

CHAPTER III

COMPLIANCE AUDIT

AUDIT OF SELECTED TOPICS

3.1 IMPLEMENTATION OF BUILDING RULES IN THIRUVANANTHAPURAM AND THRISSUR MUNICIPAL CORPORATIONS

3.1.1 Introduction

Regulation of building construction is one of the mandatory functions of Municipalities and Municipal Corporations as per the Kerala Municipality Act, 1994 (KM Act). Government of Kerala (Government) formulated Kerala Municipality Building Rules, 1999 (KMBR) with effect from 01 October 1999 for the planned development of Municipalities/Municipal Corporations, and also for the safety and well being of the occupants and public. According to Rule 4 of KMBR, no person shall construct/reconstruct any building or develop any parcel of land without obtaining permit from the Municipality/Municipal Corporation.

Government has formulated Detailed Town Planning (DTP) Schemes for specific areas of Thiruvananthapuram Municipal Corporation (TVM) and Thrissur Municipal Corporation (TCR) under the Town Planning Act. The areas coming under these schemes have been divided into major zones like residential, commercial, industrial, etc. Each zone has its own permitted uses, restricted uses and prohibited uses, based on which constructions have to be regulated.

We conducted an audit to assess the compliance with the Rules and regulations of Government of Kerala such as Kerala Municipality Act 1994 (KM Act), KMBR 1999, DTP Schemes, etc. Audit test checked Thiruvananthapuram and Thrissur Municipal Corporations to assess whether the constructions in the Corporation area were in accordance with KM Act/KMBR/DTP Schemes. Audit was conducted from August 2015 to December 2015, covering the period 2009-10 to 2014-15. Apart from the Main Offices, TVM has 10 and TCR has five Zonal Offices which receive and process building permit applications relating to buildings under their jurisdiction. Three Zones from TVM and two Zones from TCR¹ were selected by Simple Random Sampling. Entire permits issued for buildings of area exceeding 500 square metre (1439 numbers), and five *per cent* of permits issued for buildings having area of 500 square

¹ Thiruvananthapuram Corporation - Central, Kazhakuttom and Vizhinjam Zones
Thrissur Corporation - Central and Ayyanthol Zones

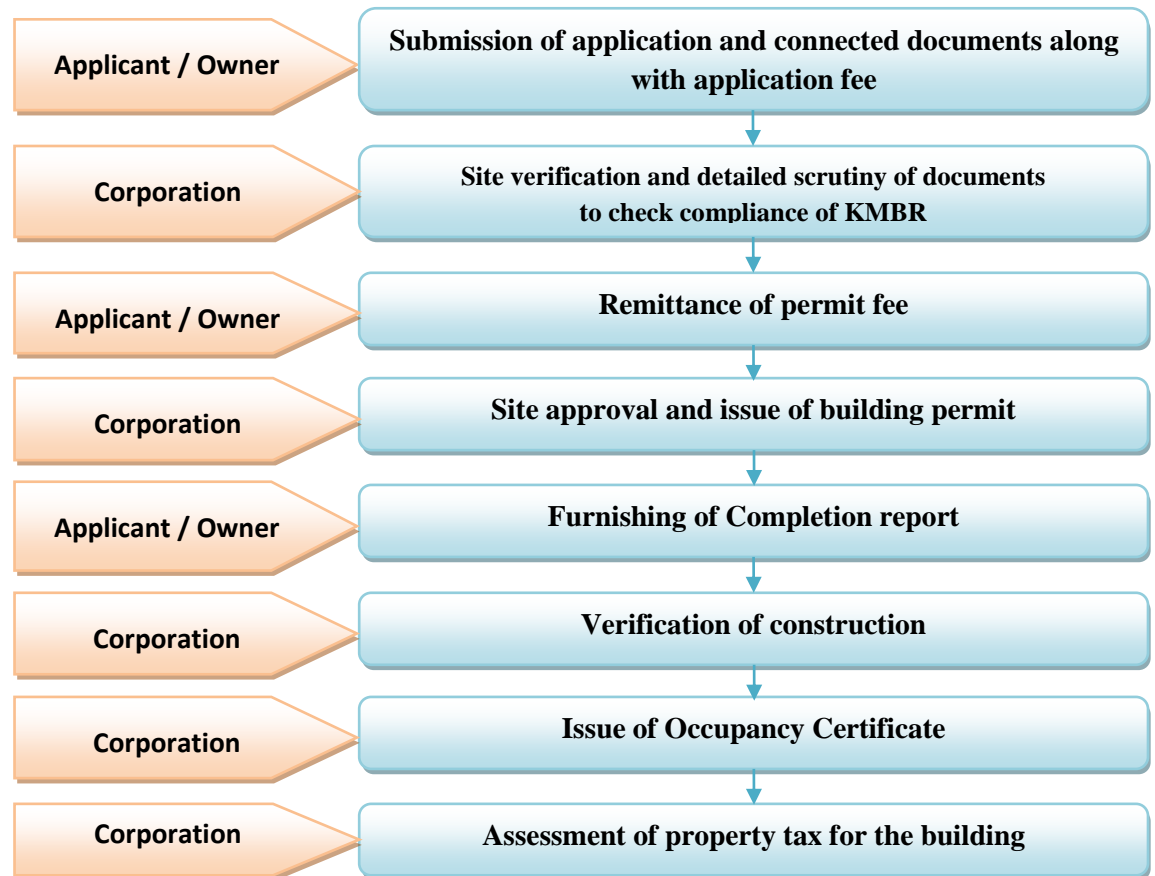
metre and less (952 numbers) in the selected Zones were scrutinized. Audit methodology included scrutiny of basic records, registers, files, issue of audit enquiries, site inspection, etc.

3.1.2 Organisational set up

Being the administrative head, the Secretary of the Corporation (Secretary) is the authority to issue building permits and Occupancy Certificates (OCs). Government has delegated the power of issuing building permits/OCs among Assistant Engineer (AE), Assistant Executive Engineer (AEE), Executive Engineer (EE)/Town Planning Officer (TPO) and Corporation Engineer (CE), based on the plinth area and type of buildings. In TVM, the Engineering Section and in TCR, the Town Planning Section deals with regulation of building construction, including issue of permits/OCs.

The process involved in the issue of Building Permits/OCs is shown in **Chart 3.1**.

Chart 3.1: Process in implementation of KMBR



3.1.3 Audit findings

3.1.3.1 Incomplete database relating to building permits

According to Rule 5 of KMBR, any person (other than a Central or State Government department) who intends to develop any land or construct any building shall submit to the Secretary an application for permission, accompanied by plans and connected documents, together with necessary application fee. The Secretary, after verifying compliance of KM Act/KMBR/DTP Schemes, and after collecting necessary permit fee, shall grant permission for execution of the work. The Secretary can refuse permission if the plans/documents submitted do not comply with any provisions of the above Acts/Rules/Schemes. On completion of construction, the owner shall give a completion report to the Secretary. The Secretary, after confirming that the construction has been carried out in accordance with the approved plan, issues Occupancy Certificate (OC) for the building, and assesses property tax thereon. The basic record prescribed by Government for watching receipt and disposal of building permit applications is the Building Application Register (Permit Register).

In this connection, Audit observed that in TVM even though the Zonal offices maintained permit registers, the central zone started maintaining the register only from 2011-12 onwards. The register maintained was not in the format prescribed in the Appendix I of KMBR and TVM was not having any comprehensive records to show the details of permit applications disposed and permits/OCs issued. Relevant details such as Division number, Permit fee remitted, whether notices issued, date of issue and renewals of permit, period of permit, date of receipt of completion report, date of issue of OC, details of property tax assessment, etc were not being recorded in the Register. In the absence of above details, the Corporation was not in a position to ascertain the number of cases in which permits/OCs were issued/not issued, whether permit fee realised was correct, whether property tax assessment had been completed in all cases where OCs were issued, whether any permit had lapsed due to non-renewal etc. Moreover, entries in the registers were not being authenticated by any responsible official. Thus, the lack of control over permits can lead to unauthorized constructions and non-levy of property tax on buildings already completed.

3.1.3.2 System lapses in monitoring permit applications and permits

In TCR, Permit Registers were generally maintained in proper form with all necessary details relating to issue of permits/OCs. But there was lapse on the part of Corporation in monitoring permits. As per Rule 15 A, permit is normally valid for three years, which can be renewed up to nine years by the Secretary. Renewals beyond nine years can be granted only on the recommendation of the designated committee, after examining the genuineness of each case. If construction is not completed within the validity period and if not renewed as stated above, the permit will lapse and a fresh permit is required for continuing construction. As per Rule 406 of KMBR read with

various orders issued by Government from time to time, Municipal Corporation is required to perform regular monitoring to see whether construction has been completed in time, whether any permits have lapsed due to non renewal or whether any building is being occupied without OC. Test check of the Permit Registers in TCR (Central Zone) for the period 2010-12, revealed that out of the total 1286 permits issued, 163 permits had lapsed (March 2015) due to non renewal . In TVM², test check of the Permit register for 2010-12 revealed that out of the total 1459 permit issued, 1042 permits had lapsed.

At the instance of Audit, EE conducted verification in respect of 23 lapsed permits (issued during 2009-10) in TCR and found that in 14 cases constructions had already been completed, about which the Corporation was not aware. The persons/parties concerned had not given completion report in the completed cases but were occupying the buildings without getting OC. In a joint verification conducted by Audit(August 2015) in TCR, it was found that in another two cases³ also buildings were seen occupied without getting OCs. This was in violation of Rule 20 (2)(g) of KMBR. In the above mentioned cases, the Corporation was not in a position to ascertain whether the constructions have been carried out in accordance with the approved plans, and whether all safety/security provisions have been complied with. The Corporation did not conduct regular follow up and monitoring to ensure that there was no deviation from approved plans. It was the responsibility of Building Inspector/Revenue Inspector in charge of the locality to bring to the notice of the Secretary, any unauthorized construction/occupation of any building in their jurisdictional area and assess property tax thereon, which was not done. Details regarding action taken/reasons for not taking any action against the staff for dereliction of duty were not forthcoming.

3.1.3.3 Delay in issue of permits

As per Rules 13 & 14 of KMBR, the Secretary shall approve the site plan within 30 days of the receipt of application thereof and shall issue permit for construction within 30 days of approval of site plan. So, the building permit shall be issued within 60 days of receipt of application. Scrutiny of the Permit Registers revealed that there were inordinate delays in processing permit applications, in both the Corporations. In TCR, test check of 400 permits relating to 2010-12 revealed that in 82 cases, there were delays ranging from three months to 30 months in issuing permits. In TVM, test check of 1352 cases pertaining to the period 2011-12 to 2014-15 revealed delays ranging from three months to 48 months for issuing permits in 86 cases. In 284 cases, issue of permits were pending (December 2015), which pertain to periods from 2011-12 onwards. Both TVM and TCR stated that delays in receipt of No Objection Certificate

² Ulloor and Kadakampally Zonal offices

³ (i)DW3/BA/137/11-12, M/s. MRG Builders & (ii) DW4/BA/322/07-08 Sri C.C. George

(NOC) from various authorities concerned such as Department of Fire and Rescue services, Airport Authority of India, Environment Impact Assessment Authority and Coastal Zone Management Authority etc attributed to delays in issue of permits. The scrutiny of permit files in TCR/TVM, however, showed that in most cases, the delays in issuing permits had occurred due to the lapses on the part of municipal officials in taking decisions or initiating action at various levels at the appropriate time as illustrated in **Appendix XII**. Thus, the reply of both TVM and TCR was not correct. As such, both need to ensure efficient discharge of their duties by streamlining their working and timely monitoring of their working.

3.1.3.4 Non-revision of Town Planning Schemes/Delay in preparation of Master plans

Rule 3A of KMBR stipulates that if any Town Planning Scheme exists for any area of the municipality under the Town Planning Act, the provisions of that Town Planning Scheme supersedes the general provisions of KMBR. There was no provision in the statute for giving relaxations from the Zoning Regulations specified in the Town Planning Schemes. Under the Town Planning Act, the Government had formulated Detailed Town Planning Schemes for various areas of TVM and TCR⁴. Since the Corporations did not strictly adhere to the zoning regulations prescribed in the above Town Planning Schemes formulated years back, and were not vigilant in detecting and demolishing unauthorized constructions, many of these areas had undergone development contrary to the one mentioned in the Town Planning Schemes, and at present also, the Corporations were issuing permits for constructions violating zoning regulations, mainly based on orders of judicial authorities⁵.

Audit noticed that permits were being issued contrary to zoning regulations, mainly because the Town Planning Schemes did not conform to the existing nature of the area. The Town and Country Planning Department has since prepared revised Master Plans for TVM and TCR, which were published in April 2013 and October 2012 respectively after obtaining approval from the Government. Due to large number of complaints from public, the Master Plan for TVM was stayed by Government in February 2014 and no further action was taken to revise the town planning scheme by incorporating the suggestions/recommendations. In respect of TCR, the Master Plan was under modification (October 2015), taking into account the objections and suggestions put forward by public. Thus, it is necessary that the Master Plans are finalised at the earliest, to control the construction activities in the Corporations.

⁴ In October 1985, Government sanctioned the General Town Planning Scheme for TCR, which was later amended in April 2008. Apart from this, there were 12 other sanctioned Town Planning Schemes for different areas of Thrissur City. Similarly in 1971, Government sanctioned the General Town Planning Scheme for TVM, which was later modified in 1975 and 2007. Apart from this, there were two Area Development Plans and 13 Town Planning schemes for different areas of TVM.

⁵ E.g. Permit No.PW3/BA/483/09-10 Sunil P Moosa (TCR), Permit No. E10/BA/506/12 Cordial foundation (TVM)

3.1.3.5 Unauthorised constructions

In respect of constructions which have commenced, carried on or completed without obtaining permits or in deviation of the approved plan, the Secretary can regularize those constructions under Section 406 of KM Act/Rule 143 of KMBR after realizing the compounding fee due thereon, if they do not violate any provisions of Acts or Rules. If the constructions violate any other provisions of the Acts or Rules, the Secretary shall demolish those constructions, after giving necessary notice to the party concerned. Under Section 407 of KM Act, Government has the power to regularize unauthorised constructions, if the constructions do not adversely affect any Town Planning Schemes formulated under Town Planning Act and also if the constructions do not contravene any safety and security provisions mentioned in KM Act or KMBR.

During the course of audit, it was found that a large number of unauthorised constructions have come up in the Corporation areas, either because the Corporations had issued permits violating norms or people resorted to constructions deviating from the approved plans as discussed in the following paragraphs:

(i) Permits issued violating norms

Permits issued violating FAR restrictions

Government has fixed maximum limits for Floor Area Ratio (FAR)⁶ applicable to various categories of buildings (Rule 31). While issuing permit, the Secretary has to see that the FAR of the building is within the limit prescribed by Government. In the cases mentioned in **Table 3.1**, the Secretary issued permits for constructing buildings with FAR exceeding the limits prescribed by Government, and the parties completed/proceeded with constructions accordingly. The excess floor area constructed in these cases has to be either demolished by the Corporation or regularized by Government by imposing compounding fee of ₹280.88 lakh.

Table 3.1: Details of Permits issued violating FAR restrictions

Sl. No.	File No./Name of party (TVM/TCR)	Date of issue of permit	Details of building/violation	FAR permissible	FAR allowed	Application fee/ Compounding fee receivable (₹)
1	DW3/BA/202/09-10, Shri Girija Vallabhan (TCR)	01.01.2010	Special Residential building with plinth area 6820.28 sq.m. (Floor area allowed in excess-1909.18 sq.m.)	2.50	3.90	1,18,08,629
2	DW3/BA/46/ 11-12 T. S. Kalyanaraman (TCR)	30.05.2011	12-Storey residential apartment with plinth area 12253.22 sq.m. (considering the area of swimming pool and land area left for road widening, FAR exceeded the limit prescribed)	2.75	3.01	72,43,253

⁶ The quotient by dividing the total floor area on all floors by the area of the plot

Sl. No.	File No./Name of party (TVM/TCR)	Date of issue of permit	Details of building/violation	FAR permissible	FAR allowed	Application fee/ Compounding fee receivable (₹)
3	E6/BA/C/377/09 Rajeswari Sreenivasan- Artech Realtors Pvt. Ltd. (TVM)	22.01.2010	14- storey commercial building with plinth area 5478.86 sq.m. (Excess floor area allowed 1460.575 sq.m)	2.5	3.98	90,36,325
TOTAL						2,80,88,207

Audit noticed that in the above cases, the Secretary had issued permits without considering reduction in FAR limit brought into effect by Government.

Permit issued for building without ensuring ownership of land

TVM issued (December 2011) permit to M/s Artech Realtors (P) Ltd. for construction of a shopping Mall cum residential apartment with 97 units and tile shop (plinth area 28593.59 square metre) in 225 cents of land situated in Vanchiyoov Village. While the construction was going on, based on the application submitted by the party, the Corporation had issued a revised permit (June 2014) increasing the plinth area of the building to 37915.85 square metre and the plot area reduced to 208 cents. Inspection conducted by CTP (July 2014) revealed that the proposed construction violated the provisions of KMBR/DTP Scheme in as many as 21 aspects. Further, the Survey Director reported (August 2014) that there was encroachment of 14.40 cents of *poramboke*⁷ land in the proposed site and the party had only 206.875 cents of land actually under his ownership. The Corporation issued stop memo to the party for carrying out any further construction and also a show cause notice was issued for revoking the permit (July 2014).



Artech shopping mall cum residential apartment at Pattoor, Thiruvananthapuram

While giving its judgement in a writ petition filed by the party, the Honorable High Court refrained (September 2014) to stay the operation of stop memo issued by the Corporation. However, it had permitted the owner to complete the internal works of the building on the condition that the works carried out by the builder during the

⁷ Unmeasured land vested with Government, outside the ownership of private parties

pendency of the appeal would be entirely at his risk. It was also directed that the builder should not carry out any further construction activities in respect of the building in question or in the property where the building was situated. The High Court had also directed (August 2015) the Corporation to provisionally extend building permit and approve rectified building plan which shall be subject to the final outcome of the writ petition.

During physical verification of the site (December 2015), Audit found that the construction activities were going on unimpeded, in violation of the directions of the High Court. At the time of issue of High Court order (26 September 2014) prohibiting additional constructions, what remained to be completed in terms of the approved plan was the completion of construction of the 14th floor of residential building and construction of the Mall building on the northern side of the property. Audit observed that apart from completing the entire structure works of the main building (14 floors), the construction of shopping mall was also at an advanced stage of completion. Despite this, no action was taken by the Corporation to stop the said construction which was being done in violation of court orders.

(ii) Violation of Coastal Zone Regulations

In accordance with Sections 3(1) and 3(2)(v) of the Environment (Protection) Act, 1986 and Rule 5(3)(d) of the Environment (Protection) Rules, 1986, Central Government has declared (Feb 1991) the coastal stretches of seas which are influenced by tidal action up to 500 metre from High Tide Line and the land between the Low Tide Line and High Tide line as Coastal Regulation Zone (CRZ). In the case of tidal influenced water bodies connected to the sea, like rivers, creeks, lagoons etc., the distance limit for CRZ is 100 metre or width of the creek, whichever is less. The Central Government had imposed certain restrictions on construction activities in CRZ and had stipulated that before undertaking any constructions in CRZ area, prior approval of Coastal Zone Management Authority (CZMA) was mandatory. In TVM, Audit identified a number of constructions in CRZ area made without the approval of CZMA, some of which were done based on permits issued by the Corporation. Illustrative cases are detailed below:

Constructions in Vizhinjam area

Based on the report of Chief Town Planner (Vigilance), Government directed (December 2009 & February 2010) the Secretary of former Vizhinjam Gram Panchayat (annexed to Corporation in October 2010) to cancel the permits and remove the constructions made in the coastal area violating CRZ norms in the case of (i) The Beach Hotel - Oasis Cafe Restaurant (Multistoried building near Kovalam bus stand) and (ii) *Sagara Beach Resort* (Five storey building near Kovalam light house). In respect of 'The Beach Hotel - Oasis Cafe Restaurant', though the Secretary had cancelled (March 2012) the OC issued for the building, the Honorable Tribunal for

LSGIs had set aside (August 2012) the above order of the Secretary. Audit noticed that there was lapse on the part of the Corporation in producing necessary documents before the Tribunal. The Corporation did not file any appeal in this case, reasons for which were not furnished to Audit despite being requested.

During inspection (July 2014) the Corporation found that the above buildings were constructed contrary to the permits issued, violating the provisions of KMBR/CRZ norms/DTP schemes, and the parties had also made some other constructions in the area without permits. Both the buildings fell within 200 meters of the high tide line, categorized as CRZ- III- No Development Zone, as per CRZ notification issued in 1991. In the case of *Sagara Beach Resort*, a provisional order under Section 406 (1) & (2) of KM Act for removing the unauthorised construction was issued in November 2014. The party had approached the Tribunal and the case is still pending (December 2015). Delay in delivering the notice and its follow up action showed the laxity of the Corporation in dealing with unauthorised constructions.

In November 2013, based on the report of CTP (Vigilance), the Government had forwarded to the Secretary, TVM, details of 17 constructions in Vizhinjam area, which violated CRZ norms, and gave directions to take necessary action according to law in these cases. The special squads formed by Corporation to detect similar constructions had identified 120 constructions (total plinth area 100000 square metre), which violated CRZ norms.

The Corporation issued (March 2014) Provisional Orders under Section 406(2) of KM Act for removing unauthorised constructions in respect of 49 cases (17 cases reported by Government and 32 cases detected by vigilance squads) and action was in progress for issuing provisional orders in another 36 cases. The vigilance squads had reported that there were about 1300 further constructions in the area functioning as resorts, home stays, etc., which violated CRZ norms. However, the Corporation had not taken any action in respect of the above violations except issuing notices as stated above.

Constructions in Veli area

In September 2008, TVM had issued permit to 'M/s Heera Developers' for construction of a multistoried residential apartment with 21 floors (9411.96 square meters) in Attipra Village. Audit found that the project site was located close to Veli tidal inlet on the banks of Veli Lake, and situated within 100 meters of High Tide Line in 'CRZ III - No development zone' of CRZ area as per Coastal Zone



Heera Lake Front at Veli, Thiruvananthapuram

Management Plan prepared by Centre for Earth Science Studies. The Corporation had not sought the approval of CZMA before issuing permit in this case. During site inspection (December 2015), Audit found that the construction of the building - *Heera Lake Front* had already been completed. The Corporation replied that the construction was beyond the limit of 100 meters. The reply was not tenable as the Corporation itself in its earlier report (October 2007) had stated that the site was within 100 meters of CRZ zone besides the fact that the CZMA also reported that the construction was in violation of provisions of CRZ notification. The issue of permit by Corporation for construction of the building in CRZ area without the approval of CZMA was irregular.

Further, CZMA informed TVM (December 2015) that 'M/s Heera Developers' had made reclamation of *Kayal land*⁸ in the above 'CRZ III - No development area' for two other projects viz., *Heera Blue waters* and *Heera Homes*. During site verification, Audit found that the builder had commenced preliminary construction works in the above reclaimed lands. As per KMBR, no person shall develop any parcel of land in the Corporation area without the permission of the Secretary. In this case, though reclamation of land in 'CRZ III - No development area' is prohibited by law, and the CZMA had given prior intimation to the Corporation in this regard, the Secretary did not take any action to stop land development and construction done without his permission.

(iii) Unauthorized construction of buildings around Thiruvananthapuram Airport

Rule 32(2) of KMBR specifies the height restrictions to be complied with while constructing buildings in the vicinity of airports, which are subject to notifications issued by Government of India (GOI) under the Aircrafts Act, 1934. Notifications⁹ issued by GOI under Section 9A of the said Act stipulates that no buildings or structures shall be constructed within a radius of 20 kilometers from Aerodrome Reference Point (ARP) without obtaining 'No Objection Certificate' from the Airport Authority of India (AAI).

Audit observed that the entire Thiruvananthapuram Corporation area falls within the radius of 20 kilometers from the airport. Though TVM had issued 15201 permits during the period from 2010-11 to 2014-15, the Corporation sought NOC from AAI only in 689 cases. It was also seen that in many cases, applications for NOC were submitted by Corporation only after completion of construction.

The AAI had brought to the notice of the Corporation that certain constructions/installations were identified as obstacles which penetrated the Obstacle Limitation

⁸ Land connected with back waters.

⁹ Ministry of Civil Aviation Gazette Notifications No. SO1589 (E) dated 30th June 2008, SO-84(E) dated 14th January 2010 and GSR751 (E) dated 30th September 2015.

Surfaces (OLS) around Thiruvananthapuram Airport. The height of these buildings exceeded the maximum limit prescribed in the NOCs, as shown in **Table 3.2** below:

Table 3.2: Height of buildings exceeded the maximum limit prescribed in the NOCs

Sl. No	Name of the Builder	NOC Case No.	Permit details	Height of Built-up Structure	Maximum Permissible Height as per NOC Criteria	Excess Height
1	M/s.PTC Builders (Shri. Biju Jacob)	TV 37/2013 (Building)	ZU3/826/07 04/10/2007	90.504M	49.26M	41.244M
2	M/s. God's Own Country Health Resorts Intl. Pvt. Ltd. (Dr.B.R Shetty)	TV -22/2014 (Building)	ZA2/43/06 Dated 27/01/2010	59.35M	49.26M	10.09M
3	M/s.SRK Constructions Sri.Mohammed Abdul Rasheed	TV - 76/2014 (Building)	ZA2/2325/07 Dt. 18/04/2008	58.254M	49.328M	8.926M
4	M/s.HLL Life Care Ltd (The Unit Chief, HLL Akkulam factory)	TV-52/2015 (Building)	Permit not issued.	56.19M	49.26M	6.93M
5	35th National Games Secretariat (Chief Engineer)	TV -63/2014 (High Mast Light)	Permit not issued	86.998M	67.826M	19.172M
				86.677M	73.567M	13.110M
				87.372M	77.567M	9.805M
				88.034M	72.02M	16.014M

According to AAI, erection of structures protruding into the OLS can lead to erroneous operation of navigational equipments, impaired Air Traffic Services, restricted manoeuvres during take-off and landing, higher probability of collision in the event of an aircraft emergency, radiation hazards to occupants of multi-storied buildings etc.

As per Aircraft (Demolition of Obstruction caused by Buildings & Trees) Rules, 1994, in the case of height violations, if the owner fails to reduce the height within the specified period, the state government/concerned authority shall be responsible for the removal/reduction of the height of such illegal structures.

Though AAI had brought to the notice of the Corporation and Government regarding the above violations, no steps were taken by the corporation to reduce the height of the above structures.

(iv) Constructions done deviating from permit conditions

Apart from ensuring that no new constructions come up in its area without a permit, it is the responsibility of the Corporation, as per Rule 4(2) of KMBR, to see that after the issue of OCs for buildings, no further additions or modifications are made thereon, or portions of the building intended for specific purposes are not diverted for other purposes without the permission of the Corporation. Audit found that in the following cases as detailed in **Table 3.3**, the parties had resorted to unauthorised constructions or diverted the intended parking space for other purposes without intimating the Corporation.

Table 3.3: Unauthorised constructions/diversion of parking space

Sl. No	Permit No. & date/ Name of party	Purpose of permit/OC issued	Activity done in violation of Permit/OC
1	DW3/BA/502/09-10 dt. 20.01.2010 Gopinath and others (TCR)	Permit issued for construction of a three storey commercial building (plinth area 960.83 sq.m). As per the OC issued on 12.09.2010, the basement floor (268.53 sq.m) was earmarked for parking.	The basement floor earmarked for parking was partially converted into an office room and the remaining portion is used for keeping new two wheelers meant for sale, and for storing vehicle spares/accessories. Corporation replied that notice had been issued to the owner.
2	DW4/BA/647/09-10 dt. 19.11.2010 Ranjith K.B (TCR)	The permit issued for construction of an Auto Show room building (area 552.40 sq.m).	Inspection conducted by Senior Town Planner (Vigilance) in February 2011 revealed that the party had made additional construction of 62 sq.m and 32.85 sq.m with truss and sheet roof on the sides, leaving no set backs on those sides. Against the open space of three meters required on sides, no open space was available on both sides and rear side. It was also found that the parking space was converted and being utilized for work shop. Corporation replied that notice had been issued to the owner.
3	AYL/BA/227/09-10 dt. 20.03.2010 Rev. Fr. Paul Vattakuzhi (TCR)	The permit issued for construction of a commercial building of area 2401.74 sq.m. The OC issued for the building on 01.08.2011 was later changed to 'Special Residential' on 20.06.2012.	During the inspection (July 2013), CTP Vigilance found that in violation of the permit issued, the party had converted parking area of basement floor into class rooms. Corporation did not furnish any reply in this regard.
4	E5/BA/C/373/09 – SUPPLYCO (TVM)	On 03/05/2013, the Corporation had regularized a construction made in February 2011 by the Kerala State Civil Supplies Corporation (KSCSC), for a Godown cum Show-Room building (4-storey commercial building (area 1212 sq.m) in Sasthamangalam Village and issued OC for the building.	On site verification, the Audit found that KSCSC was utilizing basement floor measuring 303 sq.m, earmarked for parking as godown cum packing area. Corporation replied that demand notice had been issued (November 2015) for ₹ 67.06 lakh.
5	Rappai C.C.Chirammel Ollukara Thrissur DW4/41731/12 dt.1.12.13	In February 2013, TCR had issued permit for roof changing and renovation of a commercial building (G+F) having a total plinth area of 156.79 M ² .	The owner had constructed a building with G+2 roofs violating permit conditions. The Corporation Engineer confirmed (September 2014) the violation of KMBR in this case. Though the Secretary had directed the AEE on 28/7/15 and 29/9/15 to demolish the unauthorized construction, no action was taken (October 2015) by the AEE to demolish the unauthorized construction.

(v) Construction without obtaining permit***Building of Jubilee Mission Medical College***

Jubilee Mission Medical College, Thrissur

Rule 54(4)(a) of KMBR stipulates that in the case of buildings exceeding three floors from ground level under educational, medical/hospital or office/ business occupancy, a certificate of approval from the Director of Fire Force shall be obtained and produced by the applicant before issuing permit by the corporation. The Director, Jubilee Mission Medical College, Thrissur had applied for NOC from the Fire and Rescue Services Department through TCR for a 16 storied (B+G+14) institutional cum residential building in Chembukkavu village, having plinth area of 8254.86 square meter and height 48.75 meters. The Fire and Rescue Department had rejected the application since the height of the proposed building exceeded the maximum limit of 30 meters prescribed for institutional buildings. Construction above that limit could not be considered since it will adversely affect the safety of the occupants in the hospital part of the building. In the absence of Fire NOC, TCR did not issue permit for the building.

A joint verification conducted by Audit along with Corporation officials, however, revealed (October 2015) that the owner had completed construction of building up to the 16th floor (48.75 meters) without obtaining NOC from Fire and Rescue Service Department and permit from the Corporation (Rule 4.2). On this being pointed out by Audit, the Secretary stated that notice had been issued (March 2016) to the owner in this regard.

Windsor Rajadhani Hotel

In July 2003, TVM had issued permit in favour of M/s. Rajadhani Hotels (Pvt) Ltd. to construct an eight storey residential building (4915 sq.m) in 26.223 cents of land in Peroorkada village. While the construction was in progress, the party had submitted (November 2006) an application for constructing additional four floors (9th to 12th) to the building (total area 7221.68 sq.m). Though the Corporation had not issued permit for the additional floors, the party had continued with construction and started operating a bar hotel in



Hotel Windsor Rajadhani at Kowdiar, Thiruvananthapuram

the basement floor earmarked for parking. Though the Corporation had issued stop memos twice in March 2007 and also informed the police in May 2007 and June 2007 against the construction, the party completed the structure of the entire 12 floors by March 2008 and the entire building had become fully functional. The Corporation levied annual property tax of ₹26,37,246/- for 12 floors constructed in an unauthorized manner from 2009-10 onwards, which had also not been paid by the party. The Corporation did not take any steps including Revenue Recovery proceedings to realize the tax amount and when prompted by media reports, the Corporation issued (December 2015) notice to the party pointing out the violations, and demanding arrears of tax amounting to ₹193.83 lakh relating to the period 2009-10 to 2015-16 which was remaining uncollected (January 2016).

The fact that the Corporation could not prevent construction of a 12 storied building in its area without permit, violating rules, and also failed in realising the tax due thereon, points to the laxity on the part of Corporation in dealing with unauthorised constructions.

Government Secretariat – Annexe - II Building

Rule 7(2) of KMBR stipulates that in the case of any construction by Central or State Government Department, the officer authorized shall, before thirty days of commencement of the work, submit to the Secretary, a set of plans of the proposed building along with a certificate issued by the Chief Architect or the Engineer-in-charge of the works to the effect that the plans are in conformity with the provisions of these rules in all respects including conformity to any Development plan prepared for the area.

Executive Engineer, Special Building Division, PWD, Thiruvananthapuram, constructed a nine storey building for Government Secretariat – Annexe - II (16320.83sq.m) in Vanchiyoor Village without intimating the Corporation and without complying with the said requirements. On completion of construction (October 2015), the Executive Engineer applied for OC, along with necessary plans of the building. The building constructed violated various provisions of KMBR including those relating to Zoning regulations and safety/security conditions.



Government Secretariat – Annexe - II Building, Statue, Thiruvananthapuram

Despite these violations, Government recommended (January 2016) the Secretary of Corporation to regularize the construction and issue OC for the building by relaxing provisions under Rule 3C of KMBR. Based on Government recommendation, the Secretary issued OC for the building (January 2016), with the stipulation that the requirement with regard to various provisions including parking area, fire safety requirements, Airport NOC and facilities for disabled shall be complied with.

Audit observed that issue of OC for the building, based on the recommendation made by Government, overlooking the Zoning Regulations and without complying with necessary safety provisions was not in order. Also the proposal of the Government to regularise the construction under Rule 3C of KMBR is not acceptable as it was violating Section 407 of KM Act, which stipulates that the Government has no powers to regularise constructions which violates the Detailed Town Planning scheme for the area, and also by compromising safety and security provisions.

Unauthorized construction of a foot over bridge across PWD road

Section 364 of KM Act stipulates that no person shall build any wall or other structures or make any encroachment in or over any public street. Also, Rule 4(2) of KMBR stipulates that no person shall construct or make addition/extension to any building without obtaining a permit from the Secretary.



KIMS Hospital, Thiruvananthapuram

KIMS Hospital, Thiruvananthapuram, a private entity, constructed (July 2012) a corridor cum foot over bridge across PWD road for connecting two

blocks of the hospital, without obtaining permit from the Corporation. In December 2013, the Corporation issued Provisional order for demolishing the unauthorized construction. Though, the Chief Town Planner reported (July 2015) that the construction of bridge violated various provisions of KMBR and the construction could not be regularized, the Corporation decided (August 2015) to allow the construction to remain temporarily, without being demolished. Decision taken by the Corporation to retain the construction in violation of the Act was not in order.

3.1.3.6 System deficiency in following up unauthorised constructions

Unauthorised constructions coming up in urban areas are a hindrance to smooth civic life and causes obstruction to traffic and public. In certain cases, it can endanger human life and can cause loss of public property. Thus, it is necessary that local bodies

keep track of such constructions and take necessary action to regularise/demolish them at the earliest.

(i) Lapses in maintaining registers and lack of coordination between Sections

Section 242(4) of KM Act and periodical directions issued by Government stipulate that in the case of unauthorised constructions, the Secretary shall maintain a special register containing details viz, nature of the building, its area, details of floors, permit number, name of owner, survey number, village, violation noticed, action taken, etc. Audit noticed that registers as stated above were not being maintained by the Revenue (dealing with property tax assessment) and Engineering Sections of both Corporations properly. Even though UA Registers were being maintained by Revenue section for noting unauthorised constructions noticed by field officers during site visits, the entries were not complete. The Engineering Section, which was supposed to follow up unauthorised constructions, was not examining the extent of violation in respect of the cases noted in the UA Register of the Revenue Section.

Verification of records revealed that in TCR, against 1428 and 44 unauthorized constructions recorded by the Revenue and Engineering sections respectively during 2010-11 to 2014-15, action was taken only in respect of 402 and 19 cases. Similarly, in TVM during 2011-12 to 2014-15, only six out of 367 unauthorized constructions recorded by the Revenue Section and 59 out of 634 noticed by the Engineering Section were acted upon.

The above cases are indicative of the lack of coordination between Engineering and Revenue Sections and laxity on the part of the Corporations in taking appropriate action as per Rules/Act. The Corporation replied that steps would be taken to ensure better and effective co-ordination between Engineering and Revenue wing in future.

(ii) Cases detected by Chief Town Planner (Vigilance)

During February 2013, the Chief Town Planner (Vigilance) conducted inspection in TCR and detected 72 cases of unauthorised constructions/KMBR violations. In the report submitted to Government (August 2015), the Corporation stated that action had been initiated in 33 of these cases. But the Corporation did not follow up the remaining 39 cases pointed out by Chief Town Planner (Vigilance).

Similarly in TVM, CTP (Vigilance) brought to the notice of Corporation 25 unauthorised constructions detected during the inspection conducted in October 2013. In the reply submitted to Government (December 2015), TVM stated that excluding eight cases pending with courts/Government, action had been initiated in remaining cases. Audit, however, had noticed that in three cases, no action had been initiated (December 2015).

On examining the cases where the Corporations had stated that action had been initiated, Audit found that in majority of cases, apart from issuing notices to the parties, the Corporations had not taken any follow up action to regularise/demolish the unauthorised constructions as per Rules/provisions of Act.

(iii) Field inspection in Thiruvananthapuram and Thrissur Corporations

Audit conducted field inspection of multistoried buildings constructed alongside two major roads of Thiruvananthapuram and Thrissur Corporations. Of the test checked 29 buildings Audit noticed various KMBR violations in 16 buildings as given in the **Table 3.4** below.

Table 3.4: Details of observations in site visit

Sl. No.	Name of building, Permit No. /details	Observation	Rules violated
1.	Ram and Others (Pothys) MG Road TVM TP7/BA/1049/07 dated 26/02/2008	Portion of Cellar parking floor converted for other purpose	34
		Mandatory open space converted for other purpose	31, 24 (3)
2.	Big bazaar, Pazhavangadi (MG Road). TP 3/BA-2917/04	Portion of Cellar parking floor converted for other purpose	34
		Mandatory open space converted to storage room	24.3
3.	Kalyaan Sarees No TP5/41086/03 dated 26/05/04	Portion of Cellar parking floor converted for other purpose	34
		Roof top was covered with sheet against the approved plan	4.2
4.	Paramount No TP3-8032/05	Parking space in the basement floor converted partially for other purposes	34
5.	Premier Office Equipments BA 743/04 Dt 22.05.06	Portion of Cellar parking floor converted for other purpose	34
6.	Jayalekshmi Silks No FE1/2692/09 dated 07/11/2009	Portion of Cellar parking floor converted to storage room	34
7.	Maharajas Tex No BA/840/07 dated 08/05/2007	Shortage of parking space of 79 sq.m.	34
		Property tax assessed for 420 sq.m instead of 629.34 sq.m.	KM Act 233
8.	Lens and Frames E6 97870/2014 dated 08/08/2014	No parking space provided against the required 32 sq.m.	34
9.	Planet Fashion. (1)E6/15/043/2013 dt 16/01/14	Shortage of parking space of 40 sq.m.	34
10.	Rajadhani Towers, E6/178126/11, E.127901/10	A 12 storied building constructed by abutting on two sides (Left and Right)	24 (9), 117

Sl. No.	Name of building, Permit No. / details	Observation	Rule violated
11.	Sreedhanya Office Building 31/747	Unauthorized construction of plinth area of 30 sq.m.	4.2
		Commercial building of 130 sq.m assessed as residential building. Short levy of ₹9500 per annum since 2013	4.2, 52
12.	Artech Avantika No. E5/BA/407/13 dated 5.12.13	Width of the street vary from 3.6 m to 5.6 m	33
13.	Esquire, TC No25/716/2-5 Thrissur	Portion of Cellar parking floor used as computer service centre	34
		Fire fighting equipments not installed	53.4
		Roof top was covered with sheet against the approved plan	4.2
14.	Temple Trees Apartments TC No. 25/12/19/F3, 25/12/19/A	Cellar parking portion used for other purposes	34
15.	Big Bazar, Aswini Jn, Thrissur	Cellar parking portion used as storage space	34
		Unauthorized Sheeted extension at back side	4.2
16.	Vishram Builders R4-32864/2013	Mandatory Recreation area not provided	27 (iv)

When these violations were pointed out by Audit, TCR stated that notices had been issued to the parties. TVM had not furnished any reply.

3.1.3.7 Powers of Government to regularize unauthorized constructions

Under Section 407 of KM Act, Government can, on submission of application by the party in the stipulated manner and within the stipulated time, regularize unlawful constructions made on or before the stipulated date, if they do not adversely affect the Town Planning Scheme of the City, and also if they do not violate any security provisions of the Act or Rules. Based on the above provisions, Government had issued a number of orders regularizing unauthorized constructions. In the original orders, Government intended to regularize all unauthorized constructions made up to 31 December 1998¹⁰. In the subsequent orders, Government extended the cutoff date for regularizing unauthorized constructions up to 15 October 1999¹¹, 31 December 2008¹², and 31 March 2013¹³. However, Government had received only five applications (four relating to TVM and one relating to TCR) for regularizing unauthorized constructions, as on July 2015 of which two (one from TVM and one

¹⁰ As per Regularisation order issued by Government in October 1999

¹¹ SRO No. 932/2000 dt.05.09.2000

¹² As per Regularisation order issued by Government in August 2010.

¹³ As per regularisation orders issued in February 2014

from TCR) were compounded for ₹60.53 lakh and three (TVM) were rejected (April 2015). No action has been taken by TVM (December 2015) to demolish these three constructions which were rejected. On this being pointed out, Corporation stated that notices were issued to the parties and action was under process at various stages. Audit observed that periodically extending the cut-off date for regularizing unauthorized constructions may prompt public to embark on unlawful constructions, believing that Government would issue orders later on for regularizing the same.

3.1.4 Conclusion

Major lapses were noticed in the maintenance of basic records relating to building permits by both Corporations. Abnormal delay was noticed in TVM and TCR for processing permit applications and issuing permits. There were various instances of issuing permits for buildings violating provisions including those relating to Zoning/Coastal Zone Regulations and FAR restrictions. There were also instances of resorting to constructions without permits/deviating from permits and also occupying buildings without OC. There was lack of coordination between Revenue and Engineering Sections with regard to identification and follow up of unauthorised constructions. Proper records were not being maintained by both Corporations relating to unauthorised constructions. Monitoring was ineffective and the authorities have failed to take credible action against officials who abetted violation of rules. Corporations were not taking strict action to regularize/demolish unauthorized constructions, including those brought to notice by the vigilance department.

3.2 MAINTENANCE OF ENVIRONMENTAL HYGIENE BY URBAN LOCAL BODIES

3.2.1 Introduction

Consumption of unsafe drinking water, improper disposal of human excreta, unhygienic garbage disposal, improper environmental sanitation and lack of personal and food hygiene have been major causes of many diseases, which affect adversely quality of life of people and entail high costs for treatment.

Maintenance of environmental hygiene is a mandatory function of Urban Local Bodies (ULBs) under Kerala Municipality Act, 1994 (KM Act). Under KM Act, the construction, maintenance and cleaning of drains; removal and disposal of filth, rubbish and other obnoxious matters; construction and regulation of municipal markets and slaughter houses, public streets and other public places including toilets; implementation of sewerage scheme are the mandatory functions relating to environmental hygiene to be performed by the ULBs.

The objective of audit was to ascertain whether the ULBs were complying with the provisions of the Acts and Rules relating to environmental hygiene by formulating and implementing programmes and schemes accordingly. The main sources of audit

criteria were KM Act, Municipal Solid Waste (Management and Handling) Rules, 2000 and Government orders/circulars relating to Environmental Hygiene.

The Health Standing Committee, Health Officer, Health Supervisor/Health Inspectors, Ward Health Sanitation Committee, and Sanitation Workers are the important functionaries/groups involved in the maintenance of environmental hygiene in ULBs. Audit conducted an assessment of the activities relating to environmental hygiene of 15 Municipalities¹⁴ and two Corporations¹⁵ selected using statistical method, viz., Probability Proportional to Size With Replacement, covering the period 2010-11 to 2014-15.

Audit findings

Audit findings on the various issues relating to Environmental Hygiene in the test-checked ULBs are given in the succeeding paragraphs:

3.2.2.1 Functioning of Health Standing Committee

As per the KM Act, the Health Standing Committees (HSCs) undertake the analysis of various issues and submit proposals before they are considered by the Municipal Council for approval and implementation. The HSCs are mandated to make resolutions in respect of matters of public health/health services and sanitation. Every resolution passed by the HSCs needs to be placed for approval of the Municipal Council. The Council can modify the resolutions if considered necessary by convening a special meeting of the HSC. Audit examination of the functioning of the Health Standing Committees during 2010-11 to 2014-2015 revealed the following:

(i) As per the KM Act, the HSCs are required to meet once every month to discuss various issues relating to health and sanitation activities. In six¹⁶ out of the seventeen ULBs, the HSCs did not meet as stipulated in the Act. The shortfall in convening the meetings of HSCs ranged from two to nine months during the five year period from 2010-11 to 2014-15.

Adoor Municipality replied that due to non existence of grave health issues during certain months, no meeting of HSC was convened. The other ULBs did not furnish any replies.

Audit made an analysis of hygienic condition of market places, slaughter houses, public toilets etc., by conducting joint site inspection along with the health officials of ULBs and found that health/sanitation issues were prevailing in these ULBs such as

¹⁴ Municipalities: Nedumangad, Attingal, Adoor, Kottayam, Thripunithura, Thrikkakara, Eloor, Kalamassery, Kothamangalam, North Paravur, Kodungallur, Irinjalakkuda, Ottappalam, Koyilandy and Koothuparamba.

¹⁵ Corporations: Kollam and Kozhikode.

¹⁶ Adoor, Kollam, Kottayam, Thrikkakara, Kalamassery, Eloor

non-removal of waste regularly from markets, non-functioning of bio gas plants, non-functioning of public toilets, dumping of septage waste near human settlements etc. On being asked by Audit, the ULBs replied that these issues were prevailing for two to four years, as explained in the succeeding paragraphs. In spite of these issues existing in various ULBs waiting for their solution, HSCs did not meet once every month as stipulated to discuss these issues for their eventual handling.

(ii) There was no proper follow-up action on the resolution passed by HSCs. The HSCs had no practice of reviewing the action taken on the resolution passed in the earlier meetings. Audit noticed that though the committees had discussed matters relating to contamination of water bodies due to discharge of untreated liquid waste by hospitals/industries/commercial establishments, the issues remained unsettled due to laxity on the part of all the test checked HSCs in taking prompt and timely action to settle the health/sanitation issues with the approval of Municipal Council. Since, there was no system to review the implementation of the resolution passed by HSCs, the ULBs could not ensure necessary action.

3.2.2.2 Preparation of action plan for maintenance of environmental hygiene

Functioning of Ward Health Sanitation Committee

The guidelines issued (February 2007) by the Government under National Rural Health Mission (NRHM) stipulate constitution of Ward Health Sanitation Committee (WHSC) at the Ward level. The Chairperson of WHSC is the elected representative of the Ward. Junior Primary Health Nurse (JPHN)/Junior Health Inspector (JHI)/Health Inspector (HI) of the ULB/Health Department is the Convenor of WHSC. The members of WHSC are Registered Medical Practitioners, School Teachers, Representatives of Residents' Association, Scheduled Tribe Representatives etc. As per the Government guidelines (May 2010), WHSCs need to constitute sanitation squads to identify unhygienic places due to severe dumping of waste, unhygienic condition of drainage, littering of plastics, vector borne areas etc. These identified areas were to be mapped and reported to WHSCs for the preparation of Sanitation Plans.

Audit assessed the functioning of the WHSCs and sanitation squad and noticed the following:

- WHSCs constituted in all the test checked ULBs were not in accordance with Government guidelines except in Kollam Corporation. The members of WHSC were Kudumbasree/Asha Workers and there were no representatives of Registered Medical Practitioners/School Teachers/Residents' Association/Scheduled Tribe. This was not in compliance with the NRHM guidelines. The Committees of certain wards of

Kodungallur, Nedumangad, Adoor and Attingal Municipalities were not convened to discuss the issues relating to sanitation during certain years.¹⁷

Kodungallur Municipality replied that prescribed meetings could not be convened due to non-co-operation of the members. Nedumangad Municipality replied that though meetings were convened, minutes were not recorded during certain months. Adoor and Attingal Municipalities replied that these meetings would be convened in future.

- With a view to prevent or control vector borne diseases, Government directed the ULBs in May 2010 to convene weekly meetings of WHSCs during pre-monsoon period to discuss Health and sanitation activities undertaken by them. This was however not done by any of the WHSCs. The committees met only once in three months against prescribed weekly meetings.

In the test checked ULBs except Kollam, the WHSCs had failed to constitute Sanitation Squads to identify unhygienic places due to severe dumping of waste, vector borne areas etc. Hence, mapping of unhygienic places/issues was not done resulting in non-preparation of action plan for addressing the issues. Thus, the ULBs had failed to monitor and co-ordinate the activities of the WHSCs.

- In Kozhikode Corporation, out of ₹1.85 crore released as advance from own funds during 2010-11 to 2014-15 to the convenor of WHSC for removal of silt, ₹1.14 crore (62 per cent) remained unsettled (December 2015) for want of approval by Committee/Council. Audit observed that the activities executed were not monitored by the Health Officer. The Health Officer of the Kozhikode Corporation stated that the works of supervision were delegated to concerned JHI/HI. The reply was not tenable since delegation of supervising the activities by the Committee itself was not correct.

3.2.2.3 Maintenance of environmental hygiene at public utility centres, hospitals etc.

The maintenance of public toilets, slaughter houses, hospitals, markets, water bodies etc closely relates to environmental hygiene. Audit reviewed the status of maintenance of hygiene of these places and observed the following:

Maintenance of Public toilets

As per Section 320 of KM Act, a Municipality should provide and maintain, at proper and convenient places, sufficient number of public latrines and should cause the same to be daily cleaned and kept in proper order. As per section 325 of KM Act, all public

¹⁷ Kodungallur – 8 wards in 2010-11 and 6 wards in 2014-15, Nedumangad – 3 wards in 2010-11, Adoor – 1 ward in 2010-11 to 2014-15, Attingal – 25 wards in 2010-11, 17 wards in 2011-12, 18 wards in 2012-13 & 12 wards in 2013-14

latrines should afford privacy to its users and screen the filth from the view of persons passing by or residing in the neighbourhood. It shall have water closet, leach pit having lid or septic tank or drainage system, net tied polluted air exhaust system, etc.

(i) As per the statistics furnished by the 17 ULBs test checked, out of 61 public toilets¹⁸ constructed in the 17 ULBs, 11 were not functioning for want of repairs, non-availability of water, non-construction of septic tank etc. There was no initiative on the part of the ULBs to make the toilets functional. Audit reviewed the hygienic condition of the remaining 50 public toilets and observed that some of these toilets were not maintained properly as mentioned below:

- The ULBs were running the operation of toilets, either through contractors or through their own staff and infrastructure. The ULBs have a role to oversee the hygienic condition and ensure that the public is benefitted by the facilities provided. The duty of maintenance and repairs of the toilets is also vested with the ULBs. Audit observed that, in



Waste dumped inside ladies toilet

Ottappalam Municipality, the public toilet attached to Municipal Bus Stand was functioning in an unhygienic condition. Though separate toilets were provided for gents and ladies, the toilets for ladies were not in usable condition due to non-provision of separate enclosure and piling up of filth and waste materials. Ottappalam Municipality replied that the issue will be solved after the construction of new bus stand was completed.

- The public toilet at Municipal Complex in Koothuparamba Municipality was working in unhygienic condition due to water leakage and blockage of wastes in closets. The Municipality stated that the toilets in the municipal complex were cleaned by municipal staff regularly. But during night, as the



Water blocked closets in Municipal Complex toilet

toilets were not locked, people were misusing them. The public toilet at Koothuparamba Municipal Bus Stand was working in unhygienic surroundings due to overflowing through waste tank and drainage with inadequate capacity. It was replied

¹⁸ Consists of several units of toilets

that due to non-availability of land and paucity of funds, the Municipality was unable to install a new Sewage Treatment Plant (STP) with sufficient capacity.

- In Kodungallur Municipality, the public toilet in the bus stand was functioning in unhygienic condition due to faulty construction of the septic tank of the toilet. Kodungallur Municipality replied that new proposal under Swachh Bharath Abhiyan, for repair of septic tank will be put up to the municipal council to solve the issue.

The replies furnished by the ULBs were not tenable as they were not conducting periodical inspection about the functioning and hygienic condition of the public toilets.

(ii) Audit also noted that the test checked ULBs had not made an assessment about the requirement of toilets at public places such as parks, markets etc. Mananchira Park in Kozhikode Corporation is a place where large scale congregation of people takes place during weekends. Similarly, in Central Fish Market in the Corporation, around 1500 people are visiting daily. In these two locations, toilets have not been provided for the use of the public. The Corporation stated that the people are using toilets of nearby buildings for Mananchira Park and in the case of Central Market, the problem would be solved after getting electric connection for pumping water from the well of the Corporation. The reply of the Corporation was not tenable as the nearby buildings were private buildings and accessibility of the toilets of these buildings by the public was restricted.

(iii) Due to shortage of public toilets in Market Complex at North Paravur Municipality, though the Senior Town Planner, Ernakulam directed (July 2011) the Municipality to construct additional four water closets and five urinals in the complex, the Municipality had not taken any action in the matter even as of November 2015, after a lapse of more than four years.

(iv) Though twenty three and five public places were identified for provision of public toilets in Thrikkakkara and Eloor Municipalities respectively, only one public toilet is functioning in each of these ULBs. Thrikkakkara Municipality replied that sufficient number of public toilets was not constructed due to lack of land. Eloor Municipality replied that there was adequate number of toilets in the Municipality. The reply was not tenable as there was only one toilet and the Municipality had not conducted any survey to assess the requirement of public toilets to cater to the needs of the public.

(v) Out of 20 e-toilets¹⁹ constructed by Kozhikode and Kollam Corporations and Kottayam Municipality at a total cost of ₹82.66 lakh during the period 2010-11 to 2014-15, 12 e-toilets were not functioning for the past two to three years due to lack

¹⁹ E- Toilet is unmanned Electronic Public Toilet. It is portable, eco-friendly and hygienically maintained with a GPRS-enabled system, monitoring the toilet remotely.

of water supply, electric supply, etc. The ULBs concerned had not taken any action to make the defective e-toilets functional for public use.

Failure in operation and maintenance of slaughter houses

Sections 452 (1) and (3) and 453 of KM Act stipulate that every Municipality shall provide sufficient number of places for Municipal slaughter houses and make necessary arrangements for maintaining the municipal slaughter houses in hygienic manner and disposal of waste. Government had issued (January 2010) instructions for the maintenance and operation of slaughter houses.

According to section 17 of Water (Prevention and Control of Pollution) Act, 1974, the State Pollution Control Board (PCB) has to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof. The Board also has to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plants, specifications or other data. Moreover, the PCB has to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream with power to make, vary or revoke any order for the prevention and control or abatement of discharge of waste into streams or wells.

As per section 25 of Water (Prevention and Control of Pollution) Act, 1974, no person shall, without the consent of the PCB establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land.

State Government issued orders in September 2010 for construction/modernisation of slaughter houses in 32 selected ULBs under the technical guidance of Suchitwa Mission.

Audit noticed that Municipality/Corporation had not provided any slaughter house in 11 out of 17 test checked ULBs. Government had released ₹1.84 crore to four ULBs²⁰ towards construction of slaughter houses. Koothuparamba Municipality had spent an amount of ₹4.68 lakh towards initial work of the slaughter house which was later abandoned. Balance amount of ₹1.79 crore in four test checked ULBs however, remained unutilised in the bank account of the ULBs. The ULBs attributed the reasons for non-utilisation of the fund due to public protest, non-availability of sufficient land, etc. The fact however, remains that slaughter houses had not been constructed after addressing such issues.

²⁰ Kollam Corporation (₹0.39 crore), Koothuparamba Municipality (₹0.55 crore), Kozhikode Corporation (₹0.50 crore), Nedumangad Municipality (₹0.40 crore)

For the functioning of slaughter houses, consent of the PCB was mandatory as it falls under the purview of Water (Prevention and Control of Pollution) Act, 1974. Audit noticed that six²¹ slaughter houses constructed by the ULBs were functioning without the approval of the PCB. Audit made an assessment of the functioning of these six slaughter houses and observed the following:

- Government directed Secretaries of all Local Bodies in April 2009 to take necessary action to install proper drainage facility, bio-gas plant and soak pits in all slaughter houses. Audit noticed that treatment facilities for liquid/solid wastes were not provided in any of the slaughter houses resulting in environmental pollution in the surrounding areas. Waste generated during slaughtering of animals was scattered in the premises of the slaughter houses in Kottayam and North Paravur Municipalities. The untreated waste water mixed with animal blood was routed through open public drains which was entering nearby water bodies creating pollution.



Animal waste scattered in Kottayam Municipality

Bio-gas facilities are mandatory for the functioning of slaughter houses. The bio-gas plants installed in all the slaughter houses were defunct except in Attingal. As offal and other wastes were pushed into these defunct bio-gas plants, the atmosphere was filled with foul smell. North Paravur Municipality accepted the audit observation but no remedial action was taken in this regard. Kollam Corporation accepted their failure in making the bio-gas plant functional.



Defunct Bio-gas plant in North Paravur filled with waste

- The slaughter house constructed by Irinjalakuda Municipality (September 2006) had all basic amenities except provision for disposal of liquid waste. This had resulted in spreading of waste water in and around the slaughter house and clogging of waste water near the compound wall. As the public protested against the working of the slaughter house in unhygienic condition, the municipality had closed down slaughter house in April 2012. Though the Health Standing Committee decided to

²¹ Kollam, Nedumangad, Kottayam, Thripunithura, Attingal and North Paravur

construct waste treatment plant in the slaughter house in March 2014, no follow up action had been initiated so far. It was replied that a major project was being planned for a modern slaughter house.

- In Koyilandy Municipality, slaughtering was being done in the meat stalls. Meat entrails and offals were being dumped in such stalls itself. The liquid waste generated in the meat stalls was being discharged into the nearby drainage which ultimately let out into the sea through residential areas without any treatment. Though the ULB admitted audit observations, no remedial action taken to stop the unhygienic practice.

Though PCB had issued closure notice for the slaughter houses in Kollam Corporation, Kottayam and North Paravur Municipalities for violating the provisions under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981, the ULBs had not taken any remedial action to rectify the defaults pointed out. In spite of receiving closure notices, the slaughter houses were allowed to function, without any follow up action, by the ULBs concerned.

3.2.2.4 Maintenance of hygiene in public places and water bodies

As per section 340A(i) of KM Act, no person shall deposit rubbish, filth or excreta in a public watercourse or water body or any such water source vested with the Municipality or allow flowing waste water into it or pollute the water in any other way. Any offence under this section is cognizable, non-bailable and punishable with fine not less than ₹10000 but not exceeding ₹25000 and with imprisonment for a term not less than six months but not exceeding one year. Central/State Pollution Control Board has fixed various river water quality standards for drinking, bathing and irrigation purposes. From the study reports and analysis done by Central/State Pollution Control Boards, Centre for Water Resources Development and Management etc., Audit noticed that the water bodies in the test checked ULBs were highly polluted. The total coliform/faecal coliform count in water samples collected from the water bodies and analysed by PCBs, Microbiology Laboratories of M. A. College, Kothamangalam was much higher than the permissible limit. The details are given in the **Table 3.5**:

Table 3.5: Status of pollution of water bodies

Name of Water body/Municipality	Level of contamination	Reason for contamination	Reply of the ULBs	Audit Comments
Pennar Thodu/Kottayam Municipality	Total coliform and faecal coliform count was 4200 MPN ²² per 100ml and 1600 MPN per 100ml respectively.	Untreated liquid/septic waste from Govt. Medical College Hospital, Kottayam routed into Pennar Thodu via open drains which enters Meenachil River	Govt. Medical College Hospital is situated in Arpookkara Panchayat area. Panchayat Secretary has been advised to find a permanent solution regarding contamination of Pennar Thodu and Meenachil River.	Two STPs (old & new) constructed by the Hospital were not functioning properly. Untreated water discharged through open drains to Pennar Thodu. The thodu and the nearby drinking water wells became contaminated.
Kuroorthodu/Kothamangalam Municipality	Presence of coliform bacteria was beyond permissible limit. Total coliform index in 14 different points of the Kuroor Thodu had more than 1400 MPN per 100ml water.	Liquid waste from hospitals, flats, houses, hotels etc. drained into Kuroor thodu. Also dark effluent water was let into the thodu without any treatment.	Action was being taken against the polluters for not installing treatment facilities and for not getting consent from the PCB.	Permanent solution for preventing water pollution was not made so far by the ULB.
Kavilkadavu/Kodun gallur Municipality	Stinking smell. Water has become breeding source for mosquitoes.	Dumping of wastes from hospitals, shops and commercial establishments.	Action had been initiated to levy fine against the commercial establishments and directions given to install Effluent Treatment Plants.	Though the ULB levied penalty against the offenders occasionally, no action had been taken to find out a permanent solution for the problem.

²² As per Indian Standards, the permissible limit of total coliform bacteria in 100 ml sample of drinking water before treatment is 50 Most Probable Number (MPN) or less and that of bathing water is 500 MPN or less. The permissible limit of faecal coliform for bathing water is 500 MPN per 100ml.

Name of Water body/Municipality	Level of contamination	Reason for contamination	Reply of the ULBs	Audit Comments
Canoli Canal/ Kozhikode Corporation	Total coliform in five different points of the canal varied from 3600 MPN to 52000 MPN per 100 ml and the value of faecal coliform varied from 2800 MPN to 45000 MPN per 100ml.	Discharge of untreated waste water into the canal from nearby hospitals, commercial establishments etc.	Pollution of Canoli Canal had come to the notice of the corporation authority. As suggested by Audit, issues will be brought to the notice of HSC for further action.	Though the Corporation had received several complaints/ suggestions, they did not take any concrete steps to make the canal pollution free. The presence of bacterial population was confirmed in a study conducted by Centre for Water Resources Development and Management (CWRDM) in June 2015.
Kollam Thodu/ Kollam Corporation	Total coliform and faecal coliforms were 2500 MPN per 100ml and 1200 MPN per 100ml respectively.	Untreated liquid/septic waste from District Hospital, Govt. Victoria Hospital, Kollam were going into Kollam Thodu via public drains and to Ashtamudi Lake thereafter.	Notices were issued to the hospitals concerned against the untreated liquid waste going into the public drain and follow up action will be taken.	Though an amount of ₹39 lakh was released to Kollam District Panchayat under Plan Scheme for construction of common STP to District Hospital and Govt. Victoria Hospital, Kollam, STP had not been constructed so far (September 2015).
Kuzhikkandam Thodu/Eloor Municipality	Hazardous waste such as heavy metals, pesticides etc	Untreated industrial wastes from HIL, FACT, MERCHEM etc., discharged directly into Kuzhikkandam Thodu which enters Periyar river.	Notices were issued to HIL on the direction of PCB. Further action would be taken only on the directions of PCB.	Though Central Pollution Control Board had issued directions to State Pollution Control Board and highly polluting industries for controlling the pollution, the same had not been complied with so far (January 2016).

The ULBs/PCB failed to take effective steps against polluters of the water bodies despite specific provision being available in the Act.

In the case of Hospitals and Industries, though ULBs were issuing notices, they were not taking any follow up action on the plea that further action would be taken only on the directions of the PCB. Such plea was not correct as the powers vested with ULBs under Section 340A of KM Act, were not invoked by ULBs against any industry, hospital or commercial establishments responsible for polluting the water bodies.

3.2.2.5 Waste Management in Market Places

Market is the main source where solid and liquid wastes are generated. Hygiene of the markets depends on proper system available for the treatment/disposal of sewage effluents, facility for washing floors, drainage etc. As per item 9 of First Schedule (Section 30 A) of KM Act, ULBs are responsible for removal of solid waste, filth and dirt generated in the markets.

Audit made an assessment of cleanliness of the existing markets located at Kozhikode Corporation, Kollam Corporation and North Paravur Municipality and observed the following.

- Water pollution is regulated under the provisions of Water (Prevention and Control of Pollution) Act, 1974. The Act prohibits disposal of pollution matter into streams, wells and sewers or on land in excess of the standards established by the State Pollution Control Boards. In Kozhikode Central fish market and North Paravur fish market, there were no facility for treatment of solid/liquid waste. The waste generated from these markets was let into nearby water bodies through open drains without any treatment. Though a bio-gas plant meant for disposing solid waste in Kozhikode Fish Market was completed (October 2009) at a cost of ₹19.84 lakh, it became defunct after six months for want of repairs and was not set right.

The waste generated from these markets was let into nearby water bodies through open drains without any treatment. Though a bio-gas plant meant for disposing solid waste in



Accumulation of meat and fish waste

Kozhikode Fish Market was completed (October 2009) at a cost of ₹19.84 lakh, it became defunct after six months for want of repairs and was not set right.

The water and air quality tests were not conducted in Kozhikode Central Market area since 2009 by PCB. At the instance of audit, the PCB conducted (July 2015) analysis of waste water from Central Market and confirmed the letting out of liquid waste above permissible limit. The PCB stated (November 2015) that action will be taken against the Corporation for improper handling of wastes.

- In Kollam Corporation, Kerala Sustainable Urban Development Project (KSUDP) had installed bio-gas plants in six markets²³ of which three were not working for the last two to four years. Though maintenance of the bio-gas plants were entrusted to Kerala Agro Industries Corporation Limited (KAICO)/M/s Ajesh Renewable Energy Solutions by KSUDP, three of these plants²⁴ were not working. As wastes were dumped into these defunct plants, foul smell and the waste water emanating from the plants were making the surroundings unhygienic. Corporation replied that though KAICO was informed of the non- functioning of the bio-gas plant, no action had been taken by them. KSUDP was also informed to withhold O&M contract payment to KAICO and take steps to blacklist the firm and asked KSUDP to take immediate action to repair the plants. Audit, however, observed that though plants were handed over to the Corporation in April 2014, Corporation informed KSUDP about the non-functioning of the plants only in June 2015.

- No drainage facility was provided in six markets²⁵ in Kollam Corporation and Adoor Municipality. In the absence of drainage system, water logging, foul smell and unhygienic surroundings were the regular features of these markets. Drains provided in four markets²⁶ in three ULBs had been blocked with wastes including fish wastes and overflow during rain resulting in the surroundings unhygienic and generating foul smell. This was confirmed during site inspection with the officials of the ULBs. Adoor Municipality replied that action would be taken to provide drainage facility in the markets. Attingal Municipality replied that defects could not be rectified due to scarcity of own funds and needful would be done in coming year.



Blocked drain at Alamcode Fish Market in Attingal

- Daily washing of the floor of the markets is essential to keep the markets clean and hygienic. Responsibility to provide water to the markets is vested with the ULBs.

²³ Eravipuram, Moonnamkutty, Kavanad, Kadappakkada, Pallimukku, Thevally

²⁴ Eravipuram, Pallimukku, Thevally

²⁵ Markets at Moonnamkutty, Kadappakkada, Eravipuram in Kollam and Parakkode, Srimoolam, Central Toll in Adoor.

²⁶ Alamcode fish market in Attingal, Municipal Market in Nedumangad, Kavanad and Pallimukku markets in Kollam

Audit observed that piped water supply was not provided to seven markets²⁷ in three ULBs, contributing to unhygienic condition in the markets. In Central Fish Market, Kozhikode, cleaning of the stalls was done only twice a week using water supplied by tankers. When pointed out by Audit, Adoor Municipality and Kollam Corporation replied that action would be taken to provide water supply to the markets. However, ULBs failed to maintain the markets in hygienic condition.

3.2.2.6 Disposal of septage

Septage is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin, flows out of septic tanks and leach pits. Providing adequate treatment and disposal system is necessary to protect public health and environment as septage may harbor disease causing virus, bacteria and parasite.

The Hon'ble High Court of Kerala had directed the State Government (January 2011) to take urgent steps to install facilities for septage treatment in all urban towns of the State to be completed before March 2015. Accordingly, Government had issued orders (June 2013) for installation of Package Septage Treatment Plants (PSTPs) and earmarked ₹33.55 crore during 2013-14 for the implementation of PSTPs in all districts of Kerala. Out of this, an amount of ₹5.53 crore only was released during 2014-15 to KSUDP being the Nodal Agency for establishment of PSTPs at Brahmapuram and Willington Island at Kochi. These projects had not been completed so far (January 2016). None of the test checked ULBs were benefitted by this project.

Study conducted (2013) by Centre for Water Resources Development and Management (CWRDM) on behalf of Suchitwa Mission revealed that no regulation or guidelines existed in the State for safe handling, transport and disposal of septage. Audit noticed that there was no system for disposal of septic waste in any of the ULBs except for Attingal and Nedumangad Municipalities. Absence of any treatment and disposal facility was forcing the private septic tank cleaners to dump the collected septage into water bodies and drains near human settlements leading to serious health issues and environmental pollution. In this connection, Audit noticed the following:

(i) Kozhikode Corporation had two sucker machines for lifting and disposing human excreta from the pits. Audit noticed that these machines largely remained unutilized on the ground that sufficient land was not available for disposal of night soil. The Corporation had no control over the said private agencies with the result that they were disposing of the septage at places near human settlement, drains, water ways etc. As the Corporation was reluctant to execute the job of disposing the night soil, the public were approaching private agencies for clearing the night soil.

²⁷ Central Fish Market in Kozhikode Corporation, Moonnamkutty, Kadappakkada, Thevally, Pallimukku and Kavanad Markets in Kollam Corporation, Central Toll Market in Adoor Municipality.

During site verification along with the Health officials of the ULBs of Kozhikode Corporation and Thrikkakkara Municipality, Audit noticed instances of dumping of septage near human settlements. Thrikkakkara Municipality replied that the private agencies were dumping septage waste in public places and water bodies during night.



Septage dumped inside the canal at Elavakkad, Thrikkakara

The Municipal authorities were not getting any support from the police in controlling these private agencies. Audit noticed that Municipality had not evolved any solution to control dumping of septage in public places.

(ii) In Kozhikode Corporation, though the work of construction of two bio-gas plants at Mofusil and Palayam Bus stands for treating human excreta was awarded (February 2009) to M/s.KAICO and an expenditure of ₹18 lakh was incurred by the Corporation, the work was not completed as of December 2015. Corporation replied that sewage line to the plant at Mofusil bus stand was not constructed by M/s.KAICO to make the plant operational. In respect of plant at Palayam Bus stand, the work was stopped as the soak pit of the plant overflowed during trial run. M/s.KAICO informed (April 2011) that the biogas plant was designed only for treating human excreta and no provision was made for treating bathroom liquid wastes. The firm also stated that final solution for the overflow of soak pit can be found only after constructing water treatment plant. The Corporation had not taken any action to make the defective bio-gas plant functional. The Corporation replied that septage was removed manually from these bus stands by the contractor as and when the pit was filled up. The Corporation had, however, no information about location where the septage was being disposed of.

Thus, the ULBs had not provided any solution for removal and disposal of septage waste.

3.2.2.7 Inadequate treatment of waste water generated resulting in breeding place for mosquitoes

As per Section 337 of KM Act 1994, no owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable or any other filth to flow out of such premises to any portion of a street except a drain or a cess-pool or to flow out of such premises in such a manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of drain forming a portion of a street. Rule 26A of Kerala Municipality Building Rules, 1999 stipulate that there shall be provision for safe disposal of wastes.

Medical College Hospital, Kozhikode started functioning in 1966 with 500 beds which was later increased to 3200 beds by constructing various blocks such as Institute of Maternal and Child Health, Super Specialty Block, Institute of Chest Diseases etc. An oxidation plant constructed 50 years back was used to treat the waste water generated in the hospital complex. Audit noticed from the records of the hospital that it was generating 3.2 MLD²⁸ of waste and the present oxidation plant was old and inadequate for the treatment of the same. Though the hospital had installed a treatment plant with four MLD capacity in 2010, it was not



Waste water from Medical College Hospital flowing through residential area

functioning. Due to low capacity of the oxidation plant, enormous volume of the effluent was let out/drained to the open plains of the residential area without treatment which was not in compliance with the above stated rules. During joint site inspection with Medical College authorities at Mayanad area, Audit noticed that the sewage generated from the hospital premises was collected in a tank and pumped through drains to the adjacent Mayanad area without any treatment. Though local residents complained to Corporation about pumping of untreated liquid waste in Mayanad area, no solution was found till date (December 2015). Thus, due to defective planning in managing waste generated from the Medical College, the entire area around the hospital was in a filthy condition and it became a breeding ground for mosquitoes. Corporation replied (November 2015) that due to non completion of Sewage Treatment Plant, the waste water generated was being pumped to Mayanad area without any treatment.

Audit observed that the Corporation had not taken any action against the Medical College authorities against pumping of untreated liquid waste into residential areas even after receiving complaints from local residents.

3.2.3 Conclusion

ULBs failed to discharge their responsibilities as per the provisions of Acts and Rules for the maintenance of environmental hygiene. The programmes and activities in place with the ULBs were inadequate for the proper maintenance of environmental hygiene. The functioning of Health Standing Committees and Ward Health Sanitation Committees were deficient in many respects. The ULBs had not ensured that the public toilets were functioning in clean and hygienic manner. Many of the public toilets provided at bus stands, markets, etc., were not functioning for want of repairs,

²⁸ Million Litres per Day

non-availability of water, malfunctioning of septic tanks, etc. All the slaughter houses and markets in the test checked ULBs were not functioning with requisite facilities as stipulated in the Acts and Rules. The discharges from these establishments were let into water bodies, open spaces without any treatment causing severe environmental pollution. Six water bodies in the test checked ULBs were highly polluted due to discharge from industries, hospitals and other commercial establishments. There was no control over the disposal of septage in open places near human settlements.

OTHER COMPLIANCE AUDIT OBSERVATIONS

3.3 Wasteful expenditure of ₹60 lakh due to improper selection of site

Wasteful expenditure of ₹60 lakh (including payment of undue benefit of ₹46.10 lakh outside the scope of agreement to a contractor) by KSUDP, due to improper selection of site and the resultant closure of contract.

Section 11 of Kerala Conservation of Paddy and Wet Land Act, 2008 imposes a total prohibition on reclamation of wet land in the State and the wet land shall be maintained as such. As a part of developing sewerage network of Kozhikode Corporation, Project Manager (PM), Programme Implementation Unit (PIU), Kerala Sustainable Urban Development Project (KSUDP)²⁹ signed an agreement (June 2012) with a contractor for the construction of approach road and site development work for 27 MLD³⁰ Sewage Treatment Plant (STP) near Karimbanapalam, Kozhikode at an estimated cost of ₹7.49 crore. As per the provisions of the agreement, a mobilization advance of ₹74.19 lakh was paid to the contractor in two instalments during July and October 2012 against the bank guarantee furnished by him. The period of completion of the work was nine months from June 2012.

The site selected for the project was 6.76 acres of wet land with water logging throughout the year located within Kottooli Water Shed having Mangrove formations. The project taken up was in wet land necessitating destruction of Mangroves and filling up of water logged area which led to public protest spearheaded by Kottooli Thanneerthada Samrakshana Samithy dealing with environmental issues. Thus, an alternative site owned by Kerala Water Authority, near Sarovaram Park, Kozhikode was selected (August 2014). The Empowered Committee (EC)³¹ decided (August 2014) to pre-close the contract and to settle the final accounts in terms of the contractual obligations. Accordingly the PM, PIU, pre-closed the contract during

²⁹ KSUDP is an initiative of Government of Kerala to improve urban infrastructure services in Kerala in a sustainable manner.

³⁰ Million litres per day

³¹ Empowered Committee was constituted by Government of Kerala (March 2007) under the Chairmanship of the Minister (LSG) for approval of works, variation of orders of works, termination of contracts etc., based on Project Management Unit's recommendation.

September 2014. On pre-closure, the contractor was paid a lump sum of ₹60 lakh as payment upon termination by adjusting the mobilization advance already paid, and the balance amount of ₹14.19 lakh was refunded by the contractor to the KSUDP. The decision for making the lump sum payment was taken based on the meeting convened (February 2015) by the Secretary, Urban Affairs Department with the contractor and got approved (April 2015) from the EC.

The General Conditions of Contract (Clause 58.2) stipulated that, in the event of termination of contract at the Employer's convenience, the PM shall issue a certificate for the value of work done, material ordered, cost of removal of Equipment, repatriation of contractor's personnel deployed in the work etc., and settle the accounts. Accordingly the PM had made valuation for ₹13.90 lakh for settlement of the dispute with the contractor. As per the conditions of the contract, the payment was to be limited to the extent of valuation made by the PM. Thus, the settlement of dispute outside the scope of the agreement resulted in undue benefit of ₹46.10 lakh to the contractor. Moreover, due to improper selection of site and the resultant pre closure, the entire expenditure of ₹60 lakh became wasteful.

In reply to the audit observations, Project Director, KSUDP stated (March 2016) that ₹60 lakh was paid to the contractor as per clause 24 of the contractual agreement for amicable settlement. The reply was not tenable as agreement clause 24 stipulate settlement of dispute amicably which did not allow relaxation of conditions in clause 58.2, for making payment beyond valuation certified by the PM.

The matter was referred to Government in January 2016; their reply had not been received.

3.4 Unfruitful expenditure of ₹31.68 lakh in the construction of brick manufacturing unit

Despite the availability of infrastructural facilities, laxity in commissioning of a brick manufacturing unit resulted in unfruitful expenditure of ₹31.68 lakh.

In order to provide employment for six Scheduled Caste women permanently, Puthur Grama Panchayat (GP) had formulated a project in 2010-11 to construct a brick manufacturing unit in the Women Industrial Centre at Anakuzhi at a cost of ₹20.65 lakh. The administrative and technical sanction for the work was obtained in December 2010 and February 2011 respectively. The project consisted of construction of shed and choola, digging of bore-well, purchase and installation of machinery, etc. Later, it was proposed in 2011-12 for extension of 11 KV electric line and installation of transformer at the project site by meeting the expenses from the Plan Fund of the GP and from the fund received from MPLAD scheme³². Tenders were invited and

³² Members of Parliament Local Area Development Scheme

machinery was purchased in March 2011 for ₹6.92 lakh. All the construction works and digging of bore-well (₹11.88 lakh) was completed by April 2012. A transformer was also erected at the site incurring an expenditure of ₹12.88 lakh (plan fund of ₹7.88 lakh and funds received from MPLAD Scheme ₹five lakh).

Audit observed that the project could not become functional as the work of HT Connection and installation of few items of machinery such as 30 HP Motor, trolley, pulley etc., were yet to be completed. The machinery available at the site was also in an abandoned and rusted condition. On being asked by Audit, the Secretary, Puthur GP replied that in order to avoid theft, 30 HP motor and allied equipment/implements were kept in the safe custody of the supplier. The reply of the Secretary was not acceptable as the payment made to the supplier before receipt of machinery was not in order as it was not in the custody and possession of the GP.



Pugmill and cutting table in the brick manufacturing unit.

On being asked by Audit, the Secretary of the GP had no reason to furnish for not completing the project in spite of the availability of infrastructure facilities. The project could have been commissioned had there been prompt action on the part of the GP in providing HT connection and installation of the machinery.

Thus, laxity on the part of the GP in initiating steps for the commissioning of the project resulted in rendering an expenditure of ₹31.68 lakh unfruitful, besides depriving SC women of employment.

While confirming the audit findings, the Director of Panchayat stated (March 2016) that the possibility of utilizing the existing machinery was remote. It was further stated that disciplinary action was being initiated against the officials responsible for this laxity.

The matter was referred to Government in January 2016; their reply had not been received.

3.5 Idle investment on a jute sack manufacturing project

Despite spending ₹15.70 lakh for purchase of machinery and raw materials and imparting training, Kalady GP failed to establish a jute sack manufacturing project.

During 2008-09, the Kalady Grama Panchayat (GP) had formulated a project for manufacture of jute sacks in an industrial estate to cater to the needs of various rice

mills working in the GP and its nearby Panchayats. Machinery for the jute sack manufacturing unit was purchased (March-June 2008) for ₹8.67 lakh and raw material was purchased in March 2009 for ₹7.03 lakh. During July 2009, GP had also imparted training to 32 women in connection with sack manufacturing in the Industrial Extension Office, Angamaly.

Despite purchase of machinery, raw material and imparting training, the GP could not make any progress in the implementation of the project till May 2012. In May 2012, GP had formulated a bye-law for the Jute sack manufacturing unit, according to which the project would be implemented by Kudumbashree-CDS³³ groups at Kalady under the supervision of the GP, the paid up and working capital would be provided by the GP, the chief promoter and other managerial functionaries would be appointed as per the decision of the GP. The bye-law was approved by the Director of Panchayats in July 2012. A trial run of the unit was carried out in April 2013. Though the Chief Promoter (CP) was appointed (May 2013), he had resigned in November 2013, objecting to a clause in the bye-law that the CP alone would be responsible for any loss made by the unit. Thereafter, no progress could be achieved by the GP in establishing the project. The plant and machinery were lying idle in rusted condition.

Though machinery was purchased and its payment made in 2008, the trial run of the machinery was conducted in April 2013 only, after a delay of five years. Raw material worth ₹7.03 lakh purchased during March 2009 was still lying idle in the unit. GP had reported that a portion of raw material worth ₹0.62 lakh was stolen (November 2013). After the resignation of the CP, no new CP was appointed so far nor were necessary amendments made in the bye-law. The project could not materialize due to the lethargic attitude of the GP in making it functional.

Despite the construction of building, purchase of machinery and raw material and imparting training, Kalady GP failed to establish a jute sack manufacturing project thereby rendering the investment of ₹15.70 lakh as unfruitful.

While confirming the facts, Director of Panchayats stated (March 2016) that the successive administrative committees had not taken action to follow up and materialize the functioning of the unit. He further stated that the GP had decided to include the project of sack manufacturing unit while formulating the plan 2016-17 and the units would be revived as and when the District Planning Committee approves the same. The reply was not acceptable as the project was approved as early as in 2008-09 and ₹15.70 lakh had been incurred on purchase of machinery, raw material and for imparting training but it could not be implemented even after a lapse of eight years of its formulation.

³³ Community Development Societies organized by State poverty Eradication Mission, Government of Kerala

The matter was referred to Government in January 2016 and the reply had not been received (March 2016).

3.6 Infructuous expenditure on a rehabilitation project under IHSDP

Construction of houses in a rehabilitation package with less than prescribed minimum floor area led to public protest, stoppage of work and expenditure of ₹2.89 crore becoming infructuous.

Government of India launched Integrated Housing and Slum Development Programme (IHSDP) to improve the conditions of the urban slum dwellers by rehabilitating them in clusters by providing adequate shelter and basic amenities such as houses, water supply, drainage, etc. It was envisaged that the floor area of the houses constructed under the programme should not be less than 30 square meter.

Under IHSDP, Ponnani Municipality had formulated a project (during the first quarter of 2007) for constructing 120 houses near MES college for rehabilitating fishermen families who were residing in coastal areas facing threat of sea erosion and for constructing 109 houses for the resettlement of slum dwellers in



Incomplete houses at Fishermen colony

Neithallur. Besides the construction of houses, the scheme had included construction of Anganwadi, health centre, reading and study centre, overhead tanks, septic tanks, storm water drains, roads, sewerage, solid waste management plant, community centre, etc., at both the sites. Total cost of the project (based on 2004 Schedule of Rates) was ₹4.39 crore. Government of Kerala had issued administrative sanction in August 2008 and appointed Kudumbashree³⁴ as the nodal agency for implementation of the project.

The Municipality revised (August 2008) the estimate to ₹6.14 crore based on 2008 SoR. Technical sanction was granted (October 2008) by the State Level Technical Committee (SLTC)³⁵ with stipulations to obtain revised sanction for allied works for which lump sum provision was made.

Municipality had tendered the work during December 2008 at an estimated cost of ₹5.03 crore excluding those allied works for which revised technical sanction was required. Work was awarded (February 2009) to a contractor for ₹5.53 crore (10 per

³⁴ Kerala State Poverty Eradication Mission

³⁵ A committee constituted by GoK to issue Technical Sanction for the projects undertaken by LSGD

cent above the estimate) for completion of work within 15 months. The site was handed over to the contractor during February 2009. Though ₹2.89 crore was paid to the contractor for the value of work done (up to September 2011) in fishermen village, the contractor had constructed only structures of overhead tanks, structure of the houses without door shutters, window shutters, closets, etc., and storm water drains. No works were carried out further. In Neithallur, no construction works were carried out. On being asked by audit, the Municipality replied that the work was stopped due to agitation by local people and Councilors on the plea that the dwelling units were small and unsuitable for human inhabitation.

As per the drawings of the Municipality, the floor area of the proposed houses was 26.68 sq.m only as against the minimum of 30 sq.m stipulated in IHSDP Guidelines which resulted in public protest that the houses were not adequately sized for family dwelling. Since then no progress was made in the construction.

Thus, due to improper planning on the part of the Municipality, the houses could not be completed and the objective of the scheme could not be achieved, resulting in an expenditure of ₹2.89 crore incurred so far on the project becoming unfruitful.

When pointed out by Audit that the floor area of the proposed houses was less than the prescribed minimum as per IHSDP guidelines, Municipality replied (March 2016) that they had tendered the construction of the houses in accordance with the design given by the consultant i.e., Socio Economic Unit Foundation (SEUF). The reply was not tenable as the Municipality was responsible for the implementation of the scheme which could not be done leading to non achievement of the intended objective despite spending ₹2.89 crore.

The matter was referred to Government in January 2016; their reply had not been received.

3.7 Unfruitful expenditure on e-toilets

Failure of Alappuzha Municipality in rectifying the defects of e-toilets and providing facilities for making them functional rendered expenditure of ₹17.56 lakh incurred on the project unfruitful.

Alappuzha Municipality had formulated a project in 2011-12 to install electronic toilets (e-toilets)³⁶ in thickly populated areas of the Municipality under women component plan at a total cost of ₹20 lakh. The project got administrative and technical sanction in May 2011 and in November 2011 respectively. Government of Kerala accorded sanction for the purchase of e-toilets from Keltron and Metal industries Ltd in March 2012. The Council approved the estimate of ₹19.56 lakh of

³⁶Unmanned public toilets using “Touch free technology”.

Keltron and an agreement was executed (March 2012) with them for installing four e-toilets (at Town Hall, General Hospital, W&C Hospital and Beach).

As per the agreement, Keltron was to deliver the units within 45 to 60 days on receipt of confirmed work order. The responsibility of Keltron as per the agreement included, successful installation of each unit and its maintenance, providing technical and cleaning support for seven years, etc. The units had to be opened to public within 10 days of the completion of the installation work and the warranty period was six months from the date of installation and commissioning. The Municipality was responsible to provide sanction for operating the units at the respective locations for a period of seven years, meeting the initial and recurring costs for electricity, water and drainage connections, fixing the entry fee, canvassing advertisements on the space provided in the units to ensure a monthly income, etc. The Municipality also had to pay ₹5000/- per unit as monthly maintenance charges to Keltron. Sixty per cent of the value of work was to be given to Keltron as advance and remaining amount was to be paid on commencement of operation of units or inauguration whichever was earlier.

Audit Scrutiny revealed that Keltron had delivered the e-toilets in June 2012, and the Municipal Secretary had given the customer acceptance report in July 2012 stating that the units had been satisfactorily installed. A payment of ₹17.56 lakh (towards 90 per cent of the value of work) was also made (July 2012) to Keltron. Though Keltron had requested for the balance payment in December 2013 and in July 2014, balance amount is yet to be paid. After installing the units, work completion report was handed over by Keltron to Municipality only in December 2013. The e-toilets had not been commissioned and put to use so far (January 2016) due to certain defects.

Since the work completion report after installation of the units was given by Keltron only in December 2013, issue of customer acceptance report for satisfactory installation, by the Municipality in July 2012 was wrong. However, the Municipality has not taken any action against the official who had issued the customer acceptance report before installation of the units. Moreover, after receiving the work completion report from Keltron in December 2013, the Municipality did not conduct any trial run of the units and also did not bring to the notice of Keltron the defects in their functioning and to get the same rectified during the guarantee period of six months.

As per agreement, 60 per cent of the value of work was to be given along with the work order and



E-toilet installed at General Hospital Alappuzha

balance was to be paid on commencement of operation of units or inauguration whichever was earlier. In the instant case, ₹5.83 lakh was paid to Keltron over and above the admissible amount of ₹11.73 lakh (60 per cent) before the commencement of operation or even conducting the trial run. With regard to Keltron's demand for balance payment, the Municipality contended that the units were defective, and they had not been put to use and handed over to the Municipality by Keltron after installation. The Municipal Secretary stated that a proposal made by Municipality for a joint inspection in order to rectify the defects also did not materialise due to lack of cooperation from Keltron and the Municipal Engineer.

Physical verification of the e-toilet units by Audit (March 2016) revealed that they were in a damaged condition not fit for operation. Though it was the responsibility of the Municipality to provide electricity/water/sewage connection to the units, Audit found that these connections were given to only two units. Thus, laxity on the part of the Municipality in taking adequate steps for setting right the defects of e-toilets and providing facilities for making them functional led to the denial of intended benefits to the public and also rendered expenditure of ₹17.56 lakh incurred on the project unfruitful. Further, the Municipality had to forgo the income realizable from the project by way of user fee and advertisement charge.

The matter was referred to Government in January 2016; their reply had not been received.

3.8 Idle investment on the purchase of plastic shredding machines

Purchase of plastic shredding machines without conducting feasibility study on the availability of plastic waste, methodology of disposal of plastic granules, ensuring the infrastructure facilities, etc. resulted in idle investment of ₹34.82 lakh.

(i) Kalpatta Block Panchayat had formulated a project (January 2011) for the installation of Plastic Shredding Machine in six Grama Panchayats (GPs) viz., Vythiri, Thariyodu, Pozhuthana, Muppainad, Muttill and Padinjarathara using the funds received through Nirmal Puraskar, at a total cost of ₹14.04 lakh. As per the proposal, the Block Panchayat (BP) would purchase the machines and the GPs would arrange other facilities such as building, electricity connection etc. After obtaining consent of the GPs for installation of the machine, BP invited tenders (September 2012) and placed orders (November 2012) to the single tenderer M/s Raidco for the supply of machines. The machines were supplied and ₹14.04 lakh was paid (July 2013) to the supplier.

Audit scrutiny revealed that the machines supplied to the GPs were not put to use. Four GPs³⁷ could not provide necessary infrastructure facilities such as building and electricity, due to non-identification of land, paucity of funds etc. Though the machine was installed it was not put to use due to public protest in Vythiri GP, non-receipt of power connection and non-availability of skilled persons to operate the machine in Thariyode GP.

Thus, due to the failure of the GPs in ensuring the availability of infrastructure led to the idling of the machines and rendered the investment of ₹14.04 lakh infructuous.



Plastic shredding machine installed at Balussery GP

(ii) Further, in Kozhikode District, eight³⁸ GPs had purchased plastic shredding machines (Seven machines from Ram Biologicals, Kozhikode and one from SIDCO) during 2011-12 by utilizing the funds received through Nirmal Grama Puraskar, Development fund and MLA Fund. In two GPs³⁹, the machines were not installed due to lack of infrastructure facilities such as electricity, building etc. Except in one GP⁴⁰ where nominal shredding was being done, in all other GPs, the machines could not be utilized due to non availability of sufficient plastic waste, increased operation cost, resistance from local people etc., (**Appendix XIII**). An amount of ₹20.78 lakh was spent for the purchase of these eight machines. Of the seven GPs where the project could not be implemented successfully, four GPs stated that they had purchased the machines as the project was included under MAAP (Mass Action Against Plastic) initiated by the District Collector, Kozhikode., three GPs stated that the projects were formulated based on the recommendation of the Grama Sabhas.

Thus, the purchase of plastic shredding machines in all the six GPs under Kalpatta BP and seven out of the eight GPs in Kozhikode District without conducting feasibility study on the availability of plastic waste, methodology of disposal of plastic granules generated by the machine, failure in ensuring infrastructure facilities, etc., resulted in idle investment of ₹34.82 lakh.

³⁷ Muttil, Muppainad, Pozhuthana, Padinjarathara

³⁸ Azhiyoor, Nadapuram, Kuttiyadi, Vanimel, Naripatta, Chekyad, Balussery, Mukkam

³⁹ Mukkam and Naripatta

⁴⁰ Kuttiyadi

In response to the audit queries, Commissioner of Rural Development stated (March 2016) that the project could not be implemented due to the lapses on the part of the GPs in providing the infrastructure facilities. Director of Panchayats stated that action would be initiated against the officials responsible for not providing the infrastructure.

The matter was referred to Government in December 2015; their reply had not been received.



Thiruvananthapuram,
The 28 APRIL 2016

(N. NAGARAJAN)
Principal Accountant General (General and
Social Sector Audit), Kerala

Countersigned



New Delhi,
The 29 APRIL 2016

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India