Chapter-III

3. Transaction Audit Observations

Important audit findings emerging from test check of transactions of the State Government companies/Statutory corporations are included in this Chapter.

Government companies

South Bihar Power Distribution Company Limited

3.1 Undue benefit to Contractors

Non-adherence to the CVC Guidelines and non-observance of financial interests on the part of the Company resulted in loss of interest of ₹1.01 crore on non-recovery of mobilisation advance.

Central Vigilance Commission (CVC) Guidelines (April 2007) stipulated that payment of Mobilisation Advance[1] (MA) to the contractor should be need based and its recovery should be time bound and not linked with the progress of works so that even if the contractor is not executing the work or is executing the same at a slow pace, the recovery of advance could commence and scope for misuse of such advance could be reduced. The aforementioned Guidelines also stipulated that there should be a clear stipulation of interest to be charged on delayed recoveries either due to the late submission of bills by the contractor or for any other reason.

Scrutiny (February 2015) of records of South Bihar Power Distribution Company Limited (Company) revealed that the Company invited (July 2013) seven bids [i.e. Notice Inviting Tenders (NITs)] for the work of strengthening, improvement and augmentation of distribution system under the scheme of Backward Region Grant Fund which, *inter-alia,* provided for release of interest free mobilisation advance to the extent of 10 *per cent* of the total price of supply and erection components of work. 14 numbers of Letters of Award (LOAs) were issued between November 2013 to February 2014 to six contractors for execution of supply and erection works with the schedule for completion being October 2014 to January 2015. Accordingly, the Company granted interest free mobilisation advance of ₹ 48.15 crore to the five contractors against 12 LOAs which were being adjusted at a rate of 10 *per cent* from the bills of the contractors. In LoA, no provision for interest on mobilisation advance was made for amount outstanding after scheduled completion period. All the works under the purview of aforementioned seven NITs were not completed by the contractors till date (March 2015) despite the lapse of schedule time period of completion.

We observed that the Company in violation of the CVC Guidelines failed to incorporate a clause in its NITs/LOAs regarding interest to be charged on unadjusted MA remaining outstanding after scheduled completion period. Non-observance of the financial interest resulted in a loss of interest of ₹ 1.01

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[1] Mobilisation Advance is released to the Contractors/agencies for mobilising materials and labour at the site.

crore[2] to the Company on mobilisation advances of ₹ 34.09 crore lying unadjusted with the contractors up to March 2015.

The Company, while accepting the facts and figures, stated (October 2015) that of a sum of ₹ 48.15 crore given as interest free mobilisation advance, ₹ 32.65 crore has been deducted from the bills of the contractors and the balance ₹ 15.50 crore shall be deducted from the bills to be submitted by the contractor. Further, a provision for interest bearing mobilisation advance has been incorporated in the work orders issued in the recent by the Company**.**

Thus, non-adherence to the CVC Guidelines and non-observance of financial interests on the part of the Company resulted in loss of interest of ₹ 1.01 crore and mobilisation advances of ₹ 15.50 crore was still recoverable (October 2015).

The matter was reported to the Government (May 2015); reply was still awaited (December 2015).

3.2 Loss of revenue

Inordinate delay in enhancement of Contract Demand of Railway Traction Service Consumer and billing at a lower rate resulted in loss of interest of ₹ 6.85 crore.

Bihar Electricity Regulatory Commission (BERC) approved Tariff Order 2006-07[3], provided, that the transformer capacity of all High Tension (HT) consumers shall not to be more than 150 *per cent* of the contract demand. BERC Tariff Order 2010-11[4], considering the special need of Railway, permitted the Railway Traction Service (RTS) consumers to have transformers of capacity up to 200 *per cent* of the contract demand. Where a consumer is held to be utilising transformer of capacity higher than admissible for his contracted demand, then the same is required to be proportionately enhanced.

Scrutiny of the records (December 2013) of the erstwhile Bihar State Electricity Board [now South Bihar Power Distribution Company Limited[5] (Company)], revealed that:

- Sr. Divisional Electrical Engineer, an RTS consumer at Eastern Central (EC) Railway, Mugalsarai at Grid Sub-Station (GSS), Karmnasa having a contract demand of 7.5 Mega Volt Ampere (MVA) was having two transformers, one of 18.5 MVA capacity (installed since September 1993) and other of 21.6 MVA capacity (installed since March 2012) in violation of provisions of the aforementioned Tariff Order with the permission of the Company, but the Company failed to enhance the load of the aforementioned Consumer as per the provisions of the Tariff Orders.

- the contract demand of the said consumer, as per the provisions of the aforementioned Tariff Orders, worked out to be 12.33 MVA[6] for the period

[2] Calculated for the period post scheduled time period of completion.
[3] Applicable with effect from November 2006.
[4] Applicable with effect from December 2010.
[5] After restructuring of the BSEB, the RTS consumers at GSS, Karmnasa is being billed by the South Bihar Power Distribution Company Limited.
[6] 18.5 MVA/150 *per cent* = 12.33 MVA.

November 2006 to November 2010 and 9.25 MVA[7] for the period December 2010 to March 2012 and 10.80 MVA[8] for the period April 2012 to May 2013 so as to conform to the provisions of the Tariff Orders and the said RTS consumer should have been billed accordingly.

The Company enhanced the contract demand of the said consumer to 10.80 MVA in June 2013.

Thus, non-compliance with the provisions of the Tariff Orders and inordinate delay in enhancement of the contract demand of the said consumer by the Company resulted in non-realisation of revenue amounting to ₹ 8.23 crore on account of Demand Charge and Energy Charge for the period November 2006 to May 2013. Besides, the Company also suffered a consequential loss of interest of ₹ 6.85 crore.

The Company stated (October 2015) that the consumer had paid (June 2015) ₹ 8.23 crore on account of Demand Charge and Energy Charge for the period November 2006 to May 2013. However, still due to inordinate delay in enhancement of the contract demand the Company suffered a loss of interest of ₹ 6.85 crore.

The matter was reported to the Government; reply is still awaited (December 2015).

3.3 Delay in enhancement of Contract Demand

Abnormal delay in sanctioning the enhancement of Contract Demand of an existing consumer resulted in loss of opportunity to earn revenue of ₹ 45.70 lakh.

Paragraph 17 read with paragraph 15 (4) (b) of the Bihar Electricity Regulatory Commission (BERC) (Standards of Performance of Distribution Licensee) Regulations, 2006, stipulate that on receipt of an application in the prescribed form for the enhancement of the Contract Demand of an existing consumer, the Licensee[9] shall in case of High Tension Services (HTS) or High Tension Specified Services (HTSS) category, enhance the load of the said consumer within 145 days where erection of 33 KV line is involved. Further, Paragraph 4(b)(10) of Amendments to BERC (Standards of Performance of Distribution Licensee) Regulations, 2006 prescribes 90 days' time limit from the receipt of the prescribed charges for release of supply in case of enhancement of load in HTS category.

Scrutiny (December 2014) of the records of Electric Supply Circle (ESC), Patna, a unit of the erstwhile Bihar State Electricity Board [now, South Bihar Power Distribution Company Limited[10]] revealed that:

- An existing Low Tension Industrial Services (LTIS)-I consumer applied (28 August 2012) for enhancement of its Contract Demand to 1250 Kilo Volt Ampere (KVA) in to HTS-II category on 33 KV system with electricity supply to be commenced from February 2013.

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[7] 18.5 MVA/200 *per cent* = 9.25 MVA.

[8] 21.6 MVA/200 *per cent* = 10.8 MVA.

[9] Licensee means any person including a Company or a Local Authority licensed under the Indian Electricity Act, 1910 to supply energy and includes the Bihar State Electricity Board.

[10] Being one of the five Companies from unbundling of BSEB in November 2012.

- The ESC, Patna as against the prescribed period of 10 days, forwarded the load enhancement proposal together with the feasibility report to the Central Electricity Supply Area Board, Patna (Area Board), after a delay of 146 days on 22 January 2013. However, the Area Board did not sanction the applied enhanced load till January 2014.

- On the basis of Delegation (August 2013) of powers to the Electrical Superintending Engineer (ESE) of ESC, the load enhancement application of the said consumer was recalled by the ESC, Patna on 30 January 2014. The ESE, Patna sanctioned the enhanced load on 8 February 2014. Subsequently, the consumer deposited the security money on 14 February 2014 and HT agreement with the said consumer was executed on 21 May 2014. The electricity supply to the said consumer commenced after an abnormal delay of 481 days on 24 June 2014.

We observed that delay in sanctioning of the enhancement of the Contract Demand was mainly attributable to the deficient Internal Control System prevalent in the company since there were delays at every stage right from the preparation and submission of the Load enhancement proposal before the higher aurhorities, execution of HT agreement and release of electricity supply for which no reasons were placed on the records. This resulted in loss of oppurtunity to earn revenue of ₹ 45.70 lakh.

The Company, while accepting the facts and figures, stated that a decision has been taken to initiate the administrative proceedings against the identified responsible employees/officers.

The matter was reported to the Government (June 2015); reply is still awaited (December 2015).

3.4 Loss of revenue due to billing at lower rate

Non-replacement of the defective meters and non-conversion of consumer's category into HTS-I category resulted in a revenue loss of ₹53.28 lakh.

The Tariff Orders[11] approved by Bihar Electricity Regulatory Commission provides that Low Tension Supply (LTS) tariff for Non-Domestic Services (NDS) category shall be applicable for supply of electricity to LT consumers having a maximum connected load of 60 Kilo Watt (KW) (up to March 2012) and load of 70 KW (from April 2012). The load of 75 Kilo Volt Ampere (KVA) and above come under High Tension Service (HTS)-I category.

Scrutiny (April 2014) of the records of Electric Supply Division, Kankarbagh, a unit of the erstwhile Bihar State Electricity Board [now South Bihar Power Distribution Company Limited (Company)] revealed that:

- a consumer was being billed at a connected load of 72 KW since March 2009 under NDS-II category on the basis of Minimum Monthly Consumption (MMC) units. As NDS-II tariff is applicable for the load up to 60 KW/70 KW only, the supply of electricity to the said consumer at a load in excess of 60 KW/70 KW under this category was in violation of the provisions of the Tariff Orders.

[11] Tariff order 2011-12 (effective from May 2011); Tariff order 2012-13 (effective from April 2012); Tariff order 2013-14 (effective from April 2013).

• since the Company was aware of the supply of electricity in excess of permissible limit to the consumer, it was incumbent on its part to take necessary steps to convert the consumer's category from NDS-II to HTS-I and bill accordingly. However, the Company failed to do so.

We further observed that the Consumer's Energy Meter was defective since September 2007. As per Standards of Performance of Distribution Licensee, the Company was required to replace the defective meter within seven days in urban areas. However, the same was replaced by the Company after a lapse of seven years in September 2015. This was indicative of deficient Internal Control System prevalent in the Company as well as failure on the part of the Company to safeguard its financial interests.

The Company stated (October 2015) that the load of consumer was converted into HTS-I in September 2015 and a sum of ₹ 53.28 lakh for the period March 2009 to September 2015 has already been billed (September 2015). The reply is not tenable as the chances of recovery is remote in view of Rule 10.18 of the Bihar Electricity Supply Code, 2007 which states that no recovery shall be made from the consumer after a period of two years unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied by the licensee.

Thus, non-replacement of defective meter within prescribed time frame as well as failure on the part of the Company to timely convert the Consumer's category from NDS-II to HTS-I category and billing thereof at a lower rate led to a revenue loss of ₹ 53.28 lakh for the period March 2009 to September 2015.

The matter was reported to the Government (April 2015); reply is still awaited (December 2015).

Bihar State Power (Holding) Company Limited

3.5 Irregular award of work orders

Failure to comply with the CVC Guidelines based on the Judgment of Hon'ble Supreme Court of India resulted in irregular award of work orders aggregating to ₹3.04 crore on a nomination basis.

The Central Vigilance Commission (CVC) issued (July 2007) an order advising all Chief Vigilance Officers (CVOs) to apprise their respective Boards/ Managements about the observations made in the Judgment[12] of the Hon'ble Supreme Court of India regarding Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis. The CVC re-emphasised that tendering process or public auction was a basic requirement for the award of contract by any Government agency as any other method especially award of contract on a nomination basis, would amount to a breach of Article 14 of the Constitution of India guaranteeing the Right to Equality, which implies Right to Equality to all interested parties.

Further, as per the aforementioned Judgment of the Hon'ble Supreme Court of India, Government Contracts by the State, its corporations, instrumentalities and agencies shall be normally granted through public auction/public tender so

[12] Arising out of SLP (Civil) No. 10174 of 2006.

as to ensure transparency in the public procurement, to provide for fair and equitable treatment of all tenderers and to eliminate irregularities, corrupt practices, etc.

Scrutiny of records (December 2014) of Bihar State Power (Holding) Company Limited, Patna (Company) revealed that the Company instead of invitation of public tenders, awarded (April 2013 to December 2014) 46 work orders pertaining to maintenance of staff quarters and other works aggregating to ₹ 3.04 crore to contractors/suppliers on a nomination basis. We further observed that the award of aforementioned Government Contracts on a nomination basis by the Company was not under exceptional circumstances and reasons for the same were also not placed on the record.

The Company stated (October 2015) that initially some works were awarded on a nomination basis in view of the Company's interests as well as urgency of the work. However, presently, the award of a work on a nomination basis, except in case of emergencies, has been put on a hold completely.

Thus, the Company in contravention of the CVC Guidelines based on the Judgment of Hon'ble Supreme Court of India awarded work orders aggregating to ₹ 3.04 crore which was not only irregular but also led to non-attainment of the desired goals pronounced by the apex court.

The matter was reported to the Government (May 2015), reply was still awaited (December 2015).

Bihar State Power (Holding) Company Limited and its subsidiaries

3.6 Non-deduction of Labour Cess

Failure in effecting mandatory deduction of Labour Cess from the bills of the contractors resulted in liability of ₹12.93 crore towards Labour Cess.

The Government of Bihar (GoB) vide an Extraordinary Gazette notification issued in February 2008, enforced Labour Cess as envisaged by the Ministry of Labour, Government of India notification of 'the Building and Other Construction Workers Welfare Cess Act, 1996[13](Act). The Act specified deduction of Labour Cess at the rate of one *per cent* out of the cost of construction incurred by an employer.

As per Section 3 (2) of the Act, all Government Departments and Public Sector Undertakings, engaged in construction works are required to deduct Labour Cess at the prescribed rate from the bills of the agencies and remit the same to the "Building and Other Construction Workers Welfare Board" (Welfare Board) through a crossed demand draft within 30 days of such deduction. Further, Section 8 of the Act stipulates that if any employer failed to pay any amount of Labour Cess payable within the time specified, such employer would be liable to pay interest on the amount at the rate of two *per cent* for every month or part of a month till such amount was actually paid.

[13] Section 2(d) of the Act provides that "Building or other Construction work" means the Construction, alteration, repairs, maintenance or demolition of or, in relation to buildings, streets, roads, railways, generation, transmission and distribution of power, etc., but does not include any building or other construction work to which the provisions of the Factories Act would apply.

We observed (December 2014 to February 2015) that Bihar State Power Holding Company Limited and its subsidiaries viz. South Bihar Power Distribution Company Limited and North Bihar Power Distribution Company Limited were not effecting the mandatory deduction of Labour Cess as per provisions of the Act. Consequently, a sum of ₹ 12.93 crore was not deducted from the bills of contractors to be deposited with the concerned authorities. This resulted in creation of undue liability to the extent of ₹ 12.93 crore for the period April 2011 to January 2015 on account of Labour Cess payable to Welfare Board, GoB.

Bihar State Power Holding Company Limited and South Bihar Power Distribution Company Limited, while accepting the facts and figures, stated (October 2015) that the amount payable on account of cess has been worked out and will be paid to the Welfare Board on the availability of fund. Further, North Bihar Power Distribution Company Limited, while accepting the facts and figures, stated that Labour cess is being deducted with effect from the year 2015-16.

Thus, failure on the part of the Company in effecting mandatory deduction of Labour Cess from the bills of the contractors resulted in undue liability of ₹ 12.93 crore towards Labour Cess.

The matter was reported to the Government (May 2015); reply is still awaited (December 2015).

North Bihar Power Distribution Company Limited

3.7 Undue benefit to the consumer

Failure to adhere to the provisions of the Tariff Orders and Bihar Electricity Supply Code, 2007 led to short assessment of punitive charges and short billing by ₹ 76.50 lakh.

Bihar Electricity Supply Code, 2007 (BESC) provides that the assessment of energy in the case of unauthorised use of electricity shall be calculated on the basis of formula prescribed under the BESC**.** Besides, the tariff orders[14] approved by Bihar Electricity Regulatory Commission, provide that Low Tension Supply (LTS) tariff for non-domestic services (NDS) category are applicable only for supply of electricity to LT consumers having maximum connected load of 67 KVA/60 KW (up to March 2012) and 78 KVA/70 KW (since April 2012). The load of 75KVA/67.5 KW and above comes under High Tension Service (HTS)-I[15] category.

Scrutiny of the records of North Bihar Power Distribution Company Limited (Company) revealed that in the course of inspection (September 2010) of the premises of an NDS consumer (Consumer No. GP-15752) under Gopalganj Division, the connected load was found 137 KW as against the sanctioned load of 21 KW. Likewise, in the course of inspection (October 2013) of the premises of another NDS consumer (Consumer No BNP-1546) under Hazipur Division, the connected load was found 172 KW as against the sanctioned

[14] Tariff order 2011-12 (effective from May 2011), Tariff order 2012-13 (effective from April 2012), and Tariff order 2013-14 (effective from April 2013).

[15] HTS-I Tariff is applicable for supply of electricity for use in installations with a minimum contract demand of 75KVA and maximum contract demand of 1500 KVA.

load of 30 KW. However, as against the leviable punitive charges of ₹ 41.61 lakh and ₹ 38.78 lakh on Consumer No. GP-15752 and Consumer No. BNP-1546 respectively as per the formula prescribed under BESC, the Company imposed punitive charges of ₹ 11.89 lakh and ₹ 17.11 lakh only. This resulted in short-assessment of punitive charges to the tune of ₹ 51.39 lakh.

Further, as the connected loads of the aforementioned consumers were found to be in excess of the load prescribed for NDS category, consumers should have been billed under HTS-I category. However, the Company failed to convert these consumers' category into HTS-I category and bill them accordingly. Non-conversion of the aforementioned consumer's category into HTS-I category and billing at a lower rate by the Company resulted in short billing to the tune of ₹ 25.11 lakh for the period October 2010 to March 2014.

Thus, failure on the part of the Company to adhere to the provisions of the BESC and Tariff Orders led to short assessment of punitive charges and short billing aggregating to ₹ 76.50 lakh and extension of undue benefit to the consumers to this extent.

The Company stated (October 2015) that in respect of Consumer No. BNP- 1546, a Certificate case for recovery of punitive charges of ₹ 71.65 lakh had been lodged in June 2015. As regards the Consumer No. GP-15752, it was stated that on re-inspection in May 2015, the load was found to be 50 KW only and accordingly a punitive charge of ₹ 41.59 lakh had been billed (February 2015). The reply is not acceptable since the Company in case of Consumer No. GP-15752 failed to clarify the load found to be on higher side in the earlier inspection. Besides, the revised punitive charges are yet to be recovered (October 2015).

The matter was reported to the Government, reply is still awaited (December 2015).

3.8 Incorrect categorisation of consumer

Incorrect categorisation of the Street Light Consumer on the part of the Company and billing thereof at a lower rate resulted in a revenue loss of ₹3.08 crore to the Company.

Para 6 of Tariff Orders issued by Bihar Electricity Regulatory Commission (BERC) from 2008-09 to 2014-15, provided that Street Light Services (SS) shall be applicable for supply of electricity for street light system including signal system in corporation, municipality, notified area, committees, panchayats, etc. and also in areas not covered by municipality and notified committee provided the number of lamps from a point of supply is not less than five. Further, the said tariff order also provided that metered consumer and unmetered consumer of Street Light shall be categorised as SS-I and SS-II respectively and be billed accordingly.

Scrutiny of records (September 2014) of Electricity Supply Division, Gopalganj, a unit of North Bihar Power Distribution Company Limited (Company), revealed that an unmetered consumer, Notified Area Committee, Mirganj having load of 380 KW was being billed under SS-I category since April 2010. Since the said consumer was an unmetered consumer, it was required to be billed under SS-II category as per the provisions of prevalent

Tariff Orders. Due to wrong categorisation of the said consumer under SS-I and billing thereof at a lower rate, the said consumer was billed for ₹ 2.96 crore instead of ₹ 6.04 crore for the period April 2010 to March 2015. This resulted in loss of revenue of ₹ 3.08 crore to the Company.

The Management stated (July 2015) that a sum of ₹ 2.33 crore has been billed (May 2015) and that the consumer category has been converted to SS-II. However, the fact remains that an amount of ₹ 3.08 crore is still recoverable (October 2015).

The matter was reported to the Government (June 2015); reply is still awaited (December 2015).

Bihar State Power Transmission Company Limited

3.9 Avoidable Expenditure on purchase of Power Transformers

Non-observance of financial interests as well as failure on the part of the Company to purchase Power Transformers (PTRs) on a firm basis resulted in excess avoidable expenditure of ₹ 95.77 lakh.

The erstwhile Bihar State Electricity Board, now Bihar State Power Transmission Company Limited (Company), as one of its five unbundled companies, adopted (July 2008) the procurement process for future tender as per Bihar Financial Rules, 2005 (BFR). Rule 30 (viii) (a) of BFR relating to general principle for contracts provides that price variation clause can be provided only in long-term contracts where the delivery period extends beyond 18 months whereas in short-term contracts firm and fixed prices should be provided for.

Scrutiny of records (December 2013) of the Company revealed that the Company invited (September 2010 and October 2011) two[16] tenders for purchase of two 50 MVA and two 100 MVA Power Transformers[17] (PTRs) on a price variation basis which were to be delivered within nine months from the date of issue of purchase order in violation of BFR. While the two 50 MVA PTRs were for the purpose of installation of the same at Sitamarhi Grid Sub-station (GSS) and Sabour GSS, the two 100 MVA PTRs were intended to be installed at Begusarai GSS and Fatuah GSS. The Company placed two[18] purchase orders on suppliers in April 2011 and July 2012 for supply of two 50 MVA PTRs and two 100 MVA PTRs respectively. During the delivery period, the prices of the various components of transformers increased as a result of which the Company had to make an excess payment of ₹ 95.77 lakh on account of price escalation clause.

We observed that since the delivery period for the transformers were less than the period of 18 months, the Company should have resorted to purchase of the said transformers on a firm price as per Rule 30 (viii) (a) of BFR.

The Management stated (May 2015) that procurement of PTRs on a variable price basis was justifiable since the components of transformer constantly

[16] NIT No.: 178/PR/BSEB/11 dated October 2010 and NIT No.: 181/PR/BSEB/2010 dated September 2010.

[17] At a landed cost of ₹ 3.97 crore for two 50 MVA PTR and at a landed cost of ₹ 6.54 crore for two 100 MVA PTR.

[18] P.O. No.: 11/EB dated 03.04.2012 and P.O. No.: 16/EB dated 19.07.2012.

undergo price variations even in short term. Further, in the event of adoption of a fixed price system, there was a likelihood that the tenderer in order to maintain the "Firm Price" might have quoted price on a higher side which might have even exceeded the amount of price escalations paid. However, the fact remains that the Company failed to purchase the PTRs on a fixed price basis in accordance with the provisions of BFR.

Thus, non-observance of financial interests as well as failure on the part of the Company to purchase Power Transformers on a firm basis resulted in excess avoidable expenditure of ₹ 95.77 lakh to the Company.

The matter was reported to the Government (June 2015); reply is still awaited (December 2015).

Bihar State Food and Civil Supplies Corporation Limited

3.10 Loss due to improper storage of procured wheat

Improper storage as well as failure in timely transportation of the procured wheat resulted in loss of ₹ 20.09 crore due to deterioration in the quality of procured wheat and shortages.

The Government of Bihar designated (April 2012) Bihar State Food and Civil Supplies Corporation Limited (Company) as the nodal agency for procurement of wheat for Rabi Marketing Season (RMS) 2012-13 in the State. The Company and Primary Agriculture Credit Societies[19] (PACS) were authorised as procuring agencies. The Company had to deliver the wheat procured from PACS and farmers to the Food Corporation of India (FCI) at the rate of ₹ 1426.04 per quintal. The wheat to be procured was to conform to the norms[20] fixed by the Government. The procurement of wheat was to be done during the period 15 April 2012 to 31 July 2012 and the wheat so procured was to be delivered to the FCI by 31 December 2012.

Scrutiny (March 2015) of the records of the Company revealed that four District Offices of the Company namely Bhabua, Bhojpur, Buxar and Patna offices procured 87230.12 Metric Tonne (MT) of wheat and transported 50123.36 MT to FCI during the period June 2012 to February 2013.The balance quantity aggregating to 37106.76 MT of procured wheat was either not transported to FCI within time or was rejected by the FCI on the ground of sub-standard quality of wheat. Subsequent to rejection of wheat by FCI, the samples of the procured wheat of different sale centers were sent by the Company to FCI for quality test. The said quality test too revealed (May 2013) that the samples were infested. Besides, the records too revealed that non-transportation of wheat in time and unscientific storage of the procured wheat resulted in quality deterioration of 37106.76 MT[21] of stored wheat.

The Company, in order to avoid further deterioration in the quality of wheat, disposed of (March and July 2013) the balance quantity of wheat in the aforementioned districts through auction. Of the balance quantity of 37106.76

[19] Primary Agriculture Credit Societies are societies designated by the Government of Bihar as procurement agencies for wheat and other crops.

[20] Wheat should be in good marketing conditions. The moisture content should not exceed 12%. Foreign material, other food grains, damaged grains and partly damaged grains should not exceed 0.75%, 2%, 2% and 6% respectively.

[21] Bhabua-6009.38 MT, Bhojpur-8554.77 MT, Buxar-16380.95 MT and Patna 6161.66 MT .

MT of procured wheat, 28076.96 MT only was available which was auctioned for ₹ 31.54 crore which otherwise could have fetched a sum of ₹ 40.05 crore on supply of the same to FCI in good condition. As a result, the company suffered a loss of ₹ 8.49 crore on account of auction and ₹ 11.60 crore[22] on account of shortages of 9029.80 MT of wheat.

Thus, failure on the part of the Company in timely transportation of the procured wheat to FCI as well as prolonged improper storage of procured wheat resulted in loss of ₹ 20.09 crore due to deterioration in the quality of procured wheat and shortages.

The matter was reported (June 2015) to the Company/Government; reply is still awaited (December 2015).

Bihar Rajya Pul Nirman Nigam Limited, Bihar State Building Construction Corporation Limited and Bihar State Beverages Corporation Limited

3.11 Irregular contribution to the Chief Minister's Relief Fund

Three Companies in violation of the provisions of the Companies Act, 2013 made an irregular contribution of ₹ 31 crore to the Chief Minister's Relief Fund.

Section 181[23] of the Companies Act, 2013 (Act) provides that the Board of Directors of a company may contribute to *bona fide* charitable and other funds, provided that prior permission of the company in general meeting shall be required for such contribution in case any amount the aggregate of which, in any financial year, exceed five *per cent* of its average net profits for the three immediately preceding financial years.

We observed that three companies viz. Bihar Rajya Pul Nirman Nigam Limited (BRPNNL), Bihar State Building Construction Corporation Limited (BSBCCL) and Bihar State Beverages Corporation Limited (BSBCL) contributed sums aggregating to ₹ 31 crore during the year 2013-14 to the Chief Minister's Relief Fund which was more than 5 *per cent* of their average profit for three immediately preceding financial years. Since the contributions exceeded the limits specified by the Act, prior consent of the Shareholders in the general meeting was required to be obtained. However, the same was not done by these companies.

Thus, the Companies in violation of the provisions of the Act made an irregular contribution of ₹ 31 crore to the Chief Minister's Relief Fund (February 2014 to March 2014).

BRPNNL stated (February 2015) that the decision to make the contribution to Chief Minister's Relief Fund was *post-facto* approved by the shareholders of the Company in the Extra-ordinary General Meetings in accordance with the provisions of the Companies Act, 1956. Further, BSBCCL stated (January 2015) that approval from directors to recommend the same for ratification and approval by shareholders was done at the very next meeting of the Board held after the date of such grant. BSBCL in its initial reply stated (May 2015) that

[22] Calculated at Minimum Support Price, i.e., ₹ 1285 per quintal.
[23] Came into force from 12th day of September, 2013.

the contribution to Chief Minister's Relief Fund was a part of CSR expenditure, which does not require prior permission of General Meeting. Administrative Departments of BRPNNL and BSBCCL concurred with the reply of Companies' Management.

The replies of the Companies/ Departments are not acceptable since contribution to a bonafide charitable or any other fund can be made only with the prior consent of the Company in General meeting and as such the said contribution can not be regularised by way of ex-post facto approval.

The matter was reported (April and July 2015) to the Companies/Governments; the reply of the administrative department as well as that of management of BSBCL is still awaited (December 2015).

Bihar State Text Book Publishing Corporation Limited & Bihar State Electronics Development Corporation Limited

3.12 Imprudent investment of Surplus funds

Non-observance of basic tenets of Financial Management on the part of two Companies led to loss of interest of ₹ 31.06 lakh in investment of surplus funds.

One of the basic tenets of sound financial management requires that the surplus funds of a business entity should be invested in such a manner that it leads to the maximisation of the resources of the business entity. Further, every business entity should also watch its financial interests to attain the resource maximisation goals.

Scrutiny of records (September 2014 and February 2015) of Bihar State Text Book Publishing Corporation Limited (BSTBPCL) and Bihar State Electronics Development Corporation Limited (BSEDCL) revealed that:

- BSTBPCL invested (May 2011 to April 2014) its surplus fund to the tune of ₹ 55.09 crore into 19 term deposits fetching lesser rate of interests with different banks. It was observed that BSTBPCL without comparing the maximum rate of interest offered by some banks for the same period of maturity made on the same date invested the surplus funds on lower rates. Imprudent financial decisions on the part of BSTBPCL to invest its surplus fund into fixed deposits attracting interests at a lesser rate resulted in a loss of interest to the tune of ₹ 24.52 lakh.

- BSEDCL invested (June 2013 to July 2013) its surplus fund amounting to ₹ 10.76 crore and ₹ 7.74 crore respectively into three and seven numbers of fixed deposits fetching lower rate of interest in Union Bank of India and Bank of Baroda respectively as compared to the higher rate of interest offered by the same bank on same date for deposit up to ₹ one crore**.** Imprudent financial decisions on the part of BSEDCL to invest its surplus fund into fixed deposits attracting interests at a lesser rate resulted in a loss of interest to the tune of ₹ 6.54 lakh.

The Management, while accepting the facts and figures, stated (October 2015) that the audit observation has been noted for future compliance.

Thus, non-observance of basic tenets of Financial Management on the part of the Companies led to loss of interest of ₹ 31.06 lakh in investment of surplus funds.

The matter was reported (May 2015) to the Government; reply is still awaited (December 2015).

Bihar State Text Book Publishing Corporation Limited

3.13 Lack of Planning

Lack of planning as well as failure on the part of the Company to adhere to the Printing and Delivery time schedule fixed by Bihar Shiksha Pariyojna Parishad resulted in deduction of penalty: ₹ 47.57 crore.

Bihar State Text Book Publishing Corporation Limited (Company) entered into Memorandum of Understanding (MoU) annually with Bihar Shiksha Pariyojna Parishad (BSPP) for supply of books under Sarv Shiksha Abhiyan (SSA). The provisions of the said MoU, *inter alia*, stipulated that the Company will complete the delivery of text books/ printing material to Blocks latest by March at the end of every year, failing which penalty may be imposed by BSPP which will be acceptable to the Company.

Scrutiny of records of the Company revealed that:

- though a time frame and/or target had been stipulated for the delivery of text books, the Company failed to adhere to the time-schedule fixed by BSPP.
- the supply of text books by the Company was delayed by six to seven months during the academic year 2012-13 and 2013-14 for which BSPP deducted a total sum of ₹ 47.57[24] crore from the bills of the Companies on account of penalties.

We further observed that the Company failed to evolve a sound plan for timely printing/delivery of text books since there were delays of four to seven months in every stage of printing and supply of text books viz. finalisation of tender, procurement of paper, set-making as well as dispatch of text books. Further, the instance of these unwarranted delays persisted even in the academic year 2013-14 notwithstanding payment of penalties to the tune of ₹ 22.88 crore by the Company in the academic year 2012-13. This was indicative of not only non-adherence to the printing time schedule but also of lack of planning on the part of the Company to ensure timely completion of printing assignments.

Thus, lack of planning as well as failure on the part of the Company to adhere to the printing and delivery time schedule fixed by Bihar Shiksha Pariyojna Parishad resulted in deduction of penalty of ₹ 47.57 crore.

The Management stated (August 2015) that delays in supply of papers by the supplier, receipt of manuscripts from State Council for Educational Research and Training, changes in requisitions of books made by BSPP in the mid of programme execution, etc. resulted in delay in supply of text books. Further, the sum of ₹ 47.57 crore imposed as penalty by the BSPP against the Company is being pursued for refund.

[24] Academic year 2012-13: ₹ 22.88 crore and Academic year 2013-14: ₹ 24.69 crore.

The reply is not tenable as delays at various stages were of routine nature and their impact on delivery of text books and resultant imposition of penalty were avoidable by resolving a sound plan for timely printing and delivery of books.

The matter was reported to the Government (April 2015); reply is still awaited (December 2015).

3.14 Loss to the Company

Deficient Internal Control System prevalent in the Company to ensure supply of text books by the set-makers as well as failure on the part of the Company to recover the cost of short supplied text books from the set-makers resulted in a loss of ₹ 5.20 crore.

Bihar State Text Book Publishing Corporation Limited (Company), *inter alia*, supplies books to Bihar Shiksha Pariyojna Parishad (BSPP) for distribution among the students studying in class I to VIII under Sarv Shiksha Abhiyan (SSA) scheme. For this purpose, the Company places orders with the private printers who print books and supplies the same, on behalf of the Company, to the set-makers in their godowns. The set-maker, on behalf of the Company, supplies the books to the concerned blocks of districts. Clause 18 of Bid Document for set-making of text books class-wise/student-wise/ district-wise and block-wise transportation, for SSA, *inter alia*, provided that the bidder shall ensure the delivery of all the class-wise/student-wise/ district-wise set of text books in Plastic Chat bags upto block level as per the order given by the Company. Further, the losses, damages and shortages in transit or otherwise, shall be borne by the bidder.

Scrutiny (September 2014) of the records of the Company revealed that:-

- for the SSA academic year 2012-13 and 2013-14, a total number of 19,53,99,521 books were printed and supplied to set-makers by the printers.
- the set-makers, however, had supplied only 19,33,32,330 books to various districts for the aforementioned academic years. Thus, there was short supply of 18,53,498[25] books valuing ₹ 5.20 crore by the set-makers in comparison to the number of books printed by the printers.

We further observed that:

- Internal Control System prevalent in the Company was deficient as no mechanism existed to ensure supply of the text books by the set-maker. Further, the Company also did not have any system of reconciliation of the number of text books supplied by the set-maker to the various Districts vis-a-vis the number of text books printed by the printers. As a result of this, the Company failed in monitoring the supply of printed text books to the concerned blocks of districts. The Company failed to ensure that all the printed text books were utilised in set making and delivered to the intended Blocks.
- the value of short supplied text books amounting to ₹ 5.20 crore should have been recovered from the bills of the set-maker. However, the same was

[25] After allowing for adjustment of closing balance of 213693 number of books.

not done by the Company as a result of which the Company suffered a loss of ₹ 5.20 crore.

Thus, due to deficient Internal Control System to ensure supply of books by the set-makers as well as failure on the part of the Company to recover the cost of short supplied text books from the set-makers resulted in a loss of ₹ 5.20 crore to the Company.

The matter was reported (April 2015) to the Government/Management; their replies are awaited (December 2015).

Patna	**(P. K. SINGH)**
The 04 March 2016	**Accountant General (Audit), Bihar**

Countersigned

New Delhi	**(SHASHI KANT SHARMA)**
The 11 March 2016	**Comptroller and Auditor General of India**