

## **CHAPTER - III**

### **AUDIT OF TRANSACTIONS**

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## Chapter III

### Audit of Transactions

Audit of transactions of the Government department, their field formations as well as that of the Autonomous Bodies brought out instances of lapses in management of resources and failure in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs under broad objective heads.

### Public Works Department

#### 3.1 Suspected Mis-appropriation of Government Money

#### **The Executive Engineer, Public Works Division I, Nagpur booked an expenditure of ₹ 42 lakh without supporting vouchers.**

As per para 6.6.12 of Maharashtra Public Works Account Code, when a disbursing officer makes a remittance to subordinate officer to enable him to make a number of specific petty payments on a muster roll or other voucher which has already been passed for payment, the amount remitted should be treated as a temporary advance and accounted for. The account of temporary advance should be closed as soon as possible. Further, the account should be supported by voucher in proper form, for each payment, numbered and attached to the account.

During the course of audit (September 2011) the cash book maintained in sub-division<sup>32</sup> of office of the Executive Engineer (EE), Public Works Division I, Nagpur, revealed that total receipts booked during the month of December 2009 was ₹ 44,79,535 and the total expenditure was shown as ₹ 44,79,535 with balance outstanding at the end of the month as NIL. Audit, however, observed that initially the actual expenditure entered in the cash book during the month was only ₹ 2,79,535 which was later cut and shown as ₹ 44,79,535. Thus, difference between the amount of receipt and actual expenditure i.e. ₹ 42.00 lakh (₹ 44,79,535-₹ 2,79,535) which should have been shown as a closing balance at the end of month, was neither shown in cash book nor brought forward in subsequent month (January 2010).

Further, details of payments made was not made available by the division and the various forms submitted by the division along with monthly accounts of December 2009 revealed that expenditure was booked under head '2216-service charges for Raj Bhavan'. Supporting documents were missing from the monthly account. Thus, this amount remained un-accounted and suspected embezzlement of Government money, therefore, cannot be ruled out.

Superintending Engineer, Public Works Circle, Nagpur accepted (June 2013) the misappropriation of ₹ 42.00 lakh and stated that matter was referred to higher authority for further necessary action. However, no further details were made available to audit (December 2014).

The matter was referred to the GoM (June 2014); their reply was awaited (January 2015).

<sup>32</sup> Deputy Engineer, Public Works Sub Division I, Nagpur

### 3.2 Suspected fictitious payment

**The Executive Engineer, Public Works Division I, Nagpur paid wages to day labourers on hand receipt before actual execution of work leading to fictitious payment of ₹ 1.41 lakh.**

As per para 10.2.2 of Maharashtra Public Works Accounts Code, the persons engaged departmentally for the execution of works are considered as day labourers and their wages should be drawn on nominal muster rolls (NMR) and charged to the estimates of works on which they were employed.

Scrutiny (October 2011) of records of Executive Engineer (EE), Public Works Division-I, Nagpur revealed that the department had paid (November 2010) ₹ 1.41 lakh towards wages of 'Labourers engaged for cottage cleaning, dusting, washing and up keep of cottages during December 2010 for winter session of State Legislature Assembly' on hand receipt as against on NMR. Thus, payment of wages of ₹ 1.41 lakh made before actual execution of works was fictitious.

Superintending Engineer, Public Works Circle, Nagpur accepted (June 2013) that there is a case of suspected fictitious payment and departmental enquiry was initiated against concerned officials. However, no further progress in the case was made available though called for (December 2014).

The matter was referred to the GoM (June 2014); their reply was awaited (January 2015).

## Industries, Energy and Labour Department

### 3.3 Functioning of Maharashtra Building and Other Construction Workers Welfare Board

#### 3.3.1 Introduction

The Government of India (GoI) enacted (August 1996) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act) aimed at providing safety, health and welfare measures for the benefit of building and other construction workers. GoI also enacted the Building and Other Construction Workers Welfare Cess Act, 1996 (Cess Act) to levy and collect cess for providing benefits to the workers. The GoI framed (November 1998) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Central Rules, 1998 and Building and Other Construction Workers Welfare Cess Rules 1998 (Cess Rules). The Act, *inter alia*, mandated constitution of a Building and Other Construction Workers' Welfare Board and framing of rules by every State Government to exercise the powers conferred under the Act.

In exercise of the powers conferred under the Act, GoM notified (February 2007) the Maharashtra Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2007 (Rules 2007). The Maharashtra Building and Other Construction Workers

Welfare Board<sup>33</sup> (Board) was constituted (August 2007) for implementation of the Act and Rules.

Audit scrutiny of the functioning of the Board along with five<sup>34</sup> District Labour offices for the period 2011-12 to 2013-14 was conducted to assess the compliance to the provisions of the Acts and rules.

### **3.3.2 Framing of rules and constitution of Board and Committees**

The institutional framework required for the implementation of the Act in the State was delayed as discussed below:

- The State Government notified (February 2007) the Maharashtra Building and Other Construction Workers (Regulation of Employment and Conditions of Services) Rules, 2007 after a gap of 11 years from the enactment of the Act.
- GoM constituted a full-fledged Board, comprising of representatives of State Government, employers and workers in May 2011 for carrying out activities assigned under Act/Rules.
- A State Building and Other Construction Workers Advisory Committee for advising the State Government on such matters arising out of the administration of the Act was constituted only in June 2012.
- Expert Committee consisting of persons specially qualified in building and other construction work for advising the State Government for making improvement in rules, if required, under the Act was constituted in March 2013 after dissolution of earlier Committee in January 2005.

The delay in framing and constituting full-fledged Board delayed the process of registration of workers and introduction of schemes for the welfare of the workers as discussed in **paragraphs 3.3.3.2(a) and 3.3.5.**

### **3.3.3 Functioning of the Board**

#### **3.3.3.1 Registration of establishment**

- Section 7 of the Act stipulates that every employer<sup>35</sup> undertaking construction by engaging construction workers shall make an application to the registering officer of the district for registration of the establishment within 60 days from the commencement of the work. Rules 22 to 26 of the Rules, 2007, specify the manner and conditions of registration of the establishments/employers. The Board had registered 4,651 employers in the State as on 31 March 2014. To ensure registration of all eligible employers, a formal mechanism ensuring linkages with the Government and planning authorities including Local Bodies in the State undertaking and authorising construction activities was essential to identify prospective employers to cover under the Act. It was, however,

<sup>33</sup> Consists of the Commissioner of Labour as Chairperson, Deputy Secretaries of Labour, Urban Development, Finance, Public Works and Irrigation Departments representing the State Government and representatives of employers and employees (five each). The Assistant Commissioner of Labour is the Secretary of the Board

<sup>34</sup> Mumbai City, Mumbai East, Mumbai West, Thane and Raigad

<sup>35</sup> Every establishment which employs or had employed on any day of the preceding 12 months, 10 or more building workers in any building or other construction work

seen that no mechanism was constituted by the Board to identify unregistered employers.

- Section 15 of the Act, states that every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board. The Secretary of the Board had not carried out any inspection till date nor was the power delegated to any other officer. Further, Section 43 of the Act empowers the Inspectors<sup>36</sup> to inspect the premises of any establishment where construction work is carried on. Such inspections would have aided in identifying any unregistered employers. Scrutiny in audit revealed that the Board neither fixed any target for inspections nor maintained any data of inspections carried out by Government Labour Officer (GLO) in the District offices.

The Board while accepting (June 2014) the fact stated that information regarding the inspections carried would be collected from district offices.

- **Non-levy of fine for delay in registration by employer**

Audit scrutiny revealed that out of 1,345 employers registered in five test checked districts labour offices, 473 employers (35 per cent) had submitted the application for registration after 60 days of commencement of work. The delay ranged between three days and 1,708 days. However, fine of ₹ 4.73 lakh was not levied and recovered (August 2014).

- **Inadequate manpower**

The Board did not have separate Regional offices for the implementation of the provisions of the Act and the work was entrusted to the officers and staff of Labour Commissionerate. The staff requirement of 82 posts was submitted (June 2012/August 2012) by the Board to Industries, Energy and Labour Department (IELD). However, considering the immediate staff requirement and the limit on administrative expenditure, GoM sanctioned (October 2012) 56 posts for the Board including 19 posts of GLO having jurisdiction covering the entire State. But, despite a lapse of more than two years these posts were yet (August 2014) to be filled by the Board and the work continued to be handled by the Officers and Staff of the Labour Commissionerate in addition to their regular duties.

The Board stated (June 2014) that as per the provisions of the Act, administrative expenditure including salary should not exceed more than five per cent of the total expenditure and hence the appointment of staff was under consideration.

Reply of the Board can not be verified in absence of preparation of year wise Accounts. However, the lack of staff exclusively for the work of Board had its impact on the working of the Board and even the registration of workers for grant of benefits under the Act was poor, as discussed below.

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<sup>36</sup> In Maharashtra duties of Inspectors were looked after by Government Labour Officer

### 3.3.3.2 Registration of beneficiaries

As per Section 12 of the Act, every building worker who has completed 18 years of age but has not completed 60 years and has been engaged in any building and other construction work for not less than 90 days during the last 12 months shall be eligible for registration as a beneficiary under the Act. A building worker who has been registered as a beneficiary under the Act has to contribute monthly such sum as fixed by the State Government until the age of 60 years. Failure to remit the monthly contributions, for a continuous period of more than one year, shall entail cancellation of registration of the beneficiary. It was observed that though the Board was constituted in August 2007, it belatedly fixed (December 2011) the registration fee of ₹ 25 and monthly contribution of ₹ five to be paid by the workers which contributed to poor registration of workers as discussed below:

#### (a) Low registration of beneficiaries

The Board estimated (May 2011) 20 lakh workers employed as construction workers in the State, however the basis on which estimation was done was not available on record with the Board. It was noticed that the Board had registered only 1.79 lakh (8.95 *per cent*) workers till March 2014 out of which registration of only 1.12 lakh workers (5.58 *per cent*) were live<sup>37</sup> as on March 2014 as detailed in **Appendix 3.1**.

As seen from **Appendix 3.1**, out of the total workers registered till March 2014, registration of only 62.49 *per cent* of the workers was live. In Konkan region the percentage of live registration to total registration was only 31.89 *per cent*. Audit observed that, even the cumulative registration till March 2014 was less than the target of 50,000 fixed except in Pune Region as detailed in **Appendix 3.1**.

The Board stated (June 2014) that due to lack of staff it was difficult to visit construction sites and get the beneficiaries registered.

#### (b) Non-submission of monthly statement of expenditure

The Board distributed (August 2012) ₹ five lakh each to five Regional offices of Labour Commissioner for registration of minimum 50,000 beneficiaries in each region. The amount was to be spent on labour awareness programme, advertisement through pamphlets, inspection of construction site, arrangement of vehicles and stationery. Further, the Regional offices of the Labour department were required to submit to the Board monthly statement of expenditure out of ₹ five lakh distributed. However, none of the regional offices submitted the same. Audit further noticed that out of ₹ 25 lakh disbursed, the details of expenditure amounting to ₹ 6.83 lakh only was available with the Board in respect of three regions<sup>38</sup>.

#### (c) Non-issue of identity cards to the beneficiaries

Section 13 of the Act stipulates issue of identity card with photo duly affixed thereon by the registering authority to every beneficiary. The details of work done including the number of days of work done by the beneficiaries was

<sup>37</sup> Workers who continued to be beneficiary under the Act till March 2014

<sup>38</sup> Pune region: Up to April 2013 ₹ 0.38 lakh, Nashik region: Up to October 2013 ₹ 1.67 lakh and Nagpur region : Up to July 2013 ₹ 4.78 lakh



required to be entered in the identity card by the employer. The identity card serves as a documentary proof as regards whether the worker had been engaged in construction work for more than 90 days to be eligible for registration and availing benefits under the Act.

Out of 27,152 registered beneficiaries as on March 2014, in the five test checked districts Labour Offices of Konkan region, identity cards to 13,173 beneficiaries were not issued since 2009-10. In Raigad district labour office, though 7,115 workers were registered as beneficiaries up to March 2014, identity cards were not issued to any of the beneficiaries.

The Board stated (June 2014) that registered workers were not traceable for issue of identity cards.

### **3.3.4 Collection, Remittance and Assessment of Cess**

As per Section 3 of Cess Act, cess at such rate not exceeding two *per cent* but not less than one *per cent* of the cost of construction incurred by employer (excluding value of land) was to be levied for credit to the welfare fund for providing benefits to the workers.

As per Government Resolution (GR) issued (April 2008) by GoM, cess was to be recovered at one *per cent* on construction cost (excluding land cost) retrospectively from 01 January 2008. The cess collected by the cess collectors<sup>39</sup> was to be deposited into the account maintained by the Board within 30 days of its collection. Till March 2014, the receipts of the Board amounted to ₹ 1,989.32 crore which included cess collected, registration fees and interest earned on investment *etc.*

Test check of records of Municipal Corporations, Government departments/ autonomous bodies<sup>40</sup> for the period 2011-14, revealed the following.

#### **3.3.4.1 Non-recovery of cess**

During test-check of records, it was observed that the Cess was not recovered and remitted to Board's account by the following offices amounting to ₹ 1.21 crore as shown in **Table 3.3.1**.

**Table 3.3.1: Non-recovery of labour cess (₹ in crore)**

<b>Name of the office</b>	<b>Period</b>	<b>Nature of works</b>	<b>Amount</b>
Commissioner, Labour Welfare Board, Mumbai	2009-10 to 2011-12	Construction of Lalit Kala Bhavan, Nanded	0.05
Maharashtra Housing and Area Development Authorities	2008-09 and 2009-10	Building construction work	0.79
Executive Engineer, North Mumbai (Public Works) Division	2008-09 to 2010-11	Building construction work	0.37
<b>Total</b>			<b>1.21</b>

*Source: Information furnished by the department*

<sup>39</sup> In respect of Government and Public Sector Undertakings (PSU), Deputy Engineer (Public Works) and Executive Engineer of concerned PSU are the cess collectors. In Municipal Corporation and Council the Assistant Municipal Commissioner/Ward officer and Tax Superintendent are the cess collectors. In Village the Gram Sevak/Village Development Officer is the cess collector. In all other cases Tahsildar is the cess collector

<sup>40</sup> Navi Mumbai Municipal Corporation, Municipal Corporation of Greater Mumbai, Panvel Municipal Council, Maharashtra Housing and Area Development Authority, Public Works Department, Andheri division

### 3.3.4.2 Irregular recovery of cess

Though, the provision of the Act is applicable only to those establishment which employs 10 or more workers in any building or other construction work, the GR issued in April 2008 by IEDL did not specify the same. Consequently, the cess was being deducted in respect of all the building or other construction work by MHADA, PWD irrespective of the number of workers employed in violation of the Act.

### 3.3.4.3 Delay in remission of cess

As per Rule 5(3) of Cess Rules, cess collected was required to be remitted to the Board within 30 days of its collection. Audit scrutiny revealed that in following cases there was delay in remittance of cess collected as shown in **Table 3.3.2**.

**Table 3.3.2: Delay in remittance of cess collected**

Name of the office	Period of collection	Amount collected (₹ in crore)	Delay range (in months)
NMMC	February 2011 to August 2011	4.89	One to three months
PWD, Andheri Division	February 2011 to March 2014	0.19	One to 10 months
MHADA	November 2010 to May 2013	5.57	One to 12 months
MCGM	October 2011 to December 2012	51.63	One to 11 months
Vasai Virar Municipal Corporation	November 2012 and March 2013	2.58	One to 14 months

*Source: Information furnished by the respective offices*

Thus, there was no mechanism in the Board to ensure that the cess collected by the Government departments/Local authorities had been remitted to the Boards account within the prescribed time limit.

Further, the Board could not levy interest for delayed remittance as there was no provision in the Act/Rules for the same.

### 3.3.4.4 Non-issue of assessment orders

Rule 6 of the Cess Rules stipulates that every employer should, within 30 days of commencement of work or payment of cess, as the case may be, furnish to the assessing officer, information (Form I) regarding the estimated cost of construction and details of cess deposited. Rule 7 *ibid* empowers the Assessing Officer to scrutinise such information and make an order of assessment within a period not exceeding six months from the date of receipt of such information, indicating the amount of cess payable by the employer and endorse a copy of the order to the Board.

Scrutiny in audit revealed that though no assessment orders were received by the Board from any of the assessing officers till date (June 2014), the Board had not taken any action on the Assessing Officers. The Board should have taken up the matter with the GoM about non-receipt of assessment orders as per Cess Rules. In the absence of assessment orders, non-levy as well as incorrect collection of cess could not be ruled out.



### 3.3.5 Implementation of Welfare Schemes

A beneficiary registered under the Act was required to submit an application in the prescribed format to the registering authority for availing benefits under the scheme. The Board, after sanctioning the claims, disburses the financial assistance by cheque.

Only after the composition of full-fledged Board in May 2011, the Board approved (June 2011) welfare schemes for providing financial assistance to the registered workers for purpose of education of children of the beneficiaries, medical expenses *etc.* The expenditure incurred by the Board on the welfare schemes was ₹ 38.16 crore as against the total receipt of ₹ 1,989.32 crore till March 2014 which included cess of ₹ 1,929.58 crore (**Appendix 3.2**). Out of ₹ 38.16 crore disbursed, ₹ 37.35 crore was towards premium paid for two insurance Schemes while ₹ 0.81 crore covering 1,035 workers was towards five Schemes (**Appendix 3.3**).

Test check of 236<sup>41</sup> claims out of 986 claims passed during 2012-14 revealed irregularities as discussed below:

**(a) Immediate Funeral Assistance:** As per the Scheme ₹ 5,000 was payable to the nominee of the beneficiary as immediate funeral assistance. The Board paid ₹ 1.20 lakh to 24 nominees (₹ 5,000 each) of registered beneficiaries under the Scheme during the period 2012-14. However, documentary evidence in support of the payments such as application of the nominees and death certificate of the registered workers *etc.* were not produced to audit for verification.

The records relating to the actual number of deaths/accidents of registered workers was also not available with the Board indicating that there was no system of ensuring help in all such cases.

The Board stated (June 2014) that applications received and benefits given to the beneficiaries were not maintained properly due to lack of staff.

**(b) Assistance for Natural delivery and Caesarean delivery:** As per the Scheme an amount of ₹ 5,000 and ₹ 10,000 was payable to each beneficiary for natural delivery and cesarean delivery respectively which was increased (December 2013) to ₹ 10,000 and ₹ 15,000 respectively. An amount of ₹ 15.55 lakh was disbursed during the period 2012-14 to 222 beneficiaries. Scrutiny revealed that an amount of ₹ 15,000 was disbursed (₹ 5,000 and ₹ 10,000) to two beneficiaries who were not registered at the time of delivery (registered on 31 January 2012 and date of delivery 09 February 2011 in both the cases). While documentary evidence in respect of six claims involving disbursement of ₹ 30,000 (₹ 5,000 per claim) were not produced to audit for verification, in eight test-checked cases, the payments to the beneficiaries were made after a time lag of 22 days to nine months from the date of receipt of applications, thereby depriving the beneficiaries of timely assistance.

The Board accepted (June 2014) the fact about the payment made to the non-registered beneficiaries and regarding documentary evidence it was stated that efforts would be made to trace out the missing application forms.

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<sup>41</sup> Educational assistance: 131 claims, Assistance for natural delivery: 100 claims, Assistance for cesarean delivery: 3 claims, Medical assistance: 2 claims

**(c) Educational Assistance for children of beneficiaries:** As per the Scheme educational assistance to maximum two children of the beneficiaries was payable<sup>42</sup>. Under the Scheme, an amount of ₹ 38.24 lakh was disbursed during the period 2012-14 to 732 beneficiaries. Audit observed the following:

- An amount of ₹ 3,000 were disbursed to five beneficiaries before they were registered under the Act.
- An amount of ₹ 1.05 lakh was disbursed to three beneficiaries for education assistance of their children for the year 2012-13 though the workers were registered in the month of April and May 2013 *i.e.* in the year 2013-14.
- An amount of ₹ 1.49 lakh was disbursed to 17 beneficiaries without supporting documents such as copy of ration card, nomination form, passing certificate *etc.*
- In 24 test-checked cases, the payment of ₹ 1.66 lakh to the beneficiaries were made after a time lag of nine days to seven months from the date of receipt of applications thereby depriving the beneficiaries of timely assistance.

The Board accepted (June 2014) the fact and stated that appropriate action would be taken.

**(d) Janashree Bima Yojana :** In order to extend benefits to the workers of unorganised sector, which normally are available in organised sector, GoM implemented (August 2004) Janashree Bima Yojana (JBY) operated by Life Insurance Corporation of India (LIC) for workers in unorganised sector. The Scheme envisaged payment of annual premium of ₹ 200 (Share of GoI: ₹ 100, GoM : ₹ 50 and beneficiary : ₹ 50). The Board decided (June 2012) to implement JBY<sup>43</sup> for workers registered with the Board entailing payment of beneficiary contribution of ₹ 50 by the Board. The Scheme commenced from 14 December 2012, with payment of premium of ₹ 32.70 lakh for one year to LIC covering 65,389 beneficiaries. The scheme was not renewed by the Board as per the decision (November 2013) of Expert Committee of the Board on the ground that the benefit of the Scheme reached only few beneficiaries. The discontinuation of subscriptions to the Scheme rendered the workers without a social security in the form of life insurance cover.

**(e) Distribution of Laptops:** As per the decision taken (January 2014) in the meeting held in Secretariat under the Chairmanship of Minister (Labour) the Board purchased (February 2014) 50 laptops amounting to ₹ 23.80 lakh to be distributed to the children of the beneficiaries. However, the beneficiaries were neither identified by the Board nor the eligibility criteria for distribution of laptops fixed. Consequently, the laptops were not distributed till date (August 2014). The Board while accepting the fact stated (June 2014) that the

<sup>42</sup> Standard I to X : ₹ 600 per year; standard XI to graduation: ₹ 2,000 per year; I, II and III year of graduation ₹ 15,000 per year towards books and educational material; Medical and Engineering courses: ₹ 35,000 per year

<sup>43</sup> The sum assured per member was ₹ 30,000 in the event of natural death, ₹ 75,000 in the event of death due to accident or 100 *per cent* disability, ₹ 37,500 in the event of partial permanent disability and financial assistance of ₹ 100 per month per child limited to two children

laptops were not distributed pending communication of date for distribution by GoM.

Thus, despite a lapse of more than six years since the formation of the Board, the poor disbursement of funds towards workers welfare schemes covering 1,035 workers only *vis-a-vis* the huge accumulated receipt of ₹ 1,989.32 crore, defeated the objective of providing safety, health and welfare measures for the workers under the Act.

### **3.3.6 Financial management**

#### **3.3.6.1 Budgetary Control**

Section 25 of the Act, 1996 provides that the Board shall prepare budget for the next financial year showing the estimated receipt and expenditure of the Board and forward to the State Government and Central Government. The Board did not prepare budget for the year 2011-12, while the budget for the years 2012-13 and 2013-14 were submitted to the State Government on 30 April 2012 and 21 August 2013 respectively *i.e.* after the commencement of the financial year. No approval was accorded by GoM to the budget submitted.

#### **3.3.6.2 Non-preparation of annual accounts**

Section 27 of the Act provides that the Board shall maintain proper accounts and other relevant records and prepare an Annual Statement of accounts. However, the Board had not prepared the annual statement of accounts so far for any year. Hence the audit could not be taken up (December 2014).

#### **3.3.6.3 Non-maintenance of cash book and other basic records**

The Board did not maintain cash/bank book and other basic records such as ledger, challan register *etc.* As per GR issued (June 2010) by GoM, details of the date of cess collection, its remittance with challan number was to be submitted each month by each cess collector in the prescribed format to the Board for reconciliation with the bank account. Audit observed that such details were neither received by the Board from the cess collector nor did the Board take any action to obtain the same. Consequently, the reconciliation of the amount deposited in the bank could not be carried out by the Board to ensure correctness of the amount remitted.

#### **3.3.6.4 Dishonored Cheques**

As per Rule 4 of Cess Rules, where the approval of a construction work by a local authority is required, every application for such approval shall be accompanied by a crossed demand draft in favour of the Board. However, in violation of the provisions of the Act, Board accepted cheques till March 2014. Audit scrutiny revealed that an amount of ₹ 17.59 crore received through cheques in 1,161 cases and deposited in bank account was dishonoured due to insufficient funds, bank liquidation *etc.* The Board however, did not take any action for recovery of the amount. The Board stated (September 2014) that the details of dishonored cheques would be obtained from bank and action taken.

### 3.3.7 Internal Control and monitoring mechanism

An effective internal control system provides a reasonable assurance on overall management process and shows the extent of monitoring of operations carried out by an organisation. The internal control mechanism and monitoring was weak as discussed below:

#### 3.3.7.1 Non-maintenance of proper records

The Board did not have list of entire cess collectors in the State and agencies involved in construction activities under its jurisdiction. The Board had also not devised a system for preventing duplicate registration of workers in different districts, linking the registration of beneficiaries who are from the same family to avoid duplicate payment of benefits.

#### 3.3.7.2 Submission of Annual Report

Section 26 of the Act, stipulates that the Board shall prepare annual report, giving full accounts of its activities during the previous financial year and submit a copy thereof to the State Government and the GoI. The Board had submitted only one Annual Report for the year 2011-12 to the State Government since 2007-08 to 2013-14 *i.e.* last seven years.

#### 3.3.7.3 Internal Audit

The Board had not set-up Internal Audit Wing nor had it conducted internal audit by outsourcing the work during the period 2008-14.

#### 3.3.7.4 Monitoring

The monitoring of the Board was weak in view of non-maintenance of vital records, non-submission of annual reports, annual accounts, non-conducting of internal audit, low registration level of construction workers and poor disbursement of funds towards workers welfare.

### 3.3.8 Conclusion and recommendations

The delay in constituting the Board led to non-implementation of the Act in the State for more than 11 years. The delay in constituting full-fledged Board and inadequate manpower, delayed the process of registration of workers which in turn contributed to poor registration of workers apart from delayed operation of schemes for the welfare of the workers. The poor coverage of workers and disbursement of funds towards workers welfare schemes *vis-a-vis* the huge accumulated receipt defeated the objective of providing safety, health and welfare measures for the workers.

***The Board may appoint adequate staff and devise suitable strategy to identify the employers and workers for coverage under the Act. The reasons for poor coverage of workers under various welfare schemes may be analysed and workers encouraged to avail scheme benefits.***

No action was taken by the Board despite delay in remittance of cess collected within the prescribed period while there was loss of revenue due to non-levy of cess and dishonoured cheques.

***The Board may institute a suitable mechanism to prevent delays/ non-recovery of cess and take prompt action on dishonour of cheques.***

The financial management, internal control and monitoring was weak on account of non-maintenance of cash book, non-conducting of bank reconciliation, lack of internal audit and non-preparation of annual reports and annual statement of accounts.

***The Board may strengthen financial management, internal control and monitoring by ensuring maintenance and preparation of proper records and reports.***

The matter was referred to the GoM in August 2014; their reply was awaited (January 2015).

## **Water Resources Department**

### **3.4 Working of Mechanical Organisation of WRD**

#### **3.4.1 Introduction**

Mechanical Organisation (MO) is the mechanical wing of Water Resources Department (WRD), Government of Maharashtra (GoM) which was established in 1959. The working of MO broadly included Earthwork, Hydraulic Gates and Hoist, Canal maintenance, Workshop management, Boring, Stores management, Transportation, Lift Irrigation Scheme, Tunneling, Emergency services and Disposal of Machineries.

#### **3.4.2 Scope of Audit**

The audit on the working of MO covering the period 2009-10 to 2013-14 was conducted (April 2014 to July 2014) by test-check of the records of WRD at Mumbai, CE office, five circle offices and 11 mechanical divisions<sup>44</sup> out of 30 divisions selected by using stratified simple random sampling method. In the selected divisions, 314 earthwork and canal cleaning and 336 gate manufacturing and erection works, executed during the period 2009-14 were test checked.

Replies received from GoM in October 2014 have been suitably incorporated in the report.

### **Audit findings**

#### **3.4.3 Planning**

WRD initiated action for preparation of a vision document (Vision 2020) in June 2013. The vision document was prepared (September 2013) for the entire organisation which included MO and circulated the same for comments. The document is yet to be finalised (October 2014).

##### **3.4.3.1 Preparation of Annual Deployment Programme**

The MO prepares Annual Deployment Programme (ADP), which consists of works to be undertaken / executed by the divisions of MO during the year. The

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<sup>44</sup> Mechanical Division No. 1, Pune, Mechanical Division No. 2, Pune, Mechanical Division (KR) Alore, Mechanical Division (UPP), Nanded, Gate Manufacturing Division A, Pune, Hoist Design & Manufacturing Division, Pune, Chief Gate Erection Unit No. 5, Nashik, Mechanical Engineering Workshop Division, Nagpur, Mechanical Stores Division, Pune, Vishnupuri Pump House Division, Nanded and Inspection Unit, Aurangabad

works which are included in the ADP are compiled by the Circle offices and by the CE and are placed in the meeting for approval of ADP.

### 3.4.3.2 Delay in finalisation of ADP

It was observed that there was no prescribed time frame for finalisation of ADP and there were delays in finalisation of ADP forwarding the approval of ADPs to Circle offices by CE in last five years ending 31 March 2014. The ADPs were approved and forwarded to Circle offices with delays ranging from more than three to four months after start of working year.

The GoM stated henceforth ADP would be finalised in third week of August every year and a midterm review would also be held by December every year.

### 3.4.3.3 Improper planning of works

Annual Deployment programme includes works relating to earthwork, canal cleaning, gate manufacturing and gate erection which forms four major activities of the MO. Audit observed that in respect of these activities, works finalised in ADPs during last five years were not taken up and executed. The activity-wise and year-wise works planned, works taken up for execution and works not taken up for execution are shown in **Appendix 3.4**.

- A total of 1,481 *earthworks and canal cleaning works* were sanctioned through ADPs during the year 2009-14, out of which, 304 works were not taken up for execution and 655 works remained incomplete on which expenditure of ₹ 55.56 crore was incurred during the period 2009-14. Further, there was no system of carrying forward the incomplete work and works not taken up in the subsequent ADPs in respect of earthworks and canal cleaning works.
- Out of total 1,546 *earthworks and canal cleaning works* (planned and unplanned) executed during 2009-14, 1,024 works (66 *per cent*) were unplanned works.
- Similarly, in case of *gate manufacturing and erection works*, out of total 1,197 works sanctioned during the year 2009-14, 613 works were not taken up and 240 works on which ₹ 88.20 crore was incurred during the period 2009-14 remained incomplete. Further, only 136 works out of 240 incomplete works and 274 works out of 613 works not taken up were carried forward in the subsequent ADPs of years 2010-14.
- Out of total 648 *gate manufacturing and erection works* (planned and unplanned) executed during 2009-14, 303 works (47 *per cent*) were unplanned works.
- The *gate manufacturing and erection works* allotted through ADPs were outsourced to private agencies due to acute shortage of required manpower and resources. The percentage of works executed by MO during the period 2009-14 ranged between 8 *per cent* and 19 *per cent* only while the percentage of works outsourced by MO ranged between 50 *per cent* and 71 *per cent*.

GoM while accepting the facts stated that it would be ensured that all incomplete works of previous year are included in the next year ADP and a



circular has been issued (September 2014) in this regard. Further, GoM added the percentage of unplanned works would be restricted upto 15 *per cent* in any year and in respect of works proposed by Collector/Public Representatives, the MO should obtain GoM sanction before undertaking such works. Reply was silent about outsourcing of work.

#### **3.4.3.4 Replacement of old machineries**

In the MO the shelf life of different Heavy Earth Moving machineries (HEM) ranging from 8,000 hours to 20,000 hours and life in years ranging from 8 years to 15 years.

Audit observed that even though the shelf life of each machinery was stipulated, the MO did not have any planned mechanism for replacement of old machineries. The MO has 556 HEMs which included 341 HEMs purchased during 1957 - 1997 and as such the life of these HEMs had expired in terms of years. Further, 175 HEMs have already been utilised for more than 125 *per cent* of the scheduled life in hours as of 31 March 2014. Thus, due to non-replacement of old machineries, MO faced a decrease of 4.65 lakh hours in utilisation of these HEMs in comparison to anticipated machine hours of 20.80 lakh hours during the period 2009-14.

GoM while accepting the observations stated that out of existing 175 HEMs whose life has expired, survey reports<sup>45</sup> of 55 HEMs were sanctioned and survey reports of 12 HEMs are under consideration. Further, instructions were issued to the newly constituted Equipment Deployment Committee to review the requirements of machineries activity wise and submit recommendations to the Government.

#### **3.4.3.5 Shortage of Converted Regular Temporary (CRT) staff**

Water Resources Department had fixed (July 1994) the capacity of each of the sub divisions with reference to the availability of CRT<sup>46</sup> staff and machineries. Post of a CRT staff gets abolished after the retirement since there is no sanctioned strength of this staff. The CE was to review the capacity of each sub divisions every year in June/July. The number of CRT staff in the MO as of March 1994 was 10,055.

Audit observed that during 2009-14 the number of CRT staff employed in MO decreased from 4,471 in 2010 to 2,864 in 2014. With retirements of 1,329 CRT staffs in next four years, the strength of CRT will further get diminished by 50 *per cent* by March 2018. Though the capacity of MO largely depends on the availability of CRT staff, the MO has not reviewed the capacities of its divisions/sub divisions with reference to the availability of CRT staff.

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<sup>45</sup> According to para 421 of MPW Manual when stores (including tools and plants) of any kind become unserviceable, a report thereof must be made in the survey report form wherein full explanations must be given and the period during which the articles have been in store or in use stated and the cause of deterioration

<sup>46</sup> The duties of CRT staff include operation, running, maintenance and repairs of machineries (including machineries of workshops and pump houses) and executing gate manufacturing and erection works

GoM stated that the CE has submitted (October 2014) a proposal in this regard. Further progress in the matter is awaited (December 2014).

Thus, the utilisation of installed capacity of the divisions has been falling and outsourcing has been increasing. The old machineries were also not being replaced and vacancies of converted regular temporary staff not being filled up.

### 3.4.4 Financial Management

#### 3.4.4.1 Funding pattern and Fund Position

The requirement for funds are compiled by the Mechanical Circles and a consolidated proposal is submitted to WRD which in turn forwards the consolidated requirement of the department to Finance Department for sanction. After sanction, WRD allocates the grants to respective circles for distribution to the divisions. Details of fund demanded, allocated and expenditure incurred during the last five years ending 31 March 2014 are as detailed below:

**Table 3.4.1: Details of fund demanded, final allocation and expenditure incurred**

(₹ in crore)

Year	Demand		Final Allocation		Actual Expenditure	
	Plan	Non-plan	Plan	Non-plan	Plan	Non-plan
2009-10	291.08	4.59	213.09	1.13	212.14	1.13
2010-11	370.14	4.11	236.58	2.61	234.83	2.61
2011-12	443.35	11.62	239.88	2.66	239.37	2.66
2012-13	427.55	10.13	250.53	0.90	254.05*	0.90
2013-14	473.84	11.40	252.07	3.05	252.12*	3.05
<b>Total</b>	<b>2,005.96</b>	<b>41.85</b>	<b>1,192.15</b>	<b>10.35</b>	<b>1,192.51</b>	<b>10.35</b>

(Source: Information furnished by MO)

\*The expenditure in excess of final allocation in year 2012-13 and 2013-14 amounting to ₹ 3.52 crore and ₹ 0.05 crore respectively was related to establishment expenditure as the same was allocated through Plan Head of expenditure.

In addition to regular funds from GoM, the mechanical divisions had received deposits of ₹ 550.74 crore from the civil divisions of WRD for executing the works allotted by them during the period 2009-14 and the expenditure of ₹ 528.35 crore incurred there against.

#### 3.4.4.2 Non-availment of CENVAT credit

CENVAT Credit Rules allows manufacturer of final products to take credit of excise duties paid on any input or capital goods used in the manufacture of final or intermediate products. For claiming the credit of payment of excise duties on input goods, the manufacturer is required to maintain the records of Daily Stock Account and invoices properly.

Audit observed that two<sup>47</sup> divisions did not maintain the records of Daily Stock Account and invoices properly hence could not avail credit of excise duty for input material of ₹ 6.66 crore during the period 2009-14.

GoM while accepting the audit observations stated that in future responsibility would be fixed for failure to take credit. However, reply was silent about the amount not claimed during 2009-14.

<sup>47</sup> Gate Manufacturing Division-A, Pune, Hoist Design & Manufacturing Division, Pune

### 3.4.4.3 Recovery from civil divisions

As per the provisions of the MPWA Code, estimated cost of job work / supply of stores should be paid in advance to the executing division(s) on the basis of proforma invoice and the final cost should be scrutinised and got adjusted before the end of the financial year.

Audit observed that as of March 2014, there was a pending amount of ₹ 499.89 crore for recovery from civil divisions against the debit memos raised by various mechanical divisions for execution of works. The total recovery in last five years was only ₹ 156.63 crore as against the additions of ₹ 331.18 crore. Out of the pending amount of ₹ 499.89 crore, amount outstanding from five<sup>48</sup> Irrigation Development Corporations (IDCs) were ₹ 496.87 crore.

GoM stated that a review was taken at Government level with Chief Accounts and Finance Officers of all IDCs in July 2014 wherein the concerned mechanical divisions were instructed to settle the issue of verification of debit memos with concerned civil divisions. Final outcome of the review is awaited (December 2014).

### 3.4.4.4 Outstanding third party inspection charges

Audit observed that agreement was executed between Project Engineer of civil division and MO for third party inspections (TPI) in respect of the works of manufacturing and erection of gates of irrigation projects. However, no terms and conditions regarding payment of TPI charges before conducting the TPI was incorporated in the agreements. This resulted in non-recovery of the TPI charges of ₹ 10.58 crore as of March 2014.

GoM stated that instructions would be issued to civil divisions for early adjustment of TPI charges.

### 3.4.4.5 General observations

- It was observed that three<sup>49</sup> Divisions had an unspent deposit amounting to ₹ 10.27 crore for which no action was initiated to refund the same. GoM stated that all concerned officers will again be instructed to follow the prescribed procedures for refund.
- Audit observed that in four<sup>50</sup> mechanical circles, the expenditure incurred during 2009-14 on repairs to machineries was ₹ 56.35 crore as against the sanctioned limit of ₹ 44.13 crore resulting in excess expenditure of ₹ 12.22 crore.

## 3.4.5 Specialised Sub-Divisions

MO has 25 specialised sub-divisions for activities such as Workshop Management for gate works and machinery repair works, Store Management,

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<sup>48</sup> Vidarbha IDC (₹ 86.94 crore), Godavari Marathwada IDC (₹ 253.56 crore), Tapi IDC (₹ 14.04 crore), Konkan IDC (₹ 10.52 crore), Maharashtra Krishna Valley IDC (₹ 131.81 crore)

<sup>49</sup> Mechanical Division (K.R.) Alore (₹ 1.28 crore), Mechanical Division (U.P.P), Nanded (₹ 4.08 crore) and Mechanical Engineering Workshop Division, Nagpur (₹ 4.91 crore)

<sup>50</sup> Pune, Kolhapur, Nanded and Nashik

Transportation, Boring, procurement of Equipments and tools. During Test-check of 14 specialised sub-division the following was observed:

- The production of the Mechanical Engineering and Workshop Sub-division No. 2, Pune has decreased from 30.57 MT (₹ 0.36 crore) during 2009-10 to 14.98 MT (₹ 0.18 crore) during 2013-14 as against the target of 66 MT (₹ 1.00 crore) per year. The shortfall in production was due to shortage of CRT staff, old machineries, non-allotment of planned works.
- The Regional Workshop Sub-division No. 3, Pune deals with the work of Lift Irrigation Scheme (LIS) since 2009-10. This includes design, manufacture, supply, erection, testing and commissioning of pumping machineries and allied equipments etc. It was observed that technical manpower was being utilized for the purpose of supervising outsourced works pertaining to LIS. The sub-division did not carry out any work utilising its own manpower.
- The Heavy Machineries Sub-division, Auto Spares Sub-division and Steel Sub-division under the Mechanical Stores division perform works such as stores procurement and management of spare parts of HEM machineries, light vehicles and procurement of steel for gate manufacturing for the entire State. These divisions achieved an outturn<sup>51</sup> of ₹ 3.12 crore during 2009-14 as against a target of ₹ 15.15 crore. Further, a proposal for closure of the Steel sub-division has been forwarded to SE (October 2012), on which action has not been taken so far (October 2014).
- The Boring Sub division, Dapodi, Pune has been entrusted with the execution of works relating to boring, exploration and project site investigation for the entire State. It was observed that during 2009-14 as against 1,002 works included in ADP, only 106 works were allotted to the sub-division by the civil divisions.
- The Equipment and Maintenance sub-division, under Mechanical Division No.1, Pune, was responsible for execution of different type of mechanical works on gate parts. The earning of the sub-division has decreased from ₹ 6.34 lakh in 2009-10 to ₹ 0.01 lakh in 2013-14 due to decrease in the quantum of work carried out despite the staff position having remained the same.
- The Inspection and Quality Control Sub-division, Pune has been entrusted with working and maintenance of the Non Destructive Testing (NDT) laboratory for conducting testing of final products for detection of welding defects.

Audit observed that the laboratory procured only 15 equipments between 1962 and 1998 including some portable instruments. The NDT Operators are trained in Bhabha Atomic Research Centre. Though the records of the lab revealed that 49 tests such as Penetration Testing, Ultrasonic or X-ray Testing had been conducted between April 2009 and July 2011, the laboratory was unable to analyse and issue testing certificates as

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<sup>51</sup> Cost of total receipts and issue of store

trained staff was not available. The NDT equipments were lying unused since November 2011.

- Water Resources Department decided (June 2010) to close the Mechanical division, Nanded and its three sub-divisions (out of four sub-divisions). It also directed that all the machineries, stores, equipments etc. be transferred to other divisions by CE (Mechanical), Nashik. However, it was observed these had not been transferred and were found to have been dumped in the workshop.
- Regional workshop Sub-division No.1, Nanded, has been attached to the Mechanical division (Upper Penganga Project), Nanded in August 2010 for carrying out the maintenance and repairs of HEM machineries. However, due to non-availability of work, the percentage of shortfall as against targets during the period 2010-14 ranged between 72.04 per cent (2010-11) and 100 per cent (2013-14).

GoM accepted that the available machineries in the workshop are very old and unserviceable and CE (Mechanical) has been instructed to review the present situation of workload, available machineries and take necessary action.

#### **3.4.6 Blockade of fund**

- Mechanical Division, Pune was allotted the works of erection and installation of machineries<sup>52</sup> in 10 LIS projects. The machineries and materials costing ₹ 33.38 crore were procured by the division and supplied at sites between March 2010 and August 2013. However, the installation works were not completed due to non-availability of site as or non-supply of electricity. Thus, the machineries and materials were lying idle at the sites and with passage of time deterioration in quality/theft of the machineries and materials supplied at site cannot be ruled out.

GoM accepted the facts and stated that remaining activity of erection will be taken up as and when the civil/electrical works are completed.

- It was observed that 1,404.40 MT of gates and gate parts costing ₹ 16.16 crore manufactured by five selected divisions<sup>53</sup> were lying idle at the workshops for a period ranging one year to five years.

GoM stated that due to non-availability of sites, the gates and gate parts could not be utilised. However, efforts will be made to explore the possibility of utilising these manufactured parts at other sites of identical nature.

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<sup>52</sup> Vertical Turbine Pump, Booster pump, Non-Return Valves, Butterfly Valves, Kinetic Air Valve, Delivery Pipe line, Dismantling Joints, Induction Motors (H.T. Motors), Capacitors, Soft Starter, H.T. Panel (main panel), Batteries, Battery Chargers and D.C.D.B, Auxiliary Transformer, Preparation of cable, schedule & supply, Water Level Indicators. Temp. Scanner panels, Spares & Tools etc.

<sup>53</sup> Hoist Design & Manufacturing Division, Dapodi Pune (340.10 MT) - ₹ 5.03 crore; Mechanical Division No.2, Pune (142 MT) – ₹ 2.42 crore; Gate Manufacturing Division A, Dapodi, Pune (846.27 MT) – ₹ 7.91 crore; Mechanical Engineering & Workshop Division, Nagpur (15 MT) – ₹ 0.22 crore; Mechanical Division (KR), Alore (61.03 MT) – ₹ 0.58 crore

- In five selected divisions, it was observed that obsolete spare parts/ machineries amounting to ₹ 4.48 crore were lying idle since 1972 to 2013 and no action had been taken for their disposal.

GoM stated that newly appointed equipment deployment committee will look in to the matter and take appropriate action.

### **3.4.7 Internal Controls and Monitoring**

#### **3.4.7.1 Non-maintenance of records to measure departmental work**

Para 2.2.1 of Guide book issued by CWC prescribes that performance of machineries/equipment should be evaluated in relation to the production accomplished vis-à-vis the works targets set and scheduled production hours could be used only as guide. As such, the department is required to maintain records for actual hours worked and physical output achieved for evaluation of performance of machineries/equipments. However, it was observed that the divisions were only working out the achievements of the machineries by multiplying number of hours worked by machinery by the pre-decided capacity factor of the machinery. The actual work accomplished by the machinery is neither calculated nor being brought on record. In absence of maintenance of records, audit could not vouch the actual physical work executed by machineries as shown in progress report.

GoM stated that all concerned officers would again be instructed to follow the prescribed procedures regarding physical measurement of the work done.

#### **3.4.7.2 Non-compliance to the observations made during pre monsoon and post monsoon inspection**

The Inspection unit, Aurangabad conducts pre-monsoon and post-monsoon inspection of gated and non-gated dams in the region of Vidarbha, Marathwada and part of Western Maharashtra. The deficiencies pointed out by the unit are classified in three<sup>54</sup> categories and out of these, the deficiencies of Category I and II are of serious nature. The deficiencies are reported to the concerned civil divisions for compliance after the inspections of the project.

It was observed that the unit raised 133 and 7,703 pre monsoon and post monsoon observations of category I and II respectively during the period 2009-14 in respect of 114 projects. The civil divisions did not comply to any of the category I observations and had complied only in respect of 33 category II observations. The low number of compliances to the deficiencies of serious nature reflects improper monitoring by department.

GoM stated that necessary circular / guidelines will be issued shortly.

### **3.4.8 Conclusions and recommendations**

The Mechanical Organization of the Water Resources Department was beset with numerous problems and therefore, its objectives were not being met. It was found in audit that the sub-divisions were equipped with old machinery.

<sup>54</sup> Categories of deficiencies: Category I deficiencies: Deficiencies which may lead to failure of dam; Category II deficiencies: Major deficiencies requiring prompt remedial measures; Category III deficiencies: Minor deficiencies which are rectifiable during the year



There was under utilisation of capacity as adequate manpower was not available. Thus, there was found to be heavy reliance on outsourcing of works. Further, the organisation was not delivering to capacity due to lack of effective co-ordination with various divisions of the Water Resources Department.

*The Government may review and evaluate the performance of the Mechanical Organisation and take suitable steps to improve its efficiency.*

## **Water Resources Department**

### **3.5 Undue benefit**

#### **Unwarranted payment for workmen's compensation insurance resulted in providing undue benefit of ₹ 1.39 crore to the contractor.**

The Irrigation Department under GoM accorded (November 1968) administrative approval (AA) to the Upper Penganga Project for ₹ 35.06 lakh. The AA was revised time to time and final AA was accorded (October 2010) for ₹ 1,976.09 crore. The Isapur Right Bank Canal was part of the canal distribution system of this project. The work of Construction of Earthwork, Structures, Lining and Tunnel in km 120 to 125 of Isapur Right Bank Canal was awarded (March 2007) to a contractor at 4.91 *per cent* above the estimated cost of ₹ 51.26 crore was scheduled for completion in 48 months. As per clause 40 of 'Special Conditions of the Contract', the contractors were responsible for providing protection against accidents on the work site. The clause further stipulated that "though the Corporation is a Principal Employer, the complete responsibility of compensation shall be on the contractors". The contractors were also to indemnify the Corporation against any claims for damages to the property, injury to workers or any other persons, deaths, etc.

Scrutiny (March 2013) of the records of Executive Engineer (EE), Upper Penganga Project Division 6, Nanded revealed that to cover risks to workmen during execution, the rates of the tunneling items were derived after loading charges for Workmen's Compensation Insurance (WCI) at the rate of three *per cent* of the cost of the items. Accordingly, the contractor was paid (May 2013) the final bill amounting to ₹ 87.78 crore, of which ₹ 1.39 crore was towards WCI.

The inclusion of WCI charges in the rates for tunneling works was not justified in view of clause 40 *ibid* of the agreement and therefore resulted in providing undue benefit to the contractor.

The EE stated (July 2013) that the element of insurance charges was included in the rate so as to indemnify contractor for the work involved in underground excavations. The reply was not acceptable as the agreement specifically provided that in the event of accident; the contractor was responsible for payment of compensation under the Workmen's Compensation Act.

Matter was referred to the GoM (June 2014); their reply was awaited (January 2015)

### 3.6 Undue benefit

#### **The Superintending Engineer, Nashik Irrigation Project Circle, Dhule sanctioned revised rates for EIRL in contravention of contract provisions resulting in overpayment of ₹ 2.02 crore to the contractor.**

The Maharashtra Public Works Manual authorises the Executive Engineer under Rule 277 (A) to sanction rates for new item(s) of work, requirement of which is felt at the time of execution but was not included in the scope of work (Schedule B). The new item(s) termed as Extra Item Rate List is/are payable at the prevailing Current Schedule of Rates (CSR).

GoM accorded (October 2007) revised administrative approval to Dehali Medium Project for ₹ 95.45 crore based on the CSR for the year 2005-06. The construction work of balance earthwork, spillway and head regulator was awarded (February 2007) to a contractor at 4.97 *per cent* above the estimated cost of ₹ 34.29 crore with stipulated period of 36 months for completion. The work is still ongoing and the contractor was paid (April 2014) ₹ 61.86 crore in the 20 running account (RA) bill. As per Schedule B of the contract, the Waste-Weir, Divide Wall, Guide wall and other appurtenant works were to be constructed in Un-coursed Rubble (UCR) Masonry.

Scrutiny of records (April 2012) of Executive Engineer, Dhule Medium Project Division 2, Nandurbar, District Dhule (EE) and subsequent information obtained (April 2014 to June 2014) revealed that the Central Designs Organisation (CDO, Nashik) revised (June 2008) designs and drawings for the dam, wherein the Waste Weir, Divide Wall, Guide wall and other appurtenant works was to be constructed in Cement Concrete (CC) in grades M-15 and M-20. As construction in CC in grade M-15 was not part of Schedule B, the EE submitted (April 2008) an EIRL proposal for execution of 25,577.87 M<sup>3</sup> of CC in grade M-15 at the rate of ₹ 3,977.55 per M<sup>3</sup> (CSR for the year 2008-09) which was sanctioned by the Superintending Engineer, Nashik Irrigation Project Circle, Dhule (SE) in October 2008.

The SE, however, on re-verification of the rate sanctioned in the EIRL found that the basic rate prescribed in the CSR was already inclusive of water charges, cost of admixtures and Value Added Tax which were again added while deriving the rates. Hence, the rates were corrected to ₹ 3,683.54 per M<sup>3</sup>. The SE accordingly directed (February 2011) the EE to apply the revised rates while making EIRL payment. The EE, however, continued payment for the EIRL item at the earlier rate of ₹ 3,977.55 per M<sup>3</sup> and an amount of ₹ 2.83 crore was paid towards Price Variation (PV) on the EIRL amount leading to an overpayment of ₹ 1.86 crore to the contractor upto the executed quantity of 55,329.23 M<sup>3</sup>.

The EE stated (June 2014) that the overpayment of ₹ 1.63 crore to the contractor was adjusted from the bills paid in April 2014.

It was however observed that the SE re-sanctioned (April 2014) rate and quantity of EIRL for the same item by splitting the executed quantity of 60,829.72 M<sup>3</sup> in three years rates and paid ₹ 24.43 crore.

The re-sanctioning of rates by splitting the executed quantity and applying that years CSR was unjustified and irregular as the contractor had already been paid PV on the value of work done under EIRL which took care of price variation. Thus, instead of recovering the excess payment from the contractor, the SE re-sanctioned rates for the EIRL and extended undue benefit of ₹ 2.02 crore to the contractor.

Matter was referred to the GoM (June 2014); their reply was awaited (January 2015).

### **3.7 Overpayment to contractor**

**Executive Engineer, Design Division Unit, Jalgaon did not follow the provisions of the contract while working out Price variation payable to contractor which resulted in over payment of ₹ 8.13 crore.**

Maharashtra State Power Generation Company Limited entrusted the Work of providing, laying and joining of pipeline from Ozarkheda Dam to Bhusawal Thermal plant station, Deepnagar to Executive Engineer, Design Division Unit, Jalgaon (EE) as 'Deposit work'. The EE awarded (August 2009) the work to a contractor at a cost of ₹ 104.11 crore for completion within 12 months (August 2010). Clause 10 of the contract stipulates that bill should be submitted by the contractor every month or before the date fixed by the Engineer-in-charge for all work executed in the previous month. Further, Clause 33 of the agreement prescribed formulae based on the variation of ruling indices<sup>55</sup> compared with the base index<sup>56</sup> fixed for the three components<sup>57</sup> for payment of PV on the gross amount of work done during the period considered for bill payments to contractor.

Scrutiny of records of the EE revealed that the contractor was not submitting running account (RA) bills monthly but after a period ranging from two to 12 months. The contractor was paid (August 2011) the fifth RA bill for value of work done amounting to ₹ 95.88 crore including ₹ 21.44 crore towards PV. It was observed that the EE while working out the PV had not considered the indices prevailing on the date 30 days before the last date prescribed for receipt of tender for 'base indices'. Also the gap between the two bills paid should be treated as the period during which the work was carried out and accordingly indices corresponding to this period should have been considered. However, the indices considered by the EE did not correspond with the period for which the bills were paid. This resulted in excess payment of ₹ 11.57 crore towards PV to the contractor up to fifth RA bill.

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<sup>55</sup> The average of indices prevailing during the period considered for the bill payment in respect of labour, all commodities and petrol / diesel, oil and lubricants (POL) components. For labour component the Consumer price index (New Series) for Industrial Workers applicable for Working Place Center as per the Labour Gazette published by the Commissioner of Labour, Government of Maharashtra; For All Commodities, the whole sale price index for all commodities published by the office of Economic Adviser, Ministry of Industry, Government of India and for POL the prevailing market price

<sup>56</sup> The indices in respect of Labour, Material and POL prevailing on the date 30 days before the last date prescribed for receipt of tender

<sup>57</sup> Labour, Material and POL

The EE while accepting the fact of overpayment (April 2014) stated that the PV payable upto the ninth RA bill (paid in May 2014) works out to ₹ 17.97 crore.

The revised working of the PV by the EE was also erroneous as the provisions of the contract were not followed. Had the provisions of contract been followed, PV of only ₹ 13.31 crore was payable up to ninth RA bill. Since PV of ₹ 21.44 crore has already been paid up to fifth RA bill, ₹ 8.13 crore is due for recovery from the contractor. The recovery is yet to be made (December 2014).

The matter was referred to the GoM (June 2014); their reply was awaited (January 2015).

Nagpur,  
The 20 March, 2015



(SHEELA JOG)  
Accountant General (Audit)-II,  
Maharashtra, Nagpur

Countersigned



New Delhi,  
The 27 March, 2015

(SHASHI KANT SHARMA)  
Comptroller and Auditor General of India