, sculptures, surrounded paved area, path; and area for vehicular movement, would qualify to be included in the built up area.	<p>The EA declared (10 May 2011) to SEIAA that total project area was 4,33,417.21 sqm and built up area was 8,836.14 sqm of Samajik Parivartan Sthal. Based on above submissions SEIAA opined (4 July 2011) that the project did not come under purview of MoEF notification of September 2006 for obtaining Environment Clearances (EC).</p> <p>We noticed that EA excluded the hard landscaping area of 4,06,626.45 sqm from the built up area. This area under hard landscape when added to<sup>112</sup> the built up area, crosses the threshold mark of 1.50 lakh sqm and, hence, prior approval of the EC was needed. Thus, EA submitted incorrect data in the instant case. We further noticed that HUPD did not review and take cognizance of the fallacious data submitted by the EA.</p> <p>HUPD stated (December 2013) that only built up area and total area were intimated to SEIAA and built up area were decided as per circular dated 2 April 2012 which states that area which was not covered or any area which was open to sky/cut out/duct should not be counted in the calculation of built up area. EA also stated (September 2013) similar position.</p> <p>The contention of HUPD/EA that built up area was decided on the basis of circular of 2 April 2012 does not apply, as the circular of 2012 came in to existence after completion of project. At the time of construction, EC was required as the notification of 16 September 2006 was operative, which clearly states that the built up area includes activity area in case of facilities open to the sky.</p>
2.	The UPPCB prescribed for Samajik Parivartan Sthal a condition that out of total project area, 33 per cent area shall be developed as green belt.	<p>We found that only 4.33 per cent area at Samajik Parivartan Sthal were covered by soft landscaping which was a clear violation of the terms of the NOC granted by UPPCB.</p> <p>HUPD did not offer any comment in their reply (December 2013).</p>

<sup>111</sup> I.A. Nos. 2609-2610 of 2009 in writ petition No. 202 of 1995 for construction of Park at Noida near Okhla Bird Sanctuary

<sup>112</sup> As per notification of MOEF dated September 2006 which clarified that the built up area includes the activity area. As per Central Empowered Committee's views the area being used for hard landscape including platforms, plinth, sculptures, surrounded paved area, pathways, area for vehicular movement etc. also qualify to be included in the built up area, besides the area under covered buildings

### **Non-fulfilment of objective of construction of Eco Garden**

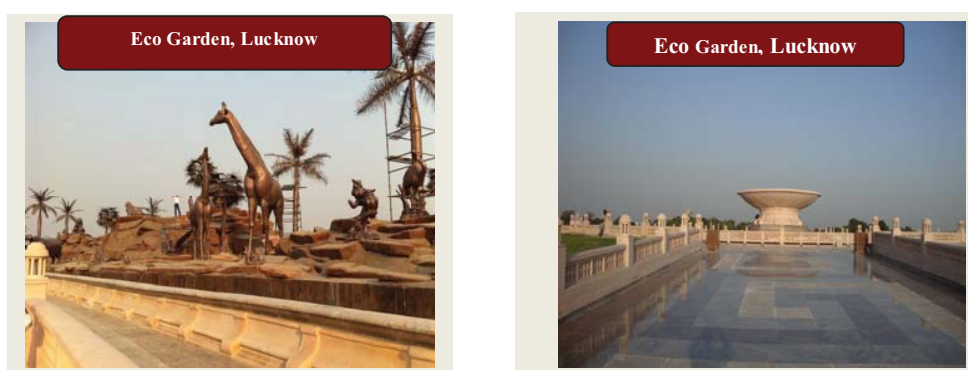
**2.2.39** The Supreme Court of India permitted<sup>113</sup> (8 July 2009) the shifting of the Lucknow Jail on the condition that the existing area of 195 acres would be used as an eco park and no structure or monument would be constructed in that place.

Accordingly the Government of Uttar Pradesh (GoUP) sanctioned an amount of ₹ 1,075.62 crore for construction Eco Garden as a park under Section 2-B of the U.P. Parks, Play Ground and Open Spaces (Preservation and Regulation) Act, 1975<sup>114</sup> (Act) wherein only five *per cent* of the total area was to be covered with or buildings and the whole or the remainder is laid out as a garden with trees, plants etc.

We examined the layout of the constructed park and found that:

- There is plantation on only 2.47 *per cent* of the total area. The norms<sup>115</sup> of Forest Department for parks specifying the type of plantation were not followed. Out of the 19,997 tree/plants planted in the Eco Garden only 730<sup>116</sup> trees/plants were from the indigenous species prescribed by the Forest Department for green belt of parks and the remaining 96.35 *per cent* plants were of exotic species like Furcacia, Adenium, Cycas revoluta, Euphorbia Milli, Durenta, varieties of Cactus and Palm etc.
- Balance 97.53 *per cent* area is not eco friendly and includes lawns on 53.30 *per cent*<sup>117</sup>, hard surfaces<sup>118</sup> on 41.05 *per cent* (granite, sandstone and marble flooring) and buildings on 3.18 *per cent*.
- Bronze statues of animals and trees have been installed.
- There is no solar lighting and for lighting and cooling of the buildings the Eco Garden, Lucknow is dependent on the power supply from Madhyanchal Vidyut Vitran Nigam Limited and Diesel Generating sets.
- No provision exists for natural preparation of organic fertilisers.
- Buildings are built of concrete and sandstone and not from recycled or less energy intensive material.

#### **A view of Eco Garden constructed at Lucknow**



<sup>113</sup> Under Special Leave Petition (Civil) Nos. 13940-13941/2009.

<sup>114</sup> Notified by the GoUP

<sup>115</sup> As per letter no. 1331/34-3-1 dated 4 April 2012 of Chief Conservator of Forest, Uttar Pradesh following species is prescribed for plantation in green belt of parks: Shisham, Neem, Arjun, Amaltas, Gulmohar, Jekrenda, Siras, Kanji, Aam, Chhitwan, Bargad, Peepal, Paakad, Maulsri, Kachnaar and Kadamb.

<sup>116</sup> Peepal : 299 nos. and Maulsri : 431 nos.

<sup>117</sup> Lawns are considered as non-eco friendly as it is a high- water- consuming component in sustainable site planning (MoEF), requires too much pesticide, herbicide and toxic chemicals (Smithsonian) and adversely affect the health of environment and humans especially children and pets due to their proximity to the ground (NASA study)

<sup>118</sup> As per the view (September 2009) of the Central Empowered Committee appointed by Hon'ble Supreme Court in case of Prerna Sthal, Noida, covered area includes utilities and facilities; area used for hard landscape including platforms, plinth, sculptures, surrounded paved area, path; and area for vehicular movement, to qualify to be included in the built up area

Housing and Urban Planning Department (HUPD) stated (December 2013) that as per assurance of GoUP to Hon'ble Supreme Court, Eco park was constructed at the site. Further, for providing public facilities to the visitors, opinion was sought from Justice Department, who in absence of norms for Eco Park, suggested development of facilities under the Act.

The reply is not convincing as the Justice Department had merely reiterated the provisions of the Act in its advice of January 2010. The fact remains that 44.23 per cent of the total area is covered in violation of the provisions of the Act.

### **Monitoring and evaluation**

#### ***Lack of supervision and monitoring***

**2.2.40** Expenditure Finance Committee (EFC) advised (September 2007) the GoUP to constitute a High Level Committee to continuously monitor the use of high specifications, quality of construction and progress of works.

We noticed that this Monitoring High Level Committee (MHLC) was not formed by the Government to supervise and monitor the projects. Departments at their own level formed various committees which did not fully perform their functions according to their terms of reference/scope of work as detailed in **Appendix-25**.

Thus, failure of EFC and lack of supervision and monitoring at the GoUP/Government Department levels resulted in enormous hike in the project outlay, frequent changes in drawings and designs, infructuous expenditure on re-execution of works, finalisation of higher rates for works and excess payments to contractors/suppliers.

### **Conclusion**

**2.2.41** Audit of construction of four memorials at Lucknow and one memorial at Noida revealed various irregularities in the execution of projects. Deficient planning such as frequent additions and revisions, changes in drawings and designs and consequent re-execution led to hike in the outlay of the project. Dismantling of pre-existing structures was done without proper approvals. There was lack of proper documentation regarding recovery from dismantled materials. Deficiencies in appointment of consultants, lacunae in the consultancy agreements and non-observance of the conditions thereof resulted in excess payments. Higher rates were decided due to deficiencies in obtaining competitive rates and incorrect analysis of rates. The Administrative Departments failed to monitor and supervise the work of the Executing Agency with the result that the gross irregularities committed by the Executing Agency remained unchecked and extra/infructuous expenditure was incurred. The environmental aspects were also not adequately adhered to as per the provisions of the relevant Acts.

### **Recommendations**

**2.2.42** We recommend that the Government and its executing agencies should:

- *Exercise proper financial and administrative controls in all projects;*

- *Properly plan to conceive the project so as to avoid extra expenditure;*
- *Ensure compliance of extant laws, rules and provisions of their manual;  
and*
- *Strengthen their monitoring mechanism for works of special nature.*