

Chapter-II

Performance Audit

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Department of Education

2.1 Implementation of the Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) provides a fundamental right to the children in the age group of 6-14 years for free and compulsory elementary education. A performance audit covering the period 2010-16 brought out that effective implementation of the Act suffered due to poor planning and preparation, continuing vacancies as well as delay in release of funds and its utilisation. Some of the significant findings were as follows:

Highlights

- *The Government lacked effective planning for implementing the RTE Act in Delhi. It failed to complete the mandatory household survey to collect and maintain a database of all children from their birth till they attain the age of 14 years and link it with the mapping of schools for the purpose of determining and establishing neighborhood schools. In the absence of such crucial data base, it was not possible for the Government to ensure enrolment of every child in the age group of 6 to 14 years in school. No specific targets for enrolment of children were fixed by GNCTD and local bodies.*

(Paragraph 2.1.2(a))

- *There were delay and short release of funds by the Union Ministry of Human Resource Development and the Directorate to the 'Universalization of Elementary Education Mission' (UEEM). Against approval of ₹ 1,115.72 crore by the Project Approval Board, only ₹ 647.48 crore was made available to UEEM during 2010-16. The UEEM actually spent only ₹ 534.29 crore during the same period.*

(Paragraph 2.1.3.1)

- *Enrolment in class 1 in the Government and aided schools decreased by 23 per cent from 2,04,884 in 2010-11 to 1,56,911 in 2015-16 while the almost static position in respect of overall enrolment (including private schools) during 2010-16 was not consistent with the increase in the population of Delhi during the same period.*

(Paragraph 2.1.4.1)

- *Provisions relating to special training of children and for children with disabilities or those belonging to weaker sections and disadvantaged groups were not adhered to. In unaided schools of the Directorate, only 90,262 children belonging to Weaker Section and Disadvantaged*

Group were admitted against 1,45,142 seats which should have been reserved for them during 2011-16.

(Paragraphs 2.1.4.2, 2.1.4.3 and 2.1.4.4)

- *Despite the need to augment infrastructure, ₹ 18.29 crore sanctioned during 2015-16 to UEEM for construction of additional rooms and toilets remained unutilized as of June 2016 while 69 to 81 per cent of construction works of classrooms, halls, toilets and boundary walls remained unexecuted in North and South Municipal Corporations.*

(Paragraph 2.1.4.5 (b) & (c))

- *In Directorate schools, 8,579 posts (22 per cent) out of 38,916 sanctioned posts of teachers and librarians were vacant as of July 2016.*

(Paragraph 2.1.5.1)

- *Uniforms, text books and writing materials were not distributed to all the students of 34 selected Delhi Municipal Corporations (DMCs) schools, and where provided, issued with delay. Uniforms and writing materials were not issued even to a single student of aided schools of DMCs.*

(Paragraph 2.1.5.4 (a) & (b))

- *Institutional mechanisms envisaged under the Act for monitoring the implementation of the RTE Act were ineffective as various advisory and monitoring committees were either not constituted or did not meet regularly.*

(Paragraph 2.1.6)

2.1.1 Introduction

The Right of Children to Free and Compulsory Education (RTE) Act, 2009, became operational with effect from 01 April 2010 for providing right to free and compulsory elementary education (1st to 8th class) to all children of the age of 6 to 14 years in a neighbourhood school. Prior to enactment of the RTE Act, the Sarva Shiksha Abhiyan (SSA) was the flagship programme of the Government of India (GoI) for achieving universalization of elementary education. The SSA Framework of Implementation and Norms for Intervention was revised to correspond to the provisions of the RTE Act and SSA became the main vehicle for implementing the provisions of the RTE Act. In November 2011, the Government of NCT of Delhi notified 'the Delhi Right of Children to Free and Compulsory Education Rules, 2011' (DRTE Rules).

In Delhi, the SSA programme is implemented by a registered Society namely, "Universalization of Elementary Education Mission (UEEM)". As on 30 September 2015, there were 2,806 Government schools and 258 Government aided schools (with primary and upper primary classes) running under the aegis

of the Directorate of Education (the Directorate), three Municipal Corporations of Delhi (North, South and East), the New Delhi Municipal Council (NDMC) and the Delhi Cantonment Board (DCB). In addition, 2,671 un-aided private schools were also running in NCT of Delhi. As on 31 March 2016, a total of 18.41 lakh children in primary and 10.92 lakh children in upper primary classes were enrolled in these schools.

2.1.1.1 Organisational set-up

The Union Ministry of Human Resource Development (MHRD) is the nodal Ministry for overall implementation of the SSA-RTE programme in the country. The Project Approval Board (PAB) in the MHRD considers and approves the Annual Work Plan and Budget (AWPB) of States and reviews the status and progress of the programme. In Delhi, the overall responsibility for implementation of SSA-RTE programme vests with the Secretary (Education). The GNCTD, all the three Municipal Corporations, NDMC and DCB have been notified (April 2013) as local authorities for implementation of the RTE Act. In the Directorate of Education, the Director is the Chief Executive Officer assisted by Additional Directors, Deputy Directors of Education at various units/branches/districts and Principals of schools. In the UEEM, the Education Secretary is the Chairperson of the Executive Council who is assisted by the Vice-Chairperson, State Project Director, Finance Controller, District Project Officers and subordinate staff. In DMCs, the Act is implemented by the Commissioners assisted by Additional Commissioners and Additional/ Deputy/Assistant Directors. A State Advisory Council was also constituted by the GNCTD in April 2014 to render advice for effective implementation of the Act.

2.1.1.2 Audit scope and methodology

The performance audit to assess the extent of implementation of the RTE Act in NCT of Delhi covering the period 2010-16 was conducted from April to July 2016. For examination of records, Audit selected 2 out of 12 districts (North and South) of the Directorate through PPSWOR¹ with size measure as number of schools and 60 schools² out of 543 schools (including DMC's and aided schools) located in these two selected districts through SRSWOR³ method. Audit examined the relevant records in the Directorate, its North and South districts, headquarters of North and South DMCs, 60 selected schools, SCERT⁴ and the UEEM.

An Entry Conference was held on 27 April 2016 with the Director of Education and on 28 April 2016 with officers of North and South DMCs to discuss audit scope and the methodology. After conclusion of audit, the first draft report was

¹Probability Proportionate to Size without Replacement.

²26 schools of Directorate (primary and upper primary classes), 18 of South DMC and 16 of North DMC.

³Simple Random Sampling without Replacement.

⁴State Council of Educational Research and Training.

issued to the Government on 07 September 2016. An exit conference was also held on 16 September 2016 with the Director of Education, State Project Director (UEEM) and officers of DMCs to discuss the audit findings.

2.1.1.3 Audit objectives

The broad objectives of the performance audit were to assess whether:

- the RTE Act achieved its objective of making elementary education a fundamental right for all children in the age group of 6-14 years;
- the funds were utilised in an economic and efficient manner; and
- the RTE Act was implemented and monitored in a planned manner.

2.1.1.4 Audit criteria

The following were used for benchmarking the audit criteria for the performance audit:

- The Right of Children to Free and Compulsory Education Act, 2009;
- The Delhi Right of Children to Free and Compulsory Education Rules, 2011 (the DRTE Rules);
- Minutes of meetings of the Project Approval Board on Annual Work Plan and Budget; and
- Orders, circulars, instructions and guidelines of MHRD and GNCTD.

Audit findings

2.1.2 Planning and preparation for implementation of the Act

Proper planning and preparation is a pre-requisite for effective implementation of any statutory enactment. It is particularly important in case of the RTE Act which intends to secure the fundamental right of free elementary education to the children, especially in Delhi where multiple agencies provide school education. Audit, however, noticed that the Directorate lacked adequate planning and preparation for implementation of the Act as discussed below.

(a) Mapping of schools and identification of children: Rules 6(i) and 8(2) of the DRTE Rules stipulate that primary schools (classes 1 to 5) shall be established within a radial distance of one kilometer and upper primary schools (classes 6 to 8) within three kilometers from the residence of the child. The local authority⁵ shall undertake school mapping and identify all children of 6 to 14 years of age within a period of one year from the date of notification and every year thereafter.

⁵Rule 2(i) defines 'local authority' as the authority notified as 'local Authority'. As per notification dated 23 April 2013, the GNCTD, three DMCs, NDMC and DCB are local authorities in relation to schools under their respective administrative control.

Rule 9 further requires the local authority to maintain a record of all children from their birth till they attain the age of 14 years through a household survey.

Scrutiny of records revealed that no household survey was initiated up to the year 2014-15. In July 2015, UEEM released ₹ 57 lakh to five local bodies⁶ for conducting household survey of children from their birth till they attain age of 14 years. As of June 2016, the East DMC and DCB had completed the survey in their areas whereas it was in progress in the areas under remaining three local bodies. Regarding mapping of schools, a Committee constituted (January 2012) under the State Project Director of UEEM decided that municipal ward should be used as a basic unit for school mapping and all schools including private, recognised, unrecognised, shall be reflected in the Ward Map prepared by the Delhi Geospatial Society Limited (DGSL) and census data and habitation shall be super-imposed on it to identify the locations where neighbourhood schools are not available. However, as of July 2016, though the DGSL had mapped 5,777 schools, it could not link the ward maps with the children population as data regarding residence of students of various schools was not available with DGSL. As a result, DGSL could not determine whether the distance of the student's residence from the school was within the radial limit of 1 km (for primary schools) or 3 kms (for upper primary schools) as required under the rule.

Thus, the Directorate could neither complete the stipulated survey to gather data of children from their birth till they attain age of 14 years nor mapping of all schools even five years after the notification of Rules in November 2011. In the absence of such data, no assurance could be drawn as to whether all children of enrolment age are enrolled in neighborhood schools nor could any targets be fixed for enrolment of children in schools.

The Government stated (October 2016) that the Ward Education Survey was started only in 2015-16 by employing teachers of local bodies for mapping of children from their birth till they attain age of 14 years. It added that the Modified Unified District Information System for Education (U-DISE) format devised by MHRD in the year 2016-17 would be implemented in Delhi from 2016-17 which would help in child tracking and bring in every out of school child back to the school system. As regards targets for enrolment of children, it was stated that after completion of household survey and compilation of data, necessary instructions would be issued by UEEM to all local bodies to fix the targets of enrolment of children.

(b) Dropout rate of students: One of the objectives of the RTE Act is the retention of children in schools and reduction in the dropout rate. Towards this end, the

⁶ ₹ 18 lakh each to three DMCs, ₹ 2 lakh to NDMC and ₹ 1 lakh to DCB.

Directorate was required to frame an action plan to be followed by implementing agencies and create an institutional mechanism to collect and analyse data of children who had dropped out for suggesting remedial measures to keep the problem under check.

Audit scrutinised the records relating to dropout children in the selected 60 schools and found that 1,477 children (1.99 *per cent*) dropped out of government schools against a total enrolment of 74,291 children. In case of DMC's schools, this figure was 7,052 (9.49 *per cent*) against a total enrolment of 74,308 children during 2010-16 (**Annexure 2.1.1**). Audit further noted an increasing trend in the dropout rate in Directorate schools (except during 2012-13) from 1.3 *per cent* during 2010-11 to 2.6 *per cent* during 2015-16. The dropout rate of children in DMCs schools reduced from 11.25 *per cent* during 2010-11 to 7.74 *per cent* in the year 2012-13 and thereafter continuously increased to 10.43 *per cent* in 2015-16. However, no steps were initiated by the DMC to reduce the dropout rate of children.

The Government stated (October 2016) that as per U-DISE, data of dropout rate at Primary level as well as Upper Primary Level is negative. However, audit scrutiny in selected schools showed dropout as discussed above. It was further stated that the department had formulated an action plan to minimize dropout rate by taking initiatives like organizing parents counseling, launching various welfare schemes and new academic plan. Instructions have also been issued to Zones for maintaining records of dropout children. Reply could not be verified as no supporting documents/instructions for reducing the dropout rate were furnished to Audit.

2.1.3 Financial management

Budget for implementation of the Act is allocated under SSA-RTE being the main vehicle for implementation of the RTE Act. Till 2014-15, Central Government was providing Central assistance to UEEM in the Central and State ratio of 65:35 and from 2015-16 this funding pattern was revised to 60:40. Up to 2013-14, the MHRD released Central share directly to UEEM but from 2014-15 onwards, Central funds are routed through State Government accounts. The Directorate releases the Central share as well as State share to UEEM for implementation of the activities approved by the Project Approval Board (PAB). The UEEM further releases the fund to District Project Officers (DPOs) and from DPOs the funds are received by the schools.

2.1.3.1 Delay in receipt of funds from MHRD and State Government

MHRD releases the first instalment of central assistance in April and the second instalment in September of each year. As per instructions, States are required

to release their share of assistance to UEEM within one month of receiving the Central share. Year-wise position of budget and expenditure incurred by UEEM under SSA-RTE for the period 2010-16 is depicted in **Table 2.1.1**.

Table 2.1.1: Budget, total available funds and actual expenditure

(₹ in crore)

Year	Budget	Unspent balance of previous years	Received from MHRD	Received from GNCTD	Total Funds received	Other receipt (interest)	Total funds available	Expenditure	Saving w.r.t. to funds available	% saving w.r.t. funds available
2010-11	101.60	16.51	35.53	21.35	56.88	6.09	79.48	46.59	32.89	41.38
2011-12	206.02	32.89	37.83	13.66	51.49	5.74	90.12	80.09	10.03	11.13
2012-13	206.17	10.03	42.93	34.46	77.39	5.23	92.65	78.82	13.83	14.93
2013-14	207.00	13.83	83.23	28.88	112.11	5.05	130.99	102.16	28.83	22.01
2014-15	202.91	28.83	50.87	40.85	91.72	7.22	127.77	124.33	3.44	2.69
2015-16	192.02	3.44	71.59	46.27	117.86	5.17	126.47	102.30	24.17	19.11
Total	1,115.72	105.53	321.98	185.47	507.45	34.5	647.48	534.29	113.19	17.48

Source: Figures provided by UEEM

Thus, against a budget of ₹ 1,115.72 crore approved by the PAB, only ₹ 647.48 crore (58.03 per cent) was made available to UEEM out of which, ₹ 534.29 crore was actually utilized during 2010-16. Under-utilisation of funds ranged between 2.69 and 41.38 per cent.

The Government stated (October 2016) that funds could not be utilized as MHRD released the last instalment at the end of the financial year. It added that activities under SSA were planned for entire session but some activities could not be conducted during February to March each year due to examinations. The reply is not tenable as UEEM should plan its activities keeping in view the examination period.

Audit further noted that there were delays in receipt of funds from MHRD and further delay in release of funds to UEEM by the GNCTD as below:

- (i) The Directorate released ₹ 31.36 crore out of the State share of ₹ 44.82 crore to UEEM during 2013-14 and the remaining in the next financial year;
- (ii) The Directorate received Central share of ₹ 11.37 crore for 2014-15 in the next financial year. Consequently it released ₹ 17.49 crore (including State share) to UEEM in 2015-16; and
- (iii) The Directorate released ₹ 33.76 crore (Central and State share) to UEEM on the last day of the year i.e. on 31 March 2016. As a result, salaries of 1,139 primary teachers and 1,920 trained graduate teachers for 2015-16 amounting to ₹ 8.72 crore could not be released on time. Also, in South and North districts, salaries of teachers on contract basis deputed under SSA were released with delay upto three months during 2014-16.

Delayed release of funds by the MHRD and GNCTD undermines planning and timely execution of the programmes.

The Government stated (October 2016) that the matter for timely release of funds was being pursued with MHRD.

2.1.3.2 Utilization of funds under various activities

Details of budget approved by the PAB and expenditure incurred under the following four activities during 2010-16 are shown in **Table 2.1.2** below:

Table 2.1.2: Activity wise budget and expenditure (2010-16)

(₹ in crore)

Activity/Component	Budget	Expenditure	Under-utilisation (%)
Computer Aided Learning	20.84	7.01	13.83(66)
Community Mobilization	2.37	1.06	1.31 (55)
Research, Evaluation, Monitoring and Supervision (REMS)	2.54	1.64	0.90 (35)
Inclusive Education for Child With Special Need (CWSN)	27.20	14.27	12.93 (48)
Total	52.95	23.98	28.97 (55)

Non-utilization of ₹ 28.97 crore (55 per cent) under these activities indicates corresponding under achievement of objectives. Activity and component-wise shortcomings are discussed below:

(a) Computer Aided Learning (CAL): During 2010-16, the UEEM made provision of ₹ 20.84 crore for CAL activities like procurement of new workstations (computers), infrastructure maintenance of CAL resource centre, infrastructure technology support to schools and development of hardware/ software. Out of ₹ 20.84 crore, only ₹ 7.01 crore was utilised leaving ₹ 13.83 crore (66 per cent) unutilized. During 2013-14, ₹ 4.48 crore out of ₹ 4.50 crore remained unspent. During 2011-12, maintenance grant of ₹ 15.37 lakh out of ₹ 39 lakh released for 1,950 CAL labs in 892 schools could not be utilised. During 2012-13, maintenance grant of ₹ 54.90 lakh allocated for 1,830 CAL labs of 916 schools remained un-released to 442 schools due to non-submission of utilization certificates of earlier grants. Under-utilisation of funds defeated the very purpose of maintenance and upkeep of CAL Labs. The Government attributed (October 2016) the under-utilization to late receipt of funds.

(b) Community Mobilization: During 2010-16, the UEEM made provision of ₹ 2.37 crore for community mobilization which included media and awareness activities and awareness programme for minority and SC/ST students. However, only ₹ 1.06 crore was utilised leaving ₹ 1.31 crore (55 per cent) unutilized. The Government stated (October 2016) that all activities planned under this intervention could not be conducted due to late receipt of funds.

(c) Research, Evaluation, Monitoring and Supervision (REMS): During 2010-16, ₹ 2.54 crore was provided under REMS for studies such as Task Study for Teachers and Students, Teachers Effectiveness, Social and Gender Differentiation in School Education and Impact of In-Service Training on Learners. UEEM utilised only ₹ 1.64 crore on these activities during the period and ₹ 0.90 crore remained unspent. The Government stated (October 2016) that the expenditure undertaken for researches which are yet to be completed was not taken into account in costing sheet at the time of its submission to PAB and was reflected as funds not utilised. Reply is not convincing as it is not supported with details of expenditure incurred on research in progress at the end of each year (2010-16) and the amount remaining unspent at close of the year.

(d) Inclusive Education for Children with Special Need (CWSN): During 2010-16, the PAB made provision of ₹ 27.20 crore for inclusive education for CWSN which included activities like enrolment drive, awareness and assessment camp for CWSN, provision of aid appliances and trainings of general teachers on autism and multiple disabilities. Audit observed that against a target of 1,12,952 CWSN, 99,519 CWSN were benefitted under these activities and only ₹ 14.27 crore out of ₹ 27.20 crore were utilised leaving ₹ 12.93 crore (48 *per cent*) unutilized.

The Government stated (October 2016) that though MHRD approved ₹ 27.20 crore, it did not release 100 *per cent* funds and last installments were released at the end of each financial year. It further stated that salary of Inclusive Education (IE) - Resource teachers, IE-Volunteers and funds for strengthening of resource rooms could not be utilized due to non-availability of trained resource teachers/volunteers during 2010-16 but assured to utilize funds in the future. The reply of the Government indicates that even after five years of notification of the RTE Rules (2011), the UEEM failed to provide the resource teachers/volunteers for children with special needs.

2.1.4 Implementation of the provisions of the RTE Act

2.1.4.1 Decline in enrolment of children in Government and aided schools

A scrutiny of the Annual Appraisal Report (2016-17) of Annual Work Plan and Budget (AWPB) brought out that there was overall decline of 13.15 *per cent* in the enrolment in Government and aided schools at primary level during the last five years. On the other hand, there was 34.69 *per cent* increase in enrolment in private schools at this level during the same period. Analysis of the data provided by the Directorate in respect of children enrolled at the entry level of Class 1 in Government, aided and private schools for the period 2010-16 (**Annexure 2.1.2**) revealed that the enrolments in Class 1 in Government and aided schools showed a persistent declining trend with enrolment decreasing from 2,04,884 in 2010-11 to 1,56,911 in 2015-16 viz. a decline of 23 *per cent*. In contrast,

enrolments in private schools increased from 1,32,010 in 2010-11 to 1,78,034 in 2015-16 showing an increase of 35 *per cent*.

Further, total enrolment of children in all the schools put together decreased from 3,37,230 to 3,34,945 during 2010-16. This declining trend in enrolment was not consistent with increasing rate of population of Delhi which increased⁷ from 1,67,53,235 in 2011 to 1,86,86,902 in 2016 at an average yearly rate of 2.22 *per cent*. Logically, with increasing population, enrolment of children should also go up if all children of the age of enrolment are enrolled in schools.

The decline in the overall enrolment of children in schools and in particular in Government and aided schools was indicative of the need for improving the standards of learning and infrastructure in the Government and aided schools in order to achieve the objectives of the RTE.

The Government stated (October 2016) that decline in enrolment of children in Government and aided schools was due to migratory nature of population in Delhi. As regards private schools, it was stated that increase in admission was due to provision of admission of Weaker Section and Disadvantaged Group (WSDG) children under the Act and that initiatives were being taken to improve learning levels by increasing infrastructure in government schools. Fact remains that despite implementation of RTE Act, enrolment of children has not increased in government schools.

2.1.4.2 Special training of children

As per Section 4 of the RTE Act, a child above six years of age who has not been admitted in any school or if admitted, could not complete elementary education, shall be admitted in a class appropriate to his or her age and shall have a right to receive special training as may be prescribed. Further, Rule 5 lays down that School Management Committee (SMC) shall identify children from those who are already enrolled, but require special training. The training shall be provided for a period of three months extendable upto two years. In this regard, Audit observed the following:

(i) Cluster Resource Centre Co-ordinators in the zones under the District Project Officers (DPOs), NGOs and SMCs identify Out of School Children (OoSC) requiring special training and targets are fixed accordingly for providing training. In NCT of Delhi, the UEEM organises special training for OoSC through Special Training Centres at schools and through NGOs. During 2010-16, the UEEM utilised only ₹ 7.49 crore (24 *per cent*) on special training of OoSC against a provision of ₹ 31.31 crore leaving ₹ 23.82 crore (76 *per cent*) and only 33,173 children (58 *per cent*) were given special training against a target of 56,874 children (**Annexure 2.1.3**).

⁷Source- <http://www.indiaonlinepages.com/population/delhi-population.html>

In its reply, the Government provided (October 2016) number of OoSCs who were brought to mainstream in appropriate class after providing them special training. However, fact remained that 23,701 children although targeted for providing training were not provided special training.

(ii) Out of 26 selected government schools, SMC of only one school identified 20 children who, though enrolled, required special training and provided training to them during 2013-16. SMCs of 19 schools did not identify such children and four schools found no children belonging to this category. One school identified only one child of this category but did not provide training to him. One school did not furnish this information. Thus, SMCs of most of the selected government schools did not identify children requiring special training, as was required under the RTE Act. In DMCs, out of 34 selected schools, SMC of one school identified two children to whom special training was provided by the school.

2.1.4.3 Deficient transportation arrangement for children with disabilities

As per Rule 6(5), the Government or the local authorities are required to arrange free transportation for children with disabilities from home to school and back. As per instructions of UEEM, the School Management Committees were to manage transportation for such children for which ₹ 250 per child per month for eight months in a year was prescribed. For this purpose, the UEEM releases funds to District Project Officers (DPOs), who further release funds to schools. Audit scrutiny revealed that 12,959 children⁸ with disabilities were eligible for transport facility during 2014-16 for which Project Approval Board (PAB) approved ₹ 2.59 crore. However, only ₹ 1.20 crore was utilised in respect of 7,158 children leaving ₹ 1.39 crore (54 *per cent*) unspent thereby depriving 5,801 children from transport facility (**Annexure 2.1.4**).

UEEM stated (June 2016) that due to submission of list of less number of children with disabilities by schools and time taken by the competent authority for issuing sanctions, available budget could not be utilized. Reply is not tenable as UEEM should have ensured that all the eligible children were provided transport facility.

2.1.4.4 Admission of children belonging to Weaker Section and Disadvantaged Group (WSDG) in unaided schools

Section 12 of the Act provides that an unaided school shall admit children belonging to WSDG in the neighborhood in class I to the extent of at least 25 *per cent* of the strength of that class. The unaided school shall be reimbursed the expenditure so incurred by it to the extent of per child expenditure incurred by the State or the actual amount charged from the child whichever is less.

⁸Source: Records of UEEM

Audit observed that a total of 5,80,571 children were enrolled in class I in unaided schools under the jurisdiction of the Directorate during 2011-16. As per the provisions of the Act, 1,45,142 children (25 *per cent* of 5,80,571) belonging to WSDG should have been admitted in these unaided schools. However, only 90,262 WSDG children were admitted and 54,880 seats (38 *per cent*) were not filled by those children (**Annexure 2.1.5**). Further test check of records revealed:

(i) In 30 unaided schools of North District under the Directorate, total 8,317 children were enrolled in class I during 2013-16 implying that 2,089 seats (25 *per cent*) should have been earmarked for WSDG children, but only 833 WSDG children (10 *per cent*) were admitted. Similarly, in 49 unaided schools in South District, only 3,348 WSDG children (23 *per cent*) were admitted against total enrolment of 14,557 in class I during 2012-16.

(ii) In 138 unaided schools of North DMC, only 2,867 seats were filled by WSDG children during 2010-16 although 10,989 seats should have been reserved for them. In 45 unaided schools under the jurisdiction of South DMC, against 2,780 seats, only 382 seats were filled by WSDG children.

(iii) For the period 2011-16, a budget of ₹ 104 crore was provided to the Directorate for re-imburement of expenditure incurred by unaided schools for admission of WSDG children. Against this, the Directorate utilised ₹ 76.64 crore leaving ₹ 27.36 crore (26 *per cent*) unspent. Department stated (June 2016) that the funds were approved by the Finance Department (GNCTD) in the month of March of each year (at the end of the financial year) resulting in less utilisation of funds. It added that the Delhi Cantonment Board and NDMC had not claimed reimbursement of expenditure on WSDG children for the audited period.

Thus, poor expenditure reflected corresponding fewer enrolments of children belonging to WSDG in unaided private schools and failure of the Directorate and DMCs in ensuring full adherence to the provisions of the RTE Act regarding minimum 25 *per cent* admission of WSDG children in un-aided schools.

The Government stated (October 2016) that reasons of less number of admission of children belonging to WSDG category included many private schools being located in the interiors/non-confirming areas where number of applicants are very less, non-submission of application for admission and discrimination of private schools. To overcome these problems, the Department has initiated on-line admission process for children of these categories from academic session 2016-17. As regards schools of North and South DMCs, instructions have been issued to all unaided schools not to deny admission to WSDG children. Further, the Government assured to take effective measures in the next academic year to motivate parents to get their children admitted in unaided schools.

2.1.4.5 Adequacy of infrastructure in schools

As per Section 8(d) of RTE Act, it is the duty of the Government to provide infrastructure including school building, teaching staff and learning equipment within three years from coming into force of the Act. In Delhi, major infrastructure facilities in schools are provided by the Directorate and local bodies. Apart from this, GNCTD also undertakes civil infrastructure works through UEEM with funds approved by PAB every year in schools managed by the Directorate and three DMCs. Audit observed the following:

(a) Works executed by the Directorate: The GNCTD approved (March 2011) ₹ 706.03 crore for creation of additional infrastructure facilities⁹ in Directorate schools. Its implementation was to be spread over three to five years.

Government informed (October 2016) that ₹ 1,357.24 crore was allocated during 2011-16 for construction of 9,960 additional classrooms, 2,955 additional toilets and miscellaneous works, against which an expenditure of ₹ 1,225.04 crore had been booked by PWD. In addition, ramps in 961 schools, CWSN toilets in 985 schools were also constructed. In addition, during 2011-16, 24 new pucca schools buildings were constructed or are near completion and possession of land for 59 schools had been taken over or was in process. However, the records/information relating to construction works planned, awarded/executed and completed during the review period were not furnished and hence Audit could not provide assurance as to the works actually executed by the Directorate.

(b) Works executed by UEEM: The PAB sanctioned ₹ 142.98 crore to UEEM during 2010-16 for construction of 1,146 additional rooms, 715 toilets and 100 ramps in schools of the Directorate and DMCs. However, audit scrutiny revealed that only 798 additional rooms, 492 toilets and 96 ramps were constructed as of June 2016 (**Annexure 2.1.6**). It was also observed that entire funds of ₹ 18.29 crore sanctioned during 2015-16 for construction of 102 additional rooms and 79 toilets remained unutilized as of June 2016 as PWD and DMCs (the two executing agencies) could not finalize tenders.

The Government stated (October 2016) that the civil works could not be completed due to strikes called by construction agencies, frequent transfers of Engineers in PWD and space crunch for additional classrooms.

(c) Status of works executed in schools of North and South DMCs: The Engineering Departments of respective DMC carry out construction and renovation works in schools on requisition of respective Education Departments. Status of works requisitioned by Education Departments of North and South

⁹2,768 additional class rooms, 140 special rooms for Children With Special Needs (CWSN), 1,000 toilets for CWSN, 470 water modules, 23 new schools, safety measures in 60 schools, 1,180 ramps in 295 schools and acquisition of land for 50 schools.

DMCs and executed by their respective Engineering Departments during 2009-16 is depicted in **Table 2.1.3** below:

Table 2.1.3: Works executed in schools of DMCs (as of July 2016)

Work	No. of schools	Works proposed	Works executed	Not executed (%)
Class Rooms	78	1,317	380	937 (71)
Halls	28	29	9	20 (69)
Toilet Blocks	34	271	100	171 (63)
Seats (toilet)	6	83	16	67 (81)
Boundary walls	18	18	5	13 (72)
Gates	1	1	0	1 (100)

Thus, 937 works (71 *per cent*) out of 1,317 works relating to construction of classrooms, 171 works (63 *per cent*) out of 271 works relating to construction of toilets blocks and 13 works (72 *per cent*) out of 18 works relating to construction of Boundary walls were not executed till July 2016. Audit scrutiny further revealed that:

- Works in eight schools under North and South DMCs were not taken up as budget was not available.
- 24 works (construction of 351 rooms, 3 halls) in North DMC and 25 works (construction of 247 rooms, 10 halls, 141 toilet blocks) in South DMC were not started though Engineering Departments received requisitions seven to 78 months ago (between September 2009 and August 2016).
- Requisition for works in five schools of North DMC and 22 schools of South DMC, though sent by respective Education Departments (25 works sent during 2010-13), were not received in Engineering Departments indicating lack of pursuance by the Education Departments.

Audit further noted that due to non-creation of adequate infrastructure, there were instances of adverse Student Classroom Ratio (SCR)¹⁰ against the norms of 40:1 used as benchmark in Appraisal Report (2016-17) on Annual Work Plan and Budget of SSA. The details of adverse student classroom ratio (SCR) out of 421 schools (with primary classes) and 1,005 schools (with upper primary classes) of Directorate and 1,709 schools of DMCs is depicted in the **Table 2.1.4**.

¹⁰Source: School-wise report (26 August 2016) available on web site "www.Edudel.nic.in"

Table 2.1.4: Details of adverse Student Classroom Ratio (SCR)

Students per class room	No. of Directorate schools (with primary classes) with adverse SCR (<i>per cent</i>)	No. of Directorate schools (with Upper Primary classes) with adverse SCR (<i>per cent</i>)	No. of DMC Schools with adverse SCR (<i>per cent</i>)
41 to 100	126(30)	695(69)	441(26)
101 to 150	3(0.71)	22(2)	4(0.23)
More than 150	1(0.23)	21(2)	2(0.12)
Total	130	738	447

As evident from above, 30 *per cent* schools of Directorate with primary classes, 69 *per cent* schools with upper primary classes and 26 *per cent* schools of DMCs are running with adverse SCR (41 to 100).

The Directorate stated (July 2016) that due to land constraints, construction of additional class rooms is impossible in certain areas, adding that adverse SCR was due to heavy influx of migratory population from adjoining States resulting in development of unplanned colonies, where no provision for education and health amenities was kept. The reply is not tenable as it is indicative of poor planning and execution of projects resulting in failure of the Government to ensure requisite infrastructure and to maintain standard SCR in schools.

(d) Other infrastructure facilities: As per item 2 of the Schedule to the RTE Act, every school should have at least one class room for every teacher and an office-cum-store-cum-head teacher's room, barrier-free access, playground, library and separate toilets for boys and girls. As per the Appraisal Report (2016-17) on Annual Work Plan & Budget (AWPB), out of 2,777 government schools, 319 schools were without ramps, 406 schools without play grounds and 25 schools did not have library up to 2015-16. Test check of the 60 selected schools brought out shortcomings as depicted in **Table 2.1.5** below:

Table 2.1.5: Non-availability of other infrastructure in schools

Sl No	Particulars	Directorate schools (out of 26 schools)	North DMC schools (out of 16 schools)	South DMC school (out of 18 schools)
1	Office-cum-store-cum-head teacher's room	1	-	-
2	One class room for every teacher	-	1	1
3	Play ground	7	9	11
4	Library	2	-	-
5	Barrier free access	-	13	14
6	Separate toilets for boys and girls	-	1	-

Thus, seven schools of the Directorate and 20 schools of North and South DMCs had no play grounds. No barrier free access was found in 27 schools of North and South DMCs.

The Government accepted (October 2016) that some schools have no playgrounds, no barrier free access, separate toilets for boys and girls and there was shortage of classrooms.

2.1.5 Academic activities

As per Section 25 of the Act, the Government and local authority were to ensure Pupil-Teacher Ratio (PTR) in each school as specified in the Schedule (**Annexure 2.1.7**) within six months of the commencement of the Act. Scrutiny of records revealed there was acute shortage of teachers as discussed below.

2.1.5.1 Shortage of teachers in schools of the Directorate

The details of vacant posts of teachers for primary and upper primary classes and librarians in the Directorate (July 2016) are depicted in the **Table 2.1.6** below:

Table 2.1.6: Details of vacant posts of teachers for primary and upper primary classes

SL. No.	Post	Posts sanctioned upto March 2016	Incumbents as on 31 March 2016	Posts vacant (<i>per cent</i>)
1	Assistant Nursery Teacher	499	55	444 (88)
2	Trained Graduate Teacher (TGT)	32,385	27,489*	4,896 (15)
3	Librarian	999	507	492 (49)
4	Work Experience Teacher	1,017	1	1,016 (99)
5.	Assistant Teacher (Primary)	4,016	2,285	1,731 (43)
	Total	38,916	30,337	8,579(22)

* including 8,097 guest teachers

As brought out above, out of 38,916 posts of teachers and librarians, 8,579 posts (22 *per cent*) were vacant as of July 2016. It was noted that 444 posts of Assistant Nursery Teacher (88 *per cent*) out of 499 posts, 1,016 posts of Work Experience Teacher (99 *per cent*) out of 1,017 posts and 1,731 posts of Assistant Teacher Primary (43 *per cent*) out of 4,016 were vacant.

Audit noted that against 3,760 Trained Graduate Teacher (TGT) posts sanctioned by GNCTD in March 2011, the Directorate filled 1,082 posts through promotions. The requisition for 2,678 posts was sent to Delhi Subordinate Staff Selection Board (DSSSB) between January 2012 and April 2013 but matter was not pursued thereafter and the posts remained vacant (July 2016). Moreover, the Directorate did not finalise amendments in recruitment rules for the post of Work Experience Teacher due to which 1,016 posts were vacant as of July 2016. Thus, lack of

effective pursuance of staff recruitment proposals by the Directorate resulted in continuing vacancies in a majority of posts sanctioned more than five years ago.

Audit further noted that due to shortage of teachers, PTR¹¹ was adverse in primary and upper primary classes. It was analyzed that 829 schools of DMCs were running with adverse PTR ranging between 41 and 164. Similarly, 30 schools (with primary classes) of the Directorate had adverse PTR between 41 and 169, and 292 schools with upper primary classes had adverse PTR between 36 and 182. Consequently, Schools were suffering from severe shortage of teachers/trained teachers, thereby compromising the standards of education.

The Government stated (October 2016) that all efforts were being made to fill the vacant posts and to amend recruitment rules of Work Experience Teachers.

2.1.5.2 Non-achievement of targets of Teacher's Training

In order to train teachers in specific quality improvement programme, the UEEM makes provision every year for training of teachers. The State Council of Educational Research and Training (SCERT), Delhi, provides academic resource support for training programmes of three to 10 days duration. Audit noted that out of 1,07,142 teachers proposed by SCERT for training, only 91,145 primary and upper primary teachers attended the training during 2010-16 as depicted in **Annexure 2.1.8** even though sufficient funds were available with SCERT. It was noticed that SCERT was allotted ₹ 12.46 crore for conducting in-service teachers' training during 2010-16 against which, it incurred an expenditure of only ₹ 4.75 crore. Hence, there was shortfall in achievement of both financial (62 *per cent*) and physical (15 *per cent*) targets.

The Government stated (October 2016) that the target could not be achieved due to poor participation of teachers from local body schools and late receipt of funds in October and November. Hence, training could be organised only during 2-3 months after December each year which is the period for preparation of final exams in schools. The reply is not acceptable as the department should have framed the annual training programme keeping in view the period of examination.

2.1.5.3 Running of schools without recognition

Section 18 of the RTE Act provides that no school, other than a school established, owned or controlled by the appropriate Government or local authority, shall be established or function without obtaining a certificate of recognition from such authority. Contravention of the conditions of recognition shall result in withdrawal of recognition. Further, any person who establishes or runs a school without recognition or continues to run a school after withdrawal of recognition, shall be liable to a fine upto Rupees one lakh and in case of continuing contravention, to a fine of ₹10,000 for each day during which such contravention continues.

¹¹Source: School-wise report (26 August 2016) available on web site "www.Edudel.nic.in"

Further, as per section 19 (2) of the RTE Act, where a school established before the commencement of the Act does not fulfil the norms and standard specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expense, within a period of three years from the date of such commencement.

In March 2013, the Directorate invited applications from 1,596 unrecognised schools running in Delhi for granting them recognition. It granted (April 2013) provisional recognition to 825 private unrecognised schools functioning prior to April 2010 (from the date of implementation of Act) for one year from 1 April 2013 to March 2014 subject to fulfilment of terms and condition of recognition as per RTE Act/Rules and Delhi School Education Act & Rules 1973. Audit noticed that though these schools did not fulfil the terms and conditions of recognition as per RTE Act/Rules inter alia involving submission of requisite certificates of registration, health, safe drinking water, structural stability/building safety, fire safety and land of school not being Gram Sabha/forest land, the provisional recognition was extended from time to time latest up to September 2016 without imposing any fine. Further, 771 of these unrecognised schools¹² were not found eligible and not granted recognition but instructed to prominently display their status as “UNRECOGNISED” on the entrance board instead of being closed down. Moreover, the Directorate did not conduct any inspections to ensure compliance with these orders.

The Government stated (October 2016) that provisional recognition was extended to 825 un-recognized schools up to 30 September 2016 and schools which did not apply for recognition were given opportunity to apply before 30 September 2016. It was also added that as per the Act, before closing down of unrecognized schools, it is the responsibility of the Department to adjust students in other recognized schools. The policy formulation in this regard is under process. The reply is not tenable as these ineligible schools have been functioning for over three years since their provisional recognition in April 2013 and the policy should have been in place by now to ensure adherence or action as per the RTE Act.

2.1.5.4 Free provision of text books, uniforms and writing material

Rule 8 provides that children studying in schools run by the Government or local authority and aided schools will be entitled for free uniform, textbooks and writing material. In the PAB meetings (2012-16) for approval of Annual Work Plan & Budget, representative of the NCT Government assured that uniforms, textbooks and writing material would be provided to all the children at the beginning of the academic year. Audit scrutiny of selected schools, however, revealed the following:

(a) Text books: The Directorate and DMCs procure books for the students of class I to VIII from the Delhi Bureau of Text Book (DBTB) which delivers

¹²243 schools did not have sufficient land, 225 were not given recognition due not following of RTE Act norms, and 303 schools did not submit relevant documents for recognition.

the same directly to schools. The schools aided by DMCs have to pay five *per cent* cost of books whereas in schools aided by the Directorate, cash is given to children in lieu of text books.

(i) *Selected schools of the Directorate:* Audit observed that out of 26 selected Government schools and aided schools, 12 Government schools provided text books to 29,476 children in April, to 3,670 children between May and November and to 2,381 children thereafter. Two Government schools did not provide the information in this regard. Twelve aided schools paid cash for text books to 1,423 children between July and November and to 28,843 children thereafter during 2010-16.

(ii) *Selected schools of DMCs:* Out of the total 74,308 children in 34 selected schools, 28,110 children were given text books with delay ranging from one to five months whereas 2,255 children were not provided text books during 2010-16.

The Government stated (October 2016) that books were provided to all children of North and South DMC schools who regularly attended school assuring that books would be provided timely in future.

(b) Uniform and writing material: (i) *Selected schools of the Directorate:* Children of the Directorate schools were not provided uniforms or writing material in kind but paid cash¹³ in lieu thereof. Twelve schools paid cash for uniform to 22,165 children between July and November and to 13,029 children thereafter during 2010-16. Two government schools did not provide the information in this regard. In 12 aided schools, cash was paid to 948 children between October and November and to 29,318 children thereafter.

The Government stated (October 2016) that an expenditure of ₹ 526.89 crore was incurred on text books and ₹ 685.31 crore on uniforms from the State Budget of Delhi during 2010-16. The reply was, however, silent on delay in issue of text books and cash payment for uniforms to children.

(ii) *Selected schools of DMCs:* In South DMC schools, cash was disbursed in lieu of uniforms while in North DMC schools uniforms were provided to the students. Out of total enrolment of 74,308 children in 34 selected schools, 17,208 children of 21 schools (including 12,135 children of eight aided schools) were not provided with uniforms or cash in lieu thereof. Twenty six schools distributed uniforms/cash to 27,264 children with delay of one to six months, 25 schools with delay of seven to 12 months to 27,967 children, and seven schools with delay of more than 12 months (5,027 children).

¹³For uniform, ₹ 500 per child upto class V and ₹ 700 per child from class VI to VIII. For writing material, ₹ 300 per child upto class V and ₹ 400 per child from class VI to VIII.

Late/non-providing of text books, uniforms and writing material hampers the learning process of children and the very purpose of providing free text books, uniforms and writing material was defeated.

The Government stated (October 2016) that the cash subsidy of ₹ 500 is provided only through bank account of students to avoid malpractice. The main reason for delay in payment of cash subsidy to students was attributable to difficulties in opening bank accounts of students. The reply is not acceptable as RTE Rules came into force in November 2011, but the department failed to take appropriate steps to ensure timely supply of uniforms/cash to children.

2.1.6 Monitoring mechanism

Monitoring of the implementation of the RTE Act is an important and integral component of the whole process. Through continuous and effective monitoring, the top management locates the non-performing areas in the process of execution of a plan, identifies the causes and directs timely remedial measures to be applied to keep the execution on course. Audit observed the following:

(a) State Advisory Council: The Act envisages constitution of a State Advisory Council (SAC) for implementation of the Act in an effective manner. The SAC is to meet regularly but three months shall not intervene between two consecutive meetings. Audit scrutiny revealed that till July 2016 SAC had met only once (September 2014) since its constitution in April 2014 to discuss the issue of age for admission to the entry level class. Other issues like review of the progress in the implementation of RTE Act by the Directorate and Local Authorities, difficulties in implementation relating to PTR, classroom ratio and other infrastructure and measures to be taken to remove these difficulties were not discussed. Thus, the SAC remained largely ineffective in discharging its role.

(b) School Management Committees: Rule 3 provides for constitution of a School Management Committee (SMC) in every school within six months of coming into force of the Rules to monitor the implementation of the RTE Act. Out of 60 selected schools, in 23 schools of the Directorate, SMCs were constituted with delays ranging from one to 31 months and in 27 DMC schools, with delays from one to 27 months. In two DMC schools, SMCs were not even constituted as of March 2016. Besides, the SMCs were irregular in holding prescribed six meetings in a year. In one school of the Directorate, the SMC did not conduct even a single meeting while in other 24 schools, SMCs conducted less than prescribed six meetings in a year. Hence, the purpose of constituting SMCs was not fully achieved.

(c) Non-preparation of School Development Plan: Rule 4 provides that the SMCs shall prepare a School Development Plan (SDP) containing estimates of enrolment, requirement of teachers and infrastructure. Scrutiny of records in

selected schools showed that SMCs of four schools of the Directorate and nine schools each of North and South DMCs did not prepare SDPs for the period 2010-16. Further, 18 schools prepared only Annual Development Plan for 2014-15 and 2015-16.

Thus, important Advisory/Management Committees were either not put in place or these did not discharge their functions properly for effective implementation of Act.

The Government stated (October 2016) that SDPs were prepared first time in 2014-15 by government schools, and instructions have been issued (September 2016) to schools of North and South DMCs in this regard.

2.1.7 Conclusion

Effective implementation of the RTE Act in Delhi suffered due to poor planning and preparation, continuing vacancies as well as delay in release of funds and its utilisation. The Directorate failed to complete the mandatory household survey to collect and maintain a database of all children from their birth till they attain the age of 14 years and link it with the mapping of schools for the purpose of determining and establishing neighborhood schools. No specific targets for enrolment of children were fixed by GNCTD and local bodies. Further, enrolment in class 1 in the Government and aided schools decreased by 23 *per cent* between 2010-11 to 2015-16 while the almost static position in respect of overall enrolment (including private schools) during 2010-16 was not consistent with the increase in the population of Delhi during the same period. Provisions relating to special training of children and for children with disabilities or those belonging to weaker sections and disadvantaged groups were not adhered to. Despite the need to augment infrastructure, ₹ 18.29 crore sanctioned during 2015-16 to UEEM for construction of additional rooms and toilets remained unutilized as of June 2016 while 69 to 81 *per cent* of construction works of classrooms, halls, toilets and boundary walls remained unexecuted in North and South DMCs.

Further, uniforms, text books and writing material were not being distributed to all students and where provided, issued late and the institutional mechanisms envisaged under the Act for monitoring the implementation of the RTE Act were ineffective as various advisory and monitoring committees were either not constituted or did not meet regularly.

The decline in the overall enrolment of children in schools and in particular in Government and aided schools was indicative of the need for improving the standards of learning and infrastructure in the Government and aided schools in order to achieve the objectives of the RTE.

2.1.8 Recommendations

Based on the audit findings, it is recommended that the Government may:

- *Complete the household survey to have a comprehensive database of children upto the age of 14 years, update it annually and link it with the mapping of schools for effective planning to ensure enrolment of all the children of 6 to 14 years in schools;*
- *Ensure timely release of funds at all levels and its proper utilisation;*
- *Ensure provision of free text books, uniforms and writing material to all children in the beginning of academic year;*
- *Recruit adequate number of teachers to maintain requisite Pupil Teacher Ratio and augment infrastructure and basic facilities for maintaining prescribed Student Classroom Ratio also; and*
- *Strengthen the institutional mechanisms for effective monitoring of implementation of the Act.*

Department of Food Safety
2.2 Implementation of the Food Safety and Standards Act, 2006 in Delhi

The Food Safety and Standards Act, 2006 provides for food safety standards in the country. A performance audit covering the period from August 2011 to March 2016 brought out weak regulatory and administrative mechanism for enforcement of the Act. Non-compliance with key provisions of the Act compromised with the quality of food, posing serious health hazard to the general public. Some of the significant audit findings are given below:

Highlights

- *The Department neither conducted a survey to identify food business operators nor maintained the database of food business establishments. Many food business operators engaged in mass consumption items remained out of the coverage under the Act.*

(Paragraphs 2.2.2.2 and 2.2.2.3)

- *State Food Laboratory got accreditation from National Accreditation Board for Testing and Calibration Laboratories in the year 2012 for two years. The accreditation could not be renewed beyond March 2014 as no up-gradation could take place due to shortage of technical staff and lack of requisite equipment.*

(Paragraph 2.2.3.2(a) & 2.2.3.2 (b))

- *There was delay in issue of licenses and registrations to Food Business Operators. 1,914 Licenses and 12,200 Registration Certificates expired due to non-renewal.*

(Paragraphs 2.2.3.3 and 2.2.3.4)

- *Premises of very few food operators were inspected. No inspection was carried out in 97 per cent of cases. Lifting of samples was very low at four per day against 49,796 licensed food establishments and others without valid license. Department prescribed no criteria for lifting food samples. The food samples were declared to be conforming to the food safety standards without testing them in totality for the prescribed parameters.*

(Paragraphs 2.2.4.1 and 2.2.4.2)

- *The Department did not monitor compliance with its internal orders for monitoring the implementation of the Act. Non-maintenance of daily diaries for allocation of field duties to Food Safety Officers, complaint registers for grievance redressal and progress registers to watch the pendency of cases in various courts showed weak internal control.*

(Paragraph 2.2.6.1)

2.2.1 Introduction

Food safety is an important social and health priority for any country. The consequences of unsafe food include illness, hospitalization and in extreme cases, fatalities. With a view to enforcing the food safety standards in the country, the Government of India (GOI) enacted the Food Safety and Standards Act, 2006 (the Act) on 24 August 2006 and framed the Food Safety and Standards Rules, 2011, on 5 May 2011. Separate Regulations dealing with different matters¹⁴ were also notified by GOI in August 2011.

2.2.1.1 Organisational set up

The Food Safety and Standards Authority of India (FSSAI) at the central level and the Food Safety Authorities¹⁵ at the state level are responsible for enforcement of the Act. In Delhi, the Department of Food Safety (the Department) headed by the Commissioner, under the administrative control of the Department of Health and Family Welfare (DHFV), is responsible for implementation of the Act for regulating manufacturing, sale, storage and distribution of food articles.

2.2.1.2 Audit scope and methodology

The performance audit covering the period from August 2011 to March 2016 was conducted during April to August 2016. Audit examined the records of the Department of Food Safety and selected three out of 11 districts, the only State Food Laboratory and Licenses and Registration Certificates as below:

- Three districts (East, West and South) selected through probability proportional to size and without replacement (PPSWOR);
- 360 out of 5,064 licenses issued during 2013-16 and 90 out of 12,274 Registration Certificates (RCs) issued during 2013-16 selected by Simple Random Sampling Without Replacement (SRSWOR); and
- 375 out of 1,885 food samples lifted during 2011-16.

The performance audit commenced with an entry conference held in April 2016 with the Commissioner (Food Safety) apprising the Department about the audit scope and methodology. An exit conference was held with Commissioner, Food Safety in September 2016 to discuss the audit findings. The views expressed by the Department in the exit conference and replies subsequently received have been incorporated in the report. However, Government's reply is awaited (December 2016).

¹⁴Food Safety and Standards Regulations on (1) Contaminants, toxins and residues, (2) Laboratory and sample analysis, (3) Licensing and registration of food businesses, (4) Packaging and labelling, (5) Prohibition and restrictions on sales and (6) Food products standards and food additives.

¹⁵ Food Safety Authority in Delhi is the Commissioner, Food Safety.

2.2.1.3 Audit objectives

The main audit objectives were to assess whether:

- regulatory and administrative mechanisms were in place for the implementation of the Act;
- requisite infrastructure and resources were in place and licensing and registration was done as per the provisions of the Act;
- inspections, sample testing and prosecutions were being conducted as envisaged in the Act; and
- mechanisms were in place for creating awareness, Information, Education and Communication (IEC), monitoring and evaluation.

2.2.1.4 Audit criteria

The following were used as the criteria for the audit:

- The Food Safety and Standards Act, 2006;
- The Food Safety and Standards Rules, 2011;
- Various Food Safety and Standards Regulations notified in August 2011;
- Guidelines, manuals and food standards issued by the FSSAI; and
- Internal orders of the Department.

Audit findings

2.2.2 Regulatory and Administrative Mechanism

2.2.2.1 Delay in issue of Licenses/Registration Certificates under the Act

While the Act was enacted by GOI in August 2006, the Food Safety and Standards Rules in May 2011 and Food Safety and Standards Regulations thereunder notified in August 2011, the Department of Food Safety was notified by GNCTD in March 2012. Further, it took more than one year to issue the first license¹⁶ to Food Business Operator (FBOs) in April 2013 and about two years to issue the first registration certificate (RC)¹⁷ in January 2014.

The Department attributed (November 2016) the time taken to start issuing licenses/RCs to non-existence of infrastructure, framing of checklists and guidelines for the staff. It was added that although the procedure for issue of licenses/RCs was prescribed in the Rules and Regulations notified in August 2011, further steps were needed to be taken on the ground for following the prescribed procedures as there was no licensing for FBOs in Delhi. The reply is not tenable as infrastructure was already in place i.e. Designated Officers (DOs) and Food Safety Officers (FSOs) were appointed and trained in the year 2011 itself. Moreover, instructions

¹⁶Food Business Operators having annual turnover above ₹ 12 lakh are required to apply for licenses

¹⁷Food Business Operators having annual turnover below ₹ 12 lakh are required to apply for RCs

for the list of documents to be enclosed for new/ conversion/ renewal of license and checklist for various categories of FBOs was issued by FSSAI in May 2012.

2.2.2.2 Non-identification of Food Business Operators

Section 31 of the Act provides that no person shall commence or carry on any food business except under a license or RC. As per Rule 2.1.3 (4) (iii) (f) of the FSS Rules, Food Safety Officer (FSO) of the area shall maintain database of all food businesses. Further, Regulation 2.1.2 of the FSS (Licensing & Registration) Regulations, 2011, provides that any person or FBO carrying on food business on the date of notification of these Regulations shall get his existing license converted into license/registration under the new Act.

Audit examination revealed that the department neither evolved any mechanism to collect from the previous enforcement agencies¹⁸ the information on FBOs operating under the previous Acts/Orders nor conducted any survey to prepare a database of all FBOs. The projected figures of two lakh FBOs¹⁹ dealing in food business in Delhi could not be verified in audit. Further, the Department had issued only 49,796 licenses and RCs with a 75 per cent shortfall in coverage of 1,50,204 FBOs under the new Act upto March 2016. In the absence of reliable database, the possibility of FBOs operating without licenses/RCs could not be ruled out.

The Department stated (November 2016) that survey could not be carried out due to acute shortage of staff. The reply is not tenable as the Department made no effort to coordinate with previous enforcement agencies under the repealed Acts/Orders to obtain information on the existing FBOs.

2.2.2.3 Non-coverage of FBOs

Audit noticed that in the absence of database of FBOs, the Department failed to cover FBOs (in terms of issuance of Licenses/RCs and lifting of samples) dealing in mass consumption food items like mid-day meal in schools, packaged drinking water, alcoholic drinks and wines, and milk as detailed below:

(a) The Mid-Day Meal Scheme is a central scheme designed to improve the nutritional status of school children. Scrutiny of records revealed that the Central Advisory Committee (CAC) of FSSAI in its 10th meeting (September 2013) emphasized on monitoring of the mid-day meal scheme and other government food supply programmes to ensure safety of the food being supplied. However, despite clear instructions of the Committee and media reports of cases of students falling sick after eating mid-day meal in Delhi schools, the Department did not

¹⁸MCsD, NDMC, Department of Food and Civil Supplies, Ministry of Food Processing Industries, and Directorate of Vanaspati, Vegetable Oils and Fats.

¹⁹Projected figures of two lakh as per annual reports for 2014-15 and 2015-16 submitted by the Department to FSSAI

cover FBOs engaged in supply of mid-day meal in schools²⁰, Fair Price Shops²¹ and Anganwadi centres²² in Delhi.

The Department stated (November 2016) that a nodal officer was appointed in March 2016 for checking samples of mid-day meals and Anganwadis. It added that list of kitchens under Mid-Day Meal Scheme and Anganwadis was available and five samples were lifted from there. The reply is not tenable as lifting of only five samples from food supplied to 14,466 units cannot be deemed to be adequate coverage of FBOs under the government food supply programmes so as to derive assurance as to the quality of the food items supplied.

(b) As per Regulation 2.3.14 (18) of the FSS (Prohibition and Restrictions on Sales), Regulations, 2011, the Department is responsible for ensuring that packaged drinking water is tested for specified characteristics and bears BIS certification mark. It should also conform to packaging and labeling requirements. The Delhi Jal Board (DJB) provides packaged drinking water through its retail outlets in Delhi. However, Audit observed that the Department did not cover DJB under the ambit of its activities. On being pointed out, the Department attributed (November 2016) non-coverage of DJB to shortage of staff.

(c) FSSAI decided (December 2012) that all FBOs dealing in alcoholic drinks and wines should obtain licenses/RCs from respective authorities. Audit scrutiny revealed that the Department did not cover FBOs dealing in alcoholic drinks and wines in Delhi to check whether the concerned FBOs had acquired the requisite licenses/RCs and whether these were still valid. The Department attributed (November 2016) non-coverage of such FBOs to shortage of staff.

(d) The Commissioner, Food Safety, directed (November 2015) all DOs and FSOs to check samples of milk by using Food Testing Kits and to submit a list of all the distributors of Mother Dairy and Amul Milk. Audit scrutiny revealed that the Department did not have a database of outlets of Mother Dairy and Amul Milk to cover all FBOs dealing with them. However, on being pointed out in August 2016, the Department requested (August 2016) Mother Dairy to furnish the list of its distributors and outlets. In its reply, the Department stated (November 2016) that all Mother Dairy booths had licenses/registration and that samples were lifted from time to time. However, reply was not supported with relevant documents showing details of Licenses/RCs of FBOs and lifting of samples.

Thus, the Department failed even to identify the FBOs dealing in mass consumption food items to check whether any of them were operating without licenses/registration. Resultantly, the safety of food being supplied in Delhi, which is one of the basic objectives of the Act, could not be assured in audit.

²⁰33 institutions provide mid-day meal to about 1,000 government and 216 government aided schools.

²¹There are 2,100 FPS in Delhi providing food grains under the Food Security Act.

²²Delhi has 11,150 Anganwadi Centres providing food to the children.

2.2.3 Inadequacy of physical and human infrastructure and shortcomings in issue of licenses and registration certificates

Scrutiny of records revealed inadequacy of infrastructure and manpower resources as well as shortcomings in issue of licenses and registration certificates as discussed in the succeeding paragraphs.

2.2.3.1 Shortage of manpower

As on 31 March 2016, there was 50 *per cent* and 63 *per cent* shortage²³ in the posts of Designated Officers (DO) and Food Safety Officers (FSO) respectively which adversely affected the enforcement of various provisions of the Act like lifting of adequate number of samples, inspections of the food establishments and monitoring the prosecution/adjudication cases. In the State Food Laboratory also, one sanctioned post of food analyst and seven out of 10 sanctioned posts of chemists were vacant as on 31 March 2016.

The Department stated (November 2016) that despite acute shortage of manpower, it took all possible steps and efforts to ensure availability of safe food to the citizens of Delhi.

Audit observed that after submitting its requirement of FSOs to the Delhi Subordinate Services Selection Board (DSSSB) in June 2013, Department did not pursue the matter till May 2016. Hence, there was a lack of seriousness on the part of the Department in filling up the vacancies. Resultantly, the Department had to compromise with its mandate of lifting samples, inspecting food establishments, monitoring prosecution/adjudication cases and upgrading food laboratory for testing food samples.

2.2.3.2 Functioning of State Food Laboratory

As per Section 43(1) of the Act, Food Authority may notify food laboratories and research institutions accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL) or any other accreditation agency for carrying out analysis of samples by the food analysts under the Act. The State Food Laboratory, Delhi, is the statutory laboratory of the GNCTD entrusted with the responsibility of carrying out various physical, chemical, micro-biological and pesticide residues tests of food items. Audit observed deficiencies in the functioning of the Laboratory as brought out below:

(a) Non-accreditation of State Food Laboratory: The State Food Laboratory, Delhi, was accredited by NABL only for chemical testing from 7 March 2012 to 6 March 2014. In January 2013, NABL pointed out that technical manpower deployed was insufficient and the accreditation of the laboratory expired in

²³Against 12 sanctioned posts of DOs and 32 posts of FSOs, six posts of DOs and 20 posts of FSOs were vacant.

March 2014. However, the Department did not initiate appropriate steps for its renewal as of November 2016. In the absence of NABL accreditation, third party certification of the competency of the laboratory could not be ensured.

The Department stated (November 2016) that recruitment of technical manpower required was under process. Regarding competency of the laboratory, it was stated (November 2016) that the reports of the State Food Laboratory were being accepted by various courts as per law.

(b) Non-upgradation of the State Food Laboratory

A laboratory should be suitably equipped and manned by adequate technical and supporting staff to meet its mandated responsibility. Audit observed that only the Chemical Division of the State Food Laboratory was functional and other two Divisions (Micro-Biological, and Pesticide Residue and Heavy Metals) had not been functioning since the inception of the Department due to shortage of technical staff and lack of equipment. The Food Safety Department submitted (June 2015) a detailed proposal to the Department of Health and Family Welfare (DHFV) for upgrading the laboratory to match international standards. Apart from the latest equipment for strengthening of the laboratory, the proposal also included setting up of a Mobile Food Laboratory²⁴, requirement of additional technical/supporting staff (**Annexure 2.2.1**) and an additional space of 6,000 sq.ft. for storage of samples, records, chemical storage rooms and quality assurance room. DHFV approved (June 2015) the proposal with the directions to set up the laboratory within three months and that additional staff should be recruited before installation of equipment. However, the Laboratory was not upgraded as of November 2016 due to non-recruitment of additional staff.

The Department stated (November 2016) that the proposal of strengthening and upgradation of laboratory was approved (June 2015) by the DHFV. Accordingly, a plan for infrastructure requirement as per NABL accreditation requirements has been initiated. It added (November 2016) that based on the FSSAI gap analysis report, the State Food Laboratory of Delhi was selected among nine laboratories situated in different parts of the country for upgradation and grant of funds from FSSAI. Tender notice had been issued by FSSAI for supply of equipment to the concerned laboratories. The fact remains that the State Food Laboratory is yet to be upgraded for providing quality assurance of the food items being supplied in Delhi even after 17 months of DHFV's directions in June 2015 to set up the Laboratory within three months.

2.2.3.3 Delay in issue of licenses and RCs

Regulation 2.1 of FSS (L&R) Regulations provides for processing of application for license and RCs within 60 days and seven days of receipt respectively.

²⁴Having an advantage of dispensing with the requirement of sample preparation, its analysis and paper work by providing 'on the spot' testing facilities of 50 to 100 food samples per day.

However, scrutiny of records in three selected districts revealed that 118 licenses out of selected 360 cases were issued with delay²⁵ ranging from one to 200 days (81 cases), above 200 to 400 days (29 cases) and above 400 days in eight cases (**Annexure 2.2.2 A**). Likewise, there was delay in 22 out of selected 90 cases of issue of RCs. The delay ranged from one to 100 days (13 cases), above 100 to 200 days (8 cases) and more than 200 days in one case (**Annexure 2.2.2 B**). The delay in issue of licenses and RCs indicates poor implementation of the provisions of the Act.

The Department attributed (November 2016) the delay in issuing of licenses to the time given for completing shortcomings in the applications so as to encourage more and more FBOs to come under the ambit of licensing.

2.2.3.4 Expired licenses/RCs

As per regulation 2.1.7 of FSS (L&R) Regulations, a license or an RC shall be valid and subsisting, unless otherwise specified, for a period of one to five years as chosen by the FBOs, from the date of issue of RC or license subject to remittance of applicable fee and compliance with all conditions of license/RC. Audit scrutiny revealed that the Department had no system of monitoring the renewal of licenses/ RCs as detailed in **Table 2.2.1** below:

Table 2.2.1: Details of expired licenses/RCs as on 31 March 2016

Licenses due for renewal	Licenses renewed	Licenses expired	RCs due for renewal	RCs renewed	RC expired
2,773	859	1,914	12,385	185	12,200

From the table above, it can be seen that out of 2,773 licenses and 12,385 RCs, 1,914 licenses and 12,200 RCs expired due to non-renewal by the FBOs. No action was contemplated by the Department against the FBOs who did not get their licenses/RCs renewed.

In the three selected districts, the status of renewal of licenses was as in **Table 2.2.2** below:

Table 2.2.2: Details of expired licenses in East, West and South District as on 31 March 2016

District	Licenses due for renewal	Licenses renewed	Licenses expired	Licenses issued afresh
East	173	55	118	13
West	402	112	290	26
South	150	71	79	7
Total	725	238	487	46

²⁵Delay has been calculated as time taken to issue licence beyond 105 days (60 days from the date of issue of application ID number + 15 days for scrutiny of application from the date of its receipt + 30 days for FBOs to furnish additional information or complete the application).

Thus, 487 out of 725 licenses had expired due to non-renewal by the FBOs. Out of 487 expired licenses, only 46 FBOs were issued licenses afresh.

The Department stated (November 2016) that no mechanism could be evolved for monitoring/follow-up action on expired licenses/RCs due to acute shortage of manpower.

2.2.4 Inspections, sampling and prosecution

Scrutiny of records revealed shortcomings in inspection, sampling and prosecution regarding issue of licenses/RCs. Audit findings are discussed below.

2.2.4.1 Inspection of food establishments

As per regulation 2.1.2(5) of FSS (L & R) Regulations, Licensing Authority shall ensure periodical food safety audit and inspection of licensed establishments through its own or agencies authorized for this purpose by FSSAI. Further, as per regulation 2.1.1 (6), food safety inspection of the registered establishments shall be carried out at least once a year. Audit scrutiny revealed that the Department issued online licenses and RCs to 12,895 and 32,474 FBOs respectively upto 31 March 2016. However, no inspection was carried out in 97 *per cent* of cases as detailed in **Table 2.2.3** below:

Table 2.2.3: Details of inspection of licensed and registered establishments as on 31 March 2016

Registration Certificates			Licenses		
RCs issued	FBOs inspected	FBOs not inspected	Licenses issued	FBOs inspected	FBOs not inspected
32,474	22	32,452	12,895	1,365	11,530

The Department did not furnish details of inspections of premises of 4,427 FBOs which were issued offline licenses during 2013-15 due to non-digitization of physical data after commencement of on-line system for issuing licenses/RCs from January 2014. In the three selected districts, the Department issued online licenses and RCs to 5,064 and 12,274 FBOs respectively upto 31 March 2016; however, no inspection was carried out in 98 *per cent* of cases as detailed in **Table 2.2.4** below:

Table 2.2.4: Details of inspections of licensed and registered FBOs in East, West and South District as on 31 March 2016

District	RCs issued	Inspections conducted	Licenses issued	Inspections conducted
East	4,750	Nil	996	20
West	4,631	Nil	2,567	262
South	2,893	Nil	1,501	0
Total	12,274	Nil	5,064	282

Thus, due to failure of the Department to inspect premises of all the FBOs, an assurance as to whether FBOs were complying with food safety standards, could not be drawn.

2.2.4.2 Lifting of samples

The Department is vested with the mandate of lifting samples of various food items and sending them to laboratory for analysis to ensure that FBOs are following food safety standards properly. However, audit scrutiny of records revealed deficiencies in enforcing the food safety standards by the Department.

(a) Samples lifted not commensurate with number of licenses/RCs issued:

Though, no specific targets were fixed by the Department for FSOs regarding number of samples to be lifted and number of FBOs to be covered, audit scrutiny revealed that during 2011-16, only 7,470 samples, i.e. about four samples per day, were lifted from the food establishments (with or without valid license/RC) against 49,796 licenses and RCs issued during the same period. Further, the number of samples which were found non-conforming to the safety standards increased from 139 to 239 (72 per cent) during 2011-12 (August 2011) to 2015-16 while the number of samples lifted by the Department decreased from 1,942 to 1,473 (24 per cent) indicating an inadequate surveillance system of the Department to ensure safety of food items being sold in Delhi.

The Department stated (November 2016) that it focused on lifting limited samples instead of large numbers of samples for effective detection of sub-standard or otherwise non-conforming samples. Reply is not acceptable as decrease in the number of samples from food establishments reflects the inability of the Department to deter FBOs from dealing in non-conforming food items.

(b) Non-testing of food samples for food safety parameters:

Audit scrutiny of selected 375 food sample analysis reports revealed that in 55 mass consumption food items, the samples were declared conforming to food safety standards without analyzing all parameters prescribed by FSSAI which included metal contaminants, pesticides, microbiological safety, naturally occurring toxic substances and anti-oxidants (**Annexure 2.2.3**). It was further observed that the Department did not send the samples for testing to other NABL accredited laboratories as instructed by FSSAI in November 2014. Declaring a food sample conforming to food safety standards without testing it according to prescribed procedure and parameters amounts to compromising with the quality of food and provides a false assurance as to the enforcement of food safety standards.

The Department stated (November 2016) that it was pursuing the purchase of reference standards of metal contaminants, pesticides and other consumables required for analysis of these parameters. It added that FSSAI would provide manpower and consumables alongwith equipment for three years after which food articles would be analysed in totality.

(c) Non-fixing of criteria for lifting of samples of food articles

(i) Audit noticed that the Department prescribed no criteria for lifting food samples. Samples were being lifted in an arbitrary manner. The FBO from where a sample is lifted was not linked to the license/RC in the absence of which it could not be ensured whether samples of all FBOs were analysed. The Department stated (November 2016) that it was issuing show-cause notices to FBOs not having licenses/RCs.

(ii) In selected districts, 59 food samples of 56 FBOs were declared 'Unsafe' for human consumption from 5 August 2011 to 31 March 2016. However, the Department re-visited the premises of only six FBOs for lifting samples. In the absence of analysis of subsequent samples, it could not be ensured that the remaining 50 defaulting FBOs had taken remedial measures to supply safe food.

The Department stated (November 2016) that some dealers were re-visited, but it was not possible to visit all dealers whose samples were found unsafe in the past due to staff constraints. Fact remains that in the absence of re-analysis of food samples, supply of safe food to the consumers cannot be ensured.

(iii) The Department fixed (March 2014) the norms for number of samples to be lifted from a particular food establishment as detailed in **Table 2.2.5** below:

Table 2.2.5: Norms for lifting samples of food items

Sl.No.	Number of items in which FBO is dealing	Minimum number of samples to be lifted
1	10	1
2	10-15	2
3	More than 15	5
4	Complaint cases	All items mentioned in the complaint

Audit scrutiny of records in three selected districts revealed that during 2011-16, only one food sample was lifted from each premise irrespective of number of items being sold by FBOs. This was indicative of a casual approach on the part of the Department in enforcing its own orders regarding lifting of number of samples. The Department attributed (November 2016) it to shortage of staff. The reply is not tenable as audit observation relates to those cases only where the Department visited the premises of food establishments but did not lift prescribed number of samples.

(iv) The Department had fixed no criteria for the type of sample to be lifted from FBOs dealing in various kinds of food items/ingredients. In 375 test checked cases, it was observed that the Department visited 168 food establishments selling prepared food items; however, instead of lifting samples of prepared food items, samples of only one of the ingredients used in their preparation was lifted in 158 cases (94 per cent).

The Department stated (November 2016) that it was not feasible to fix in advance the type of sample to be lifted and that sample of prepared food items were being lifted. The contention of the Department is not correct as after the matter being pointed out by Audit, the Department itself issued instructions (June 2016) to all FSOs to invariably lift samples of prepared food and to lift second sample of spices if their quality was found to be poor or adulterated.

(d) Lack of initiative in preventing adulteration of milk: Milk is a mass consumption food item consumed not only by infants but also by public at large due to its nutritive value. The National Survey on Milk Adulteration-2011 was conducted by FSSAI to ascertain the quality of milk and identify different types of adulteration in milk throughout the country. Survey disclosed that, on an average, 68.40 *per cent* samples did not conform to the safety standards in the country whereas 70 *per cent* of the samples from Delhi were found to be adulterated. As indicated by the study, the common adulterants were water, re-constituted milk and detergent. The Supreme Court also directed (November 2014) the Union and the State Governments to take measures to completely rule out the sale of adulterated and synthetic milk allegedly prepared by materials like urea, detergent, refined oil and caustic soda.

Scrutiny of records revealed that the Department analysed 324 samples of milk during the period from 5 August 2011 to 31 March 2016. Out of these, 274 samples were found 'genuine', three 'misbranded' and 47 'sub-standard.' However, the samples were not tested for micro-biological²⁶ safety, presence of metal contaminants, pesticides, caustic soda, refined white paint and refined oil. Moreover, nitrate tests, as specified in para 1.2.10 of the Laboratory Manual of FSSAI, were not conducted for detecting addition of pond water in the milk nor were the samples tested for detecting formalin as an adulterant. Prior to 12 June 2015, milk samples were not tested for the presence of detergent also. Thus, stopping supply of adulterated milk was not ensured.

The Department stated (November 2016) that the FSS Regulations prescribe the mandatory standards for analysis of food article whereas the Manual of Analysis prescribes methods of analysis wherever required and which are not required in all cases. It further stated that the State Food Laboratory had added the test of nitrate, formalin and method of sample preparation in its analysis report as observed by Audit. Reply is not tenable as the method of sample preparation for proper homogenization prescribed in the Manual for Analysis of Milk and Milk Product, was not applied. Moreover, samples were not tested for all the parameters²⁷ for ensuring food safety standards notified by FSSAI under various regulations.

²⁶Food Microbiology encompasses the study of microorganisms (bacteria/germs) which have poisonous effects on the quality and safety of raw/processed food and is concerned with areas of food poisoning, food spoilage and food preservation.

²⁷(1) General Parameters (tests not performed for natural colours, added preservatives, synthetic colours, anti-oxidants and non-nutritive sweeteners, (2) Metal contaminants, (3) Other contaminants, (4) Contaminants, (5) Microbiological and (6) Pesticides

(e) **Inadequate testing of vegetables and fruits for pesticides residue:** As per Section 21 of the Act, no article of food shall contain insecticides or pesticides residues in excess of such tolerance limits as may be specified by regulations. In compliance to the directives (5 March 2014) of the High Court of Delhi, the Department lifted 2,686 samples during 2014-15 and sent them for analysis to the State Grading Laboratory of the Directorate of Agricultural Marketing. Ten out of 2,686 samples, lifted from FBOs in Delhi, were detected with pesticides residue above the prescribed limit. Further scrutiny revealed the following:

- Out of the 2,686 samples, 2,676 samples were reported conforming to the food safety standards by the State Grading Laboratory though it was neither accredited by NABL nor notified by FSSAI. It was observed that against 113 types of pesticides for fruits and vegetables (including 53 banned pesticides), the laboratory was equipped to test only 28 types of pesticides including 18 banned pesticides. This indicated that 2,676 samples were declared conforming to food safety standards without testing for 85 (75 per cent) remaining pesticides including 35 (66 per cent) banned pesticides thereby exposing the people of Delhi to health hazards on consuming vegetables and fruits contaminated with pesticides residue.
- Test reports showed (April 2015) presence of pesticides residue above permissible limits in 10 samples of *mausmi*, pear, french beans, cabbage and green onion. However, the Department did not subsequently lift and test even a single sample of these items during 2015-16.

Thus, there was no assurance that vegetables and fruits met the prescribed food safety standards.

The Department stated (November 2016) that it had forwarded a list of 58 pesticides for monitoring of residue by the State Grading Laboratory. It further stated that target of lifting of samples could not be achieved due to shortage of enforcement staff. Reply confirms the audit observation regarding inadequate testing of vegetables and fruits for pesticides residue. Moreover, with a view to ensuring that the vegetables and fruits meet the prescribed food safety standards, the Department could have explored other laboratories notified by FSSAI for testing.

2.2.4.3 Prosecution and adjudication cases

The Act empowers the Government to take action against defaulting FBOs by instituting cases for prosecution or adjudication²⁸ depending upon the gravity of the offence²⁹. Audit scrutiny of the records revealed that there were lapses in

²⁸As per FSS Rules 3.1.1 (2), if DO decides that contravention to the Act is not punishable with imprisonment but only with fine, he shall cause and authorize the FSO to file with the Adjudicating Officer an application for adjudication of the offence alleged to have been committed by the person from whom the food sample has been taken.

²⁹Sections 42 and 59 (i) of the Act

instituting cases for prosecution and taking follow up actions by the Department as enumerated below:

(i) As per Section 42 (3) of FSS Act, the Designated Officer, after scrutiny of the report of Food Analyst, shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution. Scrutiny of 'Case Institution Register' maintained by the Department revealed that in three districts, there was adverse test reports from Food Analyst in 28 cases, but sanction for prosecution was initiated with delay³⁰ of more than six months in 13 cases.

The Department stated (November 2016) that according to the provisions of Section 77 of the Act, the limitation for filing the case for prosecution is one year. It further stated (November 2016) that as per section 46 (4), an appeal against the report of Food Analyst lies before the DO who has the power to refer the matter to the Referral Food Laboratory which may take time. The reply is not tenable as delay in filing cases against concerned FBOs puts the health of general public at risk as defaulters would continue to operate in the intervening period till action was initiated by the department.

ii) As per section 96 of Act, if a penalty is not paid, it shall be recovered as an arrear of land revenue and the defaulter's license shall be suspended till the penalty is paid. Audit scrutiny revealed that, as of March 2016, samples of 524 FBOs were found non-conforming to the safety standards and adjudication proceedings were to be launched. However, adjudications were filed during 2011-16 in only 401 cases out of which final orders were passed in 168 cases where penalty of ₹ 104 lakh was imposed. Though, ₹ 56.91 lakh was recovered as of June 2016, the Department did not have case-wise and year-wise details of defaulting FBOs from whom penalty was recoverable. In the absence of such details, the Department was not in a position to keep track of the recovery of balance penalty of ₹ 47.09 lakh and thus, could not initiate any action for suspending the license/RCs of the defaulting FBOs as envisaged in the Act.

The Department stated (November 2016) that in the absence of directions from the Adjudicating Officer regarding non-payment of fine by the FBOs, no license was suspended or cancelled by it. The reply is not acceptable as Department did not maintain case-wise and year-wise details of 168 cases wherein final orders were passed by the Adjudication Officer and penalty of ₹ 47.09 lakh was pending recovery from the defaulting FBOs.

³⁰ Delay calculated from 14 days from date of receipt of Laboratory report by the DO from the Food Analyst.

2.2.5 Grievance redressal mechanism, awareness, and Information, Education and Communication (IEC)

Creation of awareness among all stakeholders and general public is an important factor for any social programme or scheme to be successful. Enforcement of food safety standards is no exception. In addition, a sound grievance redressal mechanism facilitates a strict vigil on compliance of food safety norms by FBOs. Scrutiny of records revealed the following:

2.2.5.1 Grievance redressal mechanism

(i) The citizens' charter of the Department stipulates a time frame of 45 days for the disposal of a complaint. Audit noticed that 114 (45 *per cent*) out of 252 complaints received during 2011-16 were pending disposal as of July 2016. The pendency in 65 of these complaints ranged between two and three years (**Annexure 2.2.4**). Further, in 67 out of 138 cases which were disposed, the Department did not mention details of final disposal of complaints and action taken on its website.

The Department stated (November 2016) that all complaints were attended within the time frame as per its citizens' charter. It added that directions had been issued to the concerned officers regarding non-availability of action taken reports.

(ii) FSSAI forwarded 58 complaints to the Food Safety Commissioner, Delhi from 30 November 2011 to March 2016 for taking necessary action. However, neither details of these complaints were uploaded on website nor were records relating to action taken shown to Audit. As a result, status of redressal of public grievances could not be commented by audit. The Department stated (November 2016) that the complaints of FSSAI had been attended to and supported its stand with documentary evidence regarding action taken in case of 10 complaints of the period 2014-16. However, due to non-submission of action taken report for the remaining 48 complaints, status of redressal of public grievances could not be commented by audit.

2.2.5.2 Creation of awareness for food safety among stakeholders

Scrutiny of records revealed shortcomings in creation of awareness for food safety among various stakeholders i.e. consumers and FBOs, as discussed below.

(i) The Central Advisory Committee (CAC) emphasized (April 2012) the need for organizing promotional activities for various stakeholders to make them aware of the essential elements of the Act. It was, however, observed that prior to 11 August 2014, the Department did not issue any notice for creating awareness among public despite the fact that the timeline for obtaining Registration/license was extended repeatedly (upto 4 August 2012, 6 December 2013, 4 February 2014 and 4 August 2014) by the FSSAI.

The Department stated (November 2016) that it regularly interacted with trade/market representatives to emphasize on the need to obtain license/registration and the procedure to be followed. It further stated that some NGOs helped in generating awareness in this regard. However, no supporting evidence was furnished to audit.

(ii) With a view to creating awareness on food safety among various stakeholders, the Department printed (November 2012) 36,500 booklets. However, records relating to distribution and impact assessment reports were not made available to Audit.

The Department stated (November 2016) that sufficient IEC material was distributed among various stakeholders including FBOs and consumers.

2.2.5.3 Information, Education and Communication (IEC) activities

The CAC advised (July 2012) all Food Safety Commissioners to take up with their governments the issue of ploughing back at least 75 *per cent* of license fee collected for carrying out Information, Education and Communication (IEC) activities. The Department accepted (June 2016) that though it had participated in *Melas*, Food Festivals for awareness of consumers, no other IEC activities were ever planned by it. It was further noticed that though fees of ₹ 15.38 crore was collected by the Department during 2013-16, it did not initiate any proposal for utilizing funds for IEC activities. The Department stated (November 2016) that funds could not be utilized due to paucity of staff coupled with other procedural constraints.

2.2.6 Monitoring and evaluation

Internal control system is a management tool used to provide assurance that the objectives of the organization are being achieved as planned. The internal control system ensures monitoring and evaluation of strict adherence to statutes, prescribed codes and provisions of manual to minimize risk of errors and irregularities in the day to day functioning of an entity. Deficiencies noticed in internal control and monitoring system in the Department are as under:

2.2.6.1 Non-maintenance of records

Audit observed that DOs did not comply with the instructions issued by the Commissioner for maintenance of:

- Daily diaries regarding allocation of field duties for FSOs and preparation of rosters for lifting of samples by the FSOs;
- District-wise complaint registers in electronic and manual form for monthly submission to the Commissioner; and
- Progress registers to monitor the pendency of cases in various courts.

This showed poor internal control and lack of initiative in enforcing compliance to the internal orders for monitoring the implementation of the Act.

The Department stated (November 2016) that daily work assigned by the DO to the FSO is maintained on the portal showing all the details of samples taken. The Department attributed the improper maintenance of complaint register to shortage of staff. The reply is not acceptable as the portal of the Department shows only the details of samples lifted by the FSOs and not the roster of duties allocated to them.

2.2.6.2 Inadequate monitoring of issue of licenses and RCs

As per information on Food Licensing and Registration System (FLRS) module, 19,075 applications for licenses and 52,497 for RCs were submitted by FBOs from January 2014 to March 2016. It was, however, noticed that the Department did not issue license and RCs to 5,431 and 19,123 FBOs respectively due to non-updation of the status of applications submitted by the FBOs which were pending for periods upto two years as detailed in **Annexure 2.2.5**. The status of applications for issue of licenses/RCs shows lack of initiative and poor monitoring system on the part of the Department to cover eligible food establishments under the Act.

The Department stated (November 2016) that the system can only update the payment status as to whether the required fee has been deposited by FBO in the bank. It added that the issue of licensing and registration was an ongoing process wherein previous applications were processed and new ones added. Reply is not acceptable as Regulation 2.1 of FSS (Licensing & Registration) Regulations, 2011, provides for processing of application within stipulated time frame. Department's reply indicates inadequate monitoring on the part of the Department regarding status of applications and poor co-ordination with the bank.

2.2.6.3 Non-reconciliation of figures of samples lifted and sent for testing

All samples lifted by the FSOs are allotted a unique identity number termed as DO slip number before these are sent to the State Food Laboratory for testing. Scrutiny of records showed that there was no mechanism for allotting DO slips to the Designated Officers and reconciliation of DO slips issued and actually utilised. The Department printed 15,000 DO slips during 2011-16; however, DO slips bearing serial number from 6,301 to 7,500 (1,200 DO slips) were not issued to any DO though subsequent numbers from 7,501 onwards were shown as issued which is fraught with the risk of DO slips being misused. Moreover, in 34 cases, DO slips having same number were used for lifting of samples more than once which indicates misuse of these slips as one DO slip is to be used to lift only one food sample. In the absence of reconciliation of DO slips issued and actually utilized, there was no assurance that the DO slips were not being misused and all samples were sent to Laboratory for testing.

The Department stated (November 2016) that any DO slip which is not signed or stamp marked by the DO is merely a piece of paper and has got no statutory identity.

2.2.6.4 Absence of monitoring of returns by manufactures/licensees

As per FSS Regulations³¹, every licensee shall on or before 31st May of each year, submit annual and half-yearly returns in respect of each class of food (substituted by manufacturer w.e.f. 10 June 2014) of food products handled by it during the previous financial year. It was, however, observed that the Department had no mechanism in place to monitor submission of these returns.

The Department stated (November 2016) that in the absence of provision in the Food Licensing and Registration System (FLRS) for submission of annual return by FBOs, it was unable to monitor the submission of details of return in prescribed form. It added that the matter was under consideration of FSSAI and the system was being developed by National Institute for Smart Government (NISG).

2.2.7 Conclusion

The regulatory and administrative mechanism for enforcement of the Act was weak as the Department neither conducted any survey to identify Food Business Operators carrying on business without licenses/RCS nor maintained a database of FBOs. The Department lacked infrastructure in terms of requisite manpower and upgraded State Food Laboratory which led to inadequate lifting and testing of samples and inspection of food establishments, thereby, not providing any assurance about compliance with food safety norms by FBOs. Non-adherence to various provisions of the Act and improper maintenance of records indicated a weak internal control system. Non-compliance with key provisions of the Act compromised with the quality of food, posing serious health hazard to the general public.

2.2.8 Recommendations

In light of the audit findings, the Department may:

- *Evolve a mechanism to maintain database of food business operators by conducting survey of all food business operators;*
- *Upgrade the State Food Laboratory supported by adequate technical/ supporting staff and latest equipment;*
- *Fix targets for conducting inspections of the food establishments on regular basis and develop a protocol for lifting of food samples for various categories of food items based on risk assessment; and*
- *Strengthen monitoring mechanism for strict enforcement of the food safety norms.*

The matter was referred to the Government in September 2016; their reply was awaited (December 2016).

³¹2.1.13 of FSS (L and R) Regulation

Department of Health and Family Welfare

2.3 Up-gradation of Healthcare Facilities in Delhi

In National Capital Territory of Delhi, healthcare facilities are managed by the Department of Health and Family Welfare (DHFV). The performance audit of 'Up-gradation of Healthcare Facilities in Delhi' covering the period 2010-16 brought out that plans and projects for upgradation of health facilities in NCT of Delhi were marked with poor planning and execution resulting in delay in fructification of projects and denial of the intended benefits to needy patients. Some of the significant audit findings are summarized below:

Highlights

- *Directorate of Health Services (DHS) took possession of 77,558.35 sqm of land for 30 projects of new health facilities during 2007-16 at a cost of ₹ 14.26 crore and incurred additional expenditure of ₹ 3.28 crore on boundary walls, fencing, entry gates and security. But none of these plots were utilised as of August 2016.*

(Paragraph 2.3.3.1)

- *No headway could be achieved in 11 other projects of new hospitals with proposed bed capacity of 2,575 though executing agencies had been decided. DHS had incurred expenditure of ₹ 17.06 crore on these projects towards land cost, boundary walls and security.*

(Paragraph 2.3.3.2)

- *Maternal and Child Health (MCH) and Diabetes, Endocrine and Metabolic (DEM) Blocks of Guru Tegh Bahadur Hospital constructed at a cost of ₹ 72.07 crore remained underutilized even after 2-4 years of completion due to shortage of staff, non-installation of medical gas pipeline and delay in procurement of requisite equipment. Rajiv Gandhi Super Speciality Hospital and Janakpuri Super Speciality Hospital remained underutilized even after 4 to 8 years of completion due to non-recruitment of staff and lack of equipment.*

(Paragraphs 2.3.4.3, 2.3.4.4 and 2.3.4.5)

2.3.1 Introduction

Up-gradation of healthcare facilities is a continuous process necessary to maintain an adequate level of medical infrastructure for delivering effective, safe and quality health care to patients. The 12th Five Year Plan (2012-17) proposed certain key initiatives to improve health facilities including increasing the bed strength in existing hospitals, setting up of new hospitals, expansion and improvement of existing hospitals, procurement of machinery and equipment and expansion of operation theatres, blood banks and laboratories.

2.3.1.1 Organisational structure

In the Government of NCT of Delhi, healthcare facilities are managed by the Department of Health and Family Welfare (DHFV) headed by the Principal Secretary (Health). The Directorate of Health Services (DHS) and the Principal Secretary (Health) together control the administration of Government health institutions. A Planning Cell and a Hospital Cell under the DHS are vested with the responsibility of planning for and establishment of new hospitals. The administration of government hospitals/institutes is the responsibility of the concerned Director or Medical Superintendent of the hospital.

2.3.1.2 Audit objectives

The primary objectives of the performance audit were to assess whether:

- there was efficient planning for up-grading medical facilities and resource mobilization and upgraded facilities were created as per approved plans;
- the medical facilities were upgraded, fruitfully utilised for the purpose and intended benefits reached the beneficiaries;
- adequate manpower was available for the upgraded medical facilities to deliver healthcare services; and
- there existed an effective internal control mechanism.

2.3.1.3 Audit criteria

The following criteria were used in the performance audit:

- Policies of the Department of Health and Family Welfare and DHS as reflected in their Annual Plans and Master Plan-2021;
- Norms for staff, infrastructure and other facilities for hospitals as prescribed by Department of Health and Family Welfare; and
- Guidelines/instructions issued by NCT Government for procurement of drugs and medical equipment for upgraded facilities.

2.3.1.4 Audit scope and methodology

The performance audit of 'Up-gradation of Healthcare Facilities in Delhi' covering the period 2010-16 in respect of healthcare facilities under GNCTD was carried out from May to September 2016. Audit commenced with an entry conference on 26 May 2016 wherein the audit objectives, scope and criteria were discussed with heads of selected hospitals, DHS and DHFW. Records were examined in DHS and 10 hospitals³² out of 39 hospitals selected through random sampling. Besides, records in PWD were also checked for examining execution of works of expansion of existing hospitals and construction of new hospitals.

³² (1) Lal Bahadur Shastri Hospital (LBSH), (2) A & U Tibbia College and Hospital (AU Tibia), (3) Janakpuri Super Specialty Hospital (JSSH), (4) Deep Chand Bandhu Hospital (DCBH), (5) Maharishi Valmiki Hospital (MVH), (6) Lok Nayak Hospital (LNH), (7) G.T.B. Medical College and Hospital (GTBH), (8) Rajiv Gandhi Super Specialty Hospital (RGSSH), (9) G.B. Pant Hospital (GBPH), and (10) Dr. Baba Saheb Ambedkar Hospital (BSAH).

An exit conference was held on 30 September 2016 with the Joint Secretary (Health) on the audit findings. Thereafter, a draft report was issued to the Secretary (Health), on 18 October 2016. The response of Government (November 2016) has been suitably incorporated in the Audit Report.

Audit findings

2.3.2 Budget allocation and utilisation

Budget allocation and its utilisation by 10 selected hospitals is depicted in **Table 2.3.1** below:

Table 2.3.1: Budget Allocation and Utilisation

(₹ in crore)

Year	Budget	Expenditure	Saving	% of Saving
2010-11	92.80	65.27	27.53	29.67
2011-12	80.86	74.38	6.48	8.06
2012-13	136.50	114.58	21.92	16.06
2013-14	186.40	183.87	2.53	1.36
2014-15	201.90	184.76	17.14	8.49
2015-16	123.60	96.95	26.65	21.57
Total	822.06	719.81	102.25	12.44

Source: Demand for Grants and PWD (for expenditure figures).

Both the budget allocation and utilization have been on an increasing trend during 2010-11 to 2014-15. The sudden decrease in allocation and utilization by 38.78 per cent and 47.52 per cent respectively from 2014-15 to 2015-16 was due to less budget demand and progress of works. Throughout the period, the percentage of savings was limited in the range of 1.36 per cent to 29.67 per cent which was attributed to slow progress of work. Hospital wise budget allocations and expenditure are given in **Annexure 2.3.1**.

2.3.3 Planning for up-gradation of medical facilities

Planning is one of the most important aspects of any project management and is defined as preparing a sequence of action steps to achieve some specific goal. Audit noticed poor planning in acquiring land and establishing new hospitals as detailed in the following paragraphs:

2.3.3.1 Possession of land taken over but not utilised

Test check of records revealed that DHS took possession of 77,558.35 sqm of land for 30 planned projects of health facilities in NCT of Delhi during 2007-16 from land owning agencies. This included 26,966.71 sqm for 15 projects free of cost from the Panchayat Department (PD) at 14 different locations³³ and

³³(i) Ghevera, (ii) MadanpurDabas, (iii) Nizampur (two plots), (iv) Chandanpur, (v) Qutabgarh, (vi) Junati (vii) Mundka, (viii) Bakkarwala, (ix) ShafipurRanholla, (x) Bankner, (xi) Garhi Khusro, (xii) Quadipur, (xiii) Hiranki, and (xiv) SalahpurMajra.

50,591.64 sqm of land consisting of 15 plots³⁴ for 15 projects purchased from Delhi Development Authority (DDA), Delhi Urban Shelter Improvement Board (DUSIB) and PD at a cost of ₹ 14.26 crore (**Annexures 2.3.2 & 2.3.3**).

With regard to 30 planned projects where possession of land had been taken over in 2007-16, Audit observed the following:

- (i) DHS incurred ₹ 3.28 crore on erection of boundary walls, fencing, entry gates and security on 15 of these 30 plots during the period from January 2010 to September 2014. Preparatory work like site inspection and formation of medical functional programme was still going on in respect of all these plots and these were yet to be utilised.
- (ii) DHS took over 14,400 sqm of agriculture land at village Bamnoli at a cost of ₹ 3 crore for 200 bedded hospital (January 2010) and 6,951 sqm at village Jhatikara costing ₹ 47.57 lakh for 100 bedded Maternity-cum-Health Centre (September 2009). Subsequently, when DHS approached DDA for change of land use, DDA intimated (May 2011) that the land falls under Green Belt Area as per Master Plan of Delhi-2021(MPD) where no construction activity is permitted. No further action has been initiated by DHS to get refund or an alternate land.
- (iii) Similarly, DHS took over 3,632.24 sqm of agriculture land costing ₹ 27.10 lakh at village Molar Band for 60 bedded hospital in June 2007. Subsequently, when DHS requested for change of land use (August 2007, April, August, October 2011, and November 2012), DDA intimated (November 2012) that proposed land falls under Planning Zone ‘O’- Yamuna-River Front where building construction is not permitted. DHS requested PD (April 2015) to either refund the cost of land or allot an alternate piece of land but neither any action for refund of land cost has been initiated nor an alternate land been allotted (December 2016).
- (iv) Development of 15 plots that were received from the Panchayat Department could not progress due to revision of parking norms in Delhi, delay in construction, need for extra space, land disputes, land use change and NOC from DDA.

Thus, DHS was unable to utilise any of the 30 plots acquired at a cost of ₹14.26 crore for the intended purpose of establishing health facilities though 46 *per cent* had been in their possession for more than 2-3 years. This was attributable to failure to ascertain availability and suitability of the land for the intended purpose with reference to MPD 2021 at the stage of planning and release of funds to the land owning agency and poor coordination.

DHS stated (September 2016) that land was allotted to DHS prior to notification of MPD-2021 which introduced many changes in norms for land use resulting in

³⁴(i) Bamnoli, (ii) Jhatikara, (iii) Molar Band, (iv) Shastri Park, (v) Sector 23, Rohini, (vi) Gandhi Vihar, (vii) Sector 4, Rohini Extn.(viii) Tahir Pur, (ix) NarainaVihar, (x) Bindapur, (xi) JJ Colony, Nangloi, (xii) Dariyapur Kalan, (xiii) Neb Sarai (xiv) Kapashera, (xv) Baprolla.

the original plans not materializing. The reply is not tenable as MPD 2021 came into force on 07 February 2007 whereas these 30 plots were acquired between June 2007 and June 2015.

2.3.3.2 Lack of progress in execution of projects

In addition to the unutilized plots discussed in the preceding paragraph, DHS purchased land at a cost of ₹ 15.40 crore during the years 1986-2014 for establishing 11 new hospitals with proposed bed capacity of 2,575. The works were entrusted to executing agencies but no headway could be made due to various reasons as tabulated in **Table 2.3.2** below:

Table 2.3.2: Status of 11 hospital projects as on 31 August 2016

Sl. No.	Project	Area of land (date of possession)	Status/Remarks
1.	200 Bedded Hospital at Hastsal, (Vikaspuri)	15,139.15 sqm (10/2006)	The Government first decided (March 2011) to take up the project on Public Private Partnership (PPP) mode, but dropped the decision in October 2011. Preliminary estimates (PE) submitted in March 2013 and March 2015 by Delhi State Industrial and Infrastructure Development Corporation Ltd. (DSIIDC) (entrusted with project in December 2011) were not accepted due to inclusion of departmental charges. The project was finally entrusted to PWD in July 2016, 10 years after possession. DHS had paid ₹ 2.14 crore as land cost.
2.	200 Bedded Hospital at Jwalapuri	20,234.30 sqm (07/2008)	Project was given to DSIIDC in May 2011. In September 2013, DDA changed land use only for 15,661.33 sqm, but DSIIDC submitted (January 2014) a layout plan for entire 20,234.30 sqm, which was turned down by North DMC in October 2014. The project was handed over to PWD in July 2016 after 8 years of possession on the ground of levy of departmental charges by DSIIDC. DHS paid ₹ 1.86 lakh as land cost.
3.	200 Bedded Hospital at Keshav Puram	7,689.03 sqm (11/2006)	Land for the hospital was acquired in November 2006. A private party filed litigation in December 2006, which was set aside only in October 2013. DHS had been requesting DDA (Oct/2014, Jan/2015 & May/2015) for allotment of an adjacent plot of 1,500 sqm for better connectivity of the allotted plot to a 45 meter wide metro road, but to no avail. DHS paid ₹ 135.08 lakh as land cost and ₹ 2.78 lakh as interest.
4.	200 Bedded Hospital of at Madipur	34,155.47 sqm (07/2010)	DDA changed land use of 25,292.85 sqm out of 34,155.47 sqm in October 2011. There was an encroached plot of 4,775.29 sqm of Delhi Urban Shelter Improvement Board (DUSIB), which agreed to hand it over to DHS for better entry to the site and enhanced Floor Area Ratio (FAR) to 375 from 200 to increase the bed capacity to 500 beds. There was no further progress as DHS was awaiting removal of encroachment from the additional plot. DHS paid ₹ 3.30 lakh as cost of the land.
5.	100 Bedded Hospital at KL Block, Sarita Vihar	6,319 sqm (08/2007)	GNCTD approved (July 2013) PE of ₹ 109.39 crore submitted by PWD but construction did not commence as environment clearance was received only in March 2015. In July 2015, consultant submitted revised proposal for 240 beds based on revised FAR. There was no further progress as of August 2016. DHS paid ₹ 1.08 crore as cost of land and ₹ 3.08 lakh on boundary wall.

Sl. No.	Project	Area of land (date of possession)	Status/Remarks
6.	100 Bedded MCH at Deendarpur	8,093.7 sqm (12/2014)	Land was allotted in December 2011. When inquired by DHS, DDA intimated (July 2013) that 100 bedded hospital was permitted on the plot. However, due to non-availability of funds in 2013-14, land cost of ₹ 1.67 crore was paid in September 2014 and possession was taken in December 2014. There was no further progress. DHS paid ₹ 1.67 crore as land cost and ₹ 7.88 lakh for its security.
7.	225 Bedded Hospital project at Chattarpur	37,231.08 sqm (08/2009)	The land was part of the ridge and adjacent to the land of Directorate of Training and Technical Education (TTE). On the request of DHS in April 2011, DDA intimated in February 2013 that land use change would be cleared by Ridge Management Board. In December 2014, on a suggestion that an alternative piece of land can be swapped with the existing 55,037.25 sqm land of DHS and TTE, LG approved (May 2016) swapping of the land, which was under process as of June 2016. DHS paid ₹ 2.73 crore as land cost.
8.	200 Bedded Hospital Project at Siraspur	80,937.10 sqm (01/1986)	The land was under encroachment at the time of taking possession. Thereafter, the encroacher went into litigation, as a result of which there was no further progress till September 2010. DHS forwarded concept drawings to PWD for scrutiny in August 2012. The Secretary (Health) decided (January 2016) to plan for a 1,500 bedded hospital, a Medical College and Trauma Centre on the proposed land. DHS paid ₹ 1.27 lakh as land cost (1986).
9.	200 Bedded Hospital at Burari	16,000 sqm (03/1999)	The project was under litigation from May 2001 to October 2009. Land use was changed from 'agriculture' to 'institutional' in 2005 and PWD appointed a consultant (March 2008) at a fee of ₹ 2.57 crore. Foundation stone laying ceremony for hospital was also held in October 2008. Due to increase in FAR, GNCTD instructed (March 2015) to redesign the plan of hospital to increase the bed strength from 200 to 800. Approvals for revised plan from statutory bodies were under process. DHS incurred an expenditure of ₹ 88.67 lakh (₹ 58.67 lakh as land cost, ₹ 18.32 lakh on boundary wall, ₹ 3.86 lakh on foundation stone laying ceremony and ₹ 7.82 lakh on Bhumi Poojan).
10.	200 bedded hospital at Ambedkar Nagar	10,000 sqm (02/2009)	GNCTD decided (April 2013) that the Delhi State Health Mission under NRHM should bear the cost of the project (₹ 149.23 crore) and National Building Construction Corporation (NBCC) was nominated as executing agency with stipulated date of completion as October 2015. Meanwhile, GNCTD decided (May 2015) to re-plan the project to increase bed capacity from 200 to 600 beds. DHS paid ₹ 2.54 crore (₹ 1.88 crore as land cost, ₹ 49 lakh on boundary wall, ₹ 6.83 lakh for security, ₹ 9.57 lakh for foundation stone laying ceremony).
11.	750 Bedded Hospital at Dwarka	65,605 sqm (03/1997)	Administrative Approval and Expenditure Sanction of ₹ 156.77 crore was issued in December 2004 but there was no progress till June 2007 when GNCTD decided to increase the bed capacity to 750 and include provision of a Medical College in the Project. Revised PE of ₹ 350.09 crore was approved in November 2007. Tenders, invited in January and May 2008 could not be finalised due to pending approval from local bodies. Finally, work was awarded in August 2014 at a cost of ₹ 545.11 crore to be completed in 36 months. The current status of work was not provided to Audit, though called for. DHS incurred an expenditure of ₹ 4.46 crore (₹ 3.90 crore as land cost, ₹ 45.92 lakh on boundary wall and ₹ 9.85 lakh on foundation stone ceremony). This issue was also pointed out in the Audit Report (Non-PSU) of the C&AG for the year ended March 2010.

As brought out in the above table, DHS got possession of lands in three cases³⁵ prior to the year 1999, between 2006 and 2011 in seven cases³⁶ and during 2014 in one case³⁷. The works were entrusted to executing agencies viz. PWD, DSIIDC and NBCC but no headway could be achieved due to lack of foresightedness in accepting encroached or disputed lands or plots without reference to land use norms, frequent change of scope of work and delayed decision-making. Thus, despite investing ₹ 17.06 crore in acquisition of land, construction of boundary walls, fencings and security, the proposed new medical facilities could not be created.

2.3.4 Expansion/upgradation of existing hospitals and utilisation

Apart from establishing new hospitals and dispensaries, DHS also takes up works of expansion and up-gradation of existing medical facilities like increasing the bed capacity and adding new blocks in existing buildings.

2.3.4.1 Expansion of Lal Bahadur Shastri Hospital

(a) Enhancing bed capacity: Lal Bahadur Shastri Hospital (LBSH) is functioning since 1991 with capacity of 100 beds. The Ward Block had a provision for addition of two more floors to the present structure for accommodating 100 more beds. In June 2005, LBSH took possession of an adjacent plot measuring 7,703 sqm from DDA at a cost of ₹ 1.08 crore. Since then, various proposals for expansion of hospital including construction on adjacent plot were mooted without any final result as depicted in **Table 2.3.3** below:

Table 2.3.3: Sequence of proposals of expansion of LBSH

Sl. No.	Proposal	Reasons for change in the proposal or its Non-approval
1.	July 2006: Increasing the bed strength from 100 to 200 through vertical expansion of the hospital by constructing two additional floors on Ward Block and one floor each on OPD, Administration and Casualty wards.	Proposal was dropped by Expenditure Finance Committee (EFC) in September 2007 on the plea that health facility commensurate with the patient load cannot be achieved with mere addition of 100 beds.
2.	September 2007: EFC decided to explore the option of constructing a 500-750 bedded hospital on the adjacent land (7,703 sqm).	The construction of multi-storeyed building was not possible on the plot, as a High Tension Transmission (HTT) line was passing overhead diagonally. So, PWD was asked (August 2007) to explore possibilities of shifting or placing the HTT line underground. As it was not possible to shift or place the overhead line underground due to paucity of space and densely populated area around the said compound, no action was taken on this proposal.

³⁵Siraspur, Burari and Dwarka

³⁶Vikaspuri, Jwalapuri, KeshavPuram, Madipur, SaritaVihar, Chattarpur and Ambedkar Nagar.

³⁷Deendarpur

Sl. No.	Proposal	Reasons for change in the proposal or its Non-approval
3.	December 2008: LBSH mooted a fresh proposal of relocating the residential complex situated in the campus to the adjacent plot in 'L' shaped manner, develop a green belt under the HTT line and utilize the area of present residential complex for expansion of the hospital.	There was nothing on record regarding any action or cancellation of this proposal.
4.	January 2010: A proposal for construction of Mother and Child Hospital (MCH) and Trauma Block on the adjacent plot was moved.	No action was taken on this proposal. Neither was anything on record regarding cancellation of this proposal.
5.	August 2010: It was proposed to construct 150 bedded hospital on the adjacent land. A consultant was also appointed by PWD in February 2012.	In February 2013, the appointment of consultant was kept in abeyance. However, no reason was found on record for the same.
6.	August 2013: GNCTD approved the original proposal of LBSH to increase the bed strength to 200 from 100 beds through vertical expansion of the existing structure subject to technical feasibility, structural and seismic safety without taking cognizance of development in preceding years.	In a meeting held in February 2014 of LBSH and PWD officers, it was observed that for structural suitability and seismic study report, a specialized structural consultant was required and architectural planning was also required to be done holistically, incorporating all services like sewerage, water, lifts, air conditioners and electric supply.
7.	June 2014: LBSH decided to add 50 beds by adding one floor of semi-permanent structure on existing Ward Block on priority basis.	This decision also did not materialize as the Minister of Health during his inspection of LBSH (March 2015) decided to construct a permanent structure on the land opposite to administrative block to accommodate 200-300 beds, instead of semi-permanent structure.
8.	November 2015: A consultant was appointed by PWD for construction of new blocks, remodelling and up-gradation of existing block.	In January 2016, PWD requested LBSH to issue AA&ES of ₹ 2.10 crore for the consultancy fee. But, nothing was found on record regarding this AA&ES.
9.	March 2016: DMRC shifted the HTT line at its own cost.	No further progress as of August 2016.

Thus, LBSH remained a 100 bedded hospital even after having a vacant land in its possession for more than 11 years due to multiple change of plans and proposals.

(b) Establishing Histopathology Department: The 12th Five Year Plan envisaged establishment of a Histopathology Department in LBSH subject to availability of manpower and infrastructure. However, LBSH initiated no steps for creation of required posts and infrastructure for establishing Histopathology Department. In the absence of Histopathology facilities, LBSH sent 4,749 samples of histopathology investigation to Maulana Azad Medical College during 2010-16 causing avoidable inconvenience to patients.

2.3.4.2 Up-gradation of Maharishi Valmiki Hospital

The Expenditure Finance Committee approved (March 2013) a proposal of ₹ 51.37 crore for up-gradation of Maharishi Valmiki Hospital (MVH) by constructing a 100 bedded Mother and Child Health (MCH) Block. The MS (MVH) accorded expenditure sanction in April 2013 to PWD with stipulated period of completion as 36 months. The PWD completed the construction and handed over MCH block to MVH in June 2016. An expenditure of ₹ 39.30 crore had been incurred as of December 2015.

Audit observed that MVH sent the demand of equipment for the proposed MCH Block to Central Procurement Agency (CPA) in June 2015 which could not materialize till August 2016. In October 2014, DHFW also initiated steps to have Medical Gas Pipeline (MGP) for operationalization of newly constructed operation theatres in the MCH. PWD submitted (February 2015) a preliminary estimate of ₹ 3 crore for installation of the MGP which was revised to ₹ 3.12 crore in April 2016. PWD submitted the revised estimate to MVH which was returned (June 2016) to PWD with observations regarding inclusion of liquid oxygen in the proposal, final map of building and shifting of gas manifold to ground floor. Besides, Fire Clearance Certificate was yet to be obtained from the Delhi Fire Services and creation of posts for required staff for the new facility was still under process. Thus, due to lack of synchronization of basic activities related to installation of MGP, procurement of equipment, obtaining of fire clearance certificate and staff recruitment which are essential for establishing and operationalizing a new medical unit, the newly constructed MCH Block could not be put to use even five months after its construction.

2.3.4.3 Upgradation of facilities in Guru Teg Bahadur Hospital:

(a) Under-utilisation of Maternal and Child Health (MCH) Block: The Hospital constructed a 500 bedded MCH Block at a cost of ₹ 53.32 crore. The work was completed in October 2011. Audit observed that mandatory Medical Gas Pipeline (MGP) and modular operation theatres were yet to be established in the MCH Block as of August 2016 due to frequent changes in modalities of execution and scope. The proposal was finally sent to the Standing Finance Committee in December 2015 and approval was awaited as of November 2016.

(b) Diabetes, Endocrine and Metabolic (DEM) Blocks: In 2007, Guru Teg Bahadur Hospital (GTBH) planned to establish a Centre for Diabetes, Endocrine and Metabolic (DEM). The construction work was completed by PWD in March 2014 at a cost of ₹ 18.75 crore. However, services like ICU, clinical epidemiology research lab and molecular endocrinology lab were yet to be made operational as of August 2016 because of *inter alia* non-installation of MGP.

Audit noticed that GTBH had decided in September 2015 to replace its existing MGP plant with a new one of higher capacity in the hospital (including DEM Block) and sent the proposal (December 2015) of ₹ 29.27 crore to the Standing Finance Committee, approval for which was awaited as of August 2016.

Audit further noticed that GTBH sent requisition for 39 diagnostic equipment for DEM Block to HLL Life Care Limited in September 2013. However, out of 39 equipment, only nine were supplied by HLL as of August 2016. Acceptance of Tender (A/T) for three equipment was awaiting CPA's approval, re-tendering was to be done for 10 equipment and price bids for 12 equipment had been approved but was awaiting sanction of MS. In four cases, Letter of Credit account was to be opened and purchase order had been placed for one equipment.

Thus, lack of coordination and poor planning and execution of the projects resulted in non-operationalisation of augmented facilities depriving the patients of the intended benefits.

2.3.4.4 Partially functional Rajiv Gandhi Super Specialty Hospital

GNCTD acquired 5.39 hectare of land from DDA at a cost of ₹ 6 crore in March 1999 for construction of a 650 bedded Rajiv Gandhi Super Specialty Hospital (RGSSH) at Tahirpur. The hospital was constructed during December 2000 to April 2013 at a cost of ₹ 153.68 crore. Scrutiny of records revealed that GNCTD had decided in April 2008 to run the hospital on Public Private Partnership (PPP) mode and wrote to DDA for permission. DDA, however, refused (September 2011) to allow GNCTD to sell, transfer, assign or otherwise part with possession of the site. Thereafter, GNCTD decided to operationalise the hospital under society mode from September 2013. As per Memorandum of Association between RGSSH and GNCTD (September 2013), RGSSH was to provide advance infrastructure for diagnosis of various ailments and their treatment including cardiology, rheumatology, nephrology, gastroenterology, urology, general critical care, hematology, bone marrow transplant, endocrinology along with support specialties like radiology, pathology and microbiology. However, even after three years of operationalisation of the hospital under society mode, RGSSH has not started delivering all the services as summarized in **Table 2.3.4** below:

Table 2.3.4: Status of various services in RGSSH

Sl.No	Areas	Status	Reasons for non-utilisation
1.	Vacant floors and non-functional emergency ward	RGSSH presently provides OPD facilities in Gastro, Urology and Cardiac departments only.	The Hospital attributed the underutilization of facilities to insufficient outsourced staff, shortage of specialists, regular medical and para medical staff.
2.	Non utilization of Operation Theatres (OTs):	12 OTs (10 Modular and 2 Semi-Modular) were constructed, for which hospital procured 12 OT tables (₹ 1.12 crore), OT Pendants and Hatch Box costing ₹ 6.78 crore in March 2015.	No surgery was conducted due to non-availability of specialists as of March 2016. However, the Hospital intimated (November 2016) that there are 20 faculties with 55 Resident Doctors for three specialties (Gastro, GI Surgery, Cardio) and that three OTs have become functional.
3.	Non-availability of equipment for pathological tests	Facility for 19 types of tests related to biochemistry, five pathological tests and two microbiology tests was not available in RGSSH, though funds were not the constraint as financial statement of RGSSH for the year 2014-15 revealed ₹ 109.67 crore as unspent balance.	The facility for tests was not available for want of essential equipment even though the approximate cost of these essential equipment were meagre (only ₹ 2.91 crore). The Hospital informed (November 2016) that tendering of equipment was kept on hold by GNCTD.

RGSSH attributed non-availability of doctors and staff as the main constraint for full operationalisation of the hospital facilities as only 54 posts were sanctioned at the time of constitution of the Society. Additional 882 posts, required for first phase commissioning for 250 inpatient beds were sanctioned in November 2015.

2.3.4.5 Under-utilisation of Super Speciality Hospital at Janakpuri

The construction of Janakpuri Super Speciality Hospital (JSSH) was completed in March 2007 at a cost of ₹ 71.95 crore. However, even after the inauguration of the hospital with a total built up area of 44,475 sqm, only an area of 16,236.46 sqm (36.9 per cent) was being utilized for services like OPD and laboratory and built up area of 28,238.19 sqm was lying vacant (August 2016). Status of underutilized services/shortcomings in the five storied hospital is discussed in **Table 2.3.5** below:

Table 2.3.5: Status of underutilized services/shortcomings

Sl.No	Shortcomings	Details of Shortcomings
1.	Non-functional services	JSSH started its Indoor Patient Department (IPD) services with 26 beds with effect from February 2015, but dietary services were not available for IPD patients. No emergency services were being provided by JSSH as of August 2016. Neither OT/ ICU services nor Central Sterile Services Department (CSSD) was started.
2.	Non-availability of MRI machine	JSSH has non-invasive Cardiology, Neurology, Nephrology, Gastroenterology and testing facilities, like Electro Cardio Graphy, EMG, Halter, TMT, MCV, other blood investigation facilities, and one Digital X-Ray ventures, but it does not have MRI facility. Request to purchase MRI machines and one additional Digital X-Ray ventures was made to HLL in January 2014, which finalized the tender document and submitted it for approval in March 2015 to GNCTD. However, machines were still awaited even after lapse of three years as of November 2016.
3.	Blood Bank not established	An area of 3000 sqft was earmarked in the basement (August 2013) for Blood Bank and approved by the State Blood Transfusion Council, GNCTD. PWD was sanctioned ₹ 1.15 crore (₹ 73.26 lakh for development of Blood Bank, ₹ 22 lakh for electrical work and ₹ 19.29 lakh for water cooled castle units) in November 2013, March and July 2014. However, Blood Bank was not functional as of August 2016.
4.	Non-functional Delhi State Cancer Institute, Janakpuri	A separate two storied building for Oncology Services was constructed in March 2007. In July 2008, GNCTD decided to explore the feasibility of taking over of this building by the Delhi State Cancer Institute (DSCI), but it took four more years to decide the matter and OPD and Radiotherapy Blocks were handed over to DSCI in June 2012. Another wing at first floor of the main building was also handed over to DSCI in August 2012 for setting up 50 bedded general ward for cancer patients. DSCI carried out essential modifications/ restorations to start the OPD services in March 2013. However, the building was lying unused for over six years. Tenders for procurement of medical equipment were finalized in 2014-15, but approval from Department of Health was awaited as of November 2016.

JSSH stated (November 2016) that services like IPD, emergency, casualty and surgical services could not be started due to non-availability of faculty and specialists. Non-availability of trained blood bank staff and medical officer caused the delay in functionalization of blood bank services.

Further, during 2013-15, DSCI incurred an expenditure of ₹ 2.13 crore on modification and up-gradation of 50 bedded ward and ₹ 2.55 crore on renovation/modification of oncology building. However, ward services could not be made functional due to non-availability of sanctioned posts. The administrative department recommended creation of 334 posts of various categories in March 2015 to the Department of Health. However, approval for the same was awaited as of August 2016.

2.3.4.6 Underutilisation of Modular OT in Govind Ballabh Pant Hospital

The Govind Ballabh Pant Hospital (GBPH) awarded a contract for construction of six neurosurgery OTs, clean rooms and support areas, ICU and staff accommodation to a firm in March 2007 at a tendered cost of ₹ 6.14 crore. The contractor was to complete the work within 180 days and provide comprehensive warranty for initial five years and free Annual Maintenance Contract (AMC) for next five years. The work was completed in March 2010 after a delay of 30 months. The CMC period started from April 2010 and AMC from April 2015.

Similarly, GBPH awarded another contract on the same terms for construction of four Modular OTs for Liver Operations to the above firm in September 2008 at a tendered cost of ₹ 2.95 crore, to be completed within 180 days. The site was handed over to contractor in March 2009 and work was completed in March 2012 after a delay of 30 months. In this case, the CMC period started from April 2012 and AMC from April 2017.

Both the agreements contained a provision that in case of defects, the contractor may be called upon to rectify the defects and in the event of his failure to do so, the Department may get the repair done from the open market and the cost of such repairs alongwith losses/compensation may be recovered from the contractor.

Audit noticed that the Hospital conducted (July 2012) a technical audit which pointed out defects such as water seepage in ICU and OT areas, high temperature in OT corridors and entrance lobby and significant vibration in floor which were covered under the comprehensive warranty. These defects were conveyed to the contractor who however failed to rectify them. Instead of invoking the clause of the contract stipulating recovery of the cost of repairs, losses, compensation and damages from the firm, GBPH, approached GNCTD (May 2016) with a request to hand over the maintenance of OTs to PWD in the interest of patient care and safety. But no action was taken as of August 2016. Hospital stated (December 2016) that lesser number of patients were operated as OT was non-functional in neurosurgery department for 2.5 years out of 3 years (March 2013 to November 2016). Thus,

Modular OTs under Neurology and Gastro Intestine Surgery remained under utilised, depriving patients of the facilities even after incurring an expenditure of ₹ 8.23 crore on the Neurosurgery and Liver OTs due to the failure of hospital authorities to either enforce the terms of the contract or rectify the deficiencies despite lapse of over 3 years.

2.3.4.7 Diversion of land meant for dispensary

In August 2010 DDA allotted land measuring 1,870 sqm to DHS for construction of dispensary building at Shakarpur at a cost of ₹ 35.25 lakh. The allotment letter expressly stated that the allotted land shall be used only for the construction of dispensary building and no other purpose whatsoever.

The construction of dispensary building was completed in July 2015 at the cost of ₹ 7.98 crore. However, no dispensary was opened in the building. Instead, Central Procurement Agency utilized two floors of the building while the remaining space was occupied by the Dengue Cell of DHS and Centralised Accident and Trauma Services. Hence, the building constructed at a total cost of ₹ 8.33 crore (cost of land and construction of building) was not used for the intended purpose in violation of express condition for allotment of land.

2.3.5 Human Resource Management

2.3.5.1 Shortage of doctors, nurse and paramedical staff

Audit scrutiny revealed acute shortage of staff in selected hospitals as far as Senior Residents, Junior Residents, paramedical staff, staff nurses and technical staff are concerned. The shortage ranged from 15 to 91 *per cent* in JSSH, DCBH, RGSSH, GTBH (DEM and MCH Blocks), impacting the functioning of the hospitals (**Annexure 2.3.4**). In JSSH, though approval for creation of 361 posts of doctors, nurses and paramedical staff was given (August 2014), no post was filled as of March 2016. Posts of one eye specialist, two medicine specialists and 13 nursing sisters were vacant as on 31 March 2016 in DCBH.

2.3.5.2 One Stop Centre (OSC) established for rape victims

GNCTD decided to set up 'One Stop Centre (OSC)' in 11 hospitals in Delhi during the financial year 2014-15 to provide multiple facilities and services under one roof to the rape victims. The proposed centers were required to function with separate infrastructure and staff in addition to the available facilities in the hospitals. A meeting of DHFW in December 2015 on Standard Operating Procedure (SOP) for OSCs decided that each OSC should have five counselors, five Senior Resident Doctors, five staff nurses and five nursing orderlies.

Audit observed that these centers, in addition to handling rape cases, were also handling cases like physical assault, medical examination and Medico Legal Cases

(MLC). However, only nine posts for LBSH and none for the other hospitals were sanctioned. Details of reported cases in four hospitals (part of audit sample) are shown in **Table 2.3.6** below:

Table 2.3.6: Reported cases in 4 OSCs out of 10 selected hospitals

Sl.No.	Hospital	OSC started	Reported cases	Sexual assaults cases (%)
1	BSAH	July 2015	737	353(48)
2	LBSH	May 2015	800	348(44)
3	GTBH	Sep 2014	2,151	384(18)
4	LNH	Feb 2015	924	134(15)
Total			3,822	1,219(32)

Audit observed that even though 3,822 cases were reported in these centers which included 1,219 cases of sexual assault (32 *per cent*) till August 2016, yet no counselor was posted in any of the OSCs in whose absence the basic objective of creation of OSCs for providing psychological assistance to rape victims remained largely unattended. Audit scrutiny revealed that despite clear directions on recruitment of staff for proper functioning of OSC, hospitals did not initiate steps for recruitment of required staff.

BSAH and GTBH stated (September 2016) that staff of Obstetrics & Gynecology (OBG) Department was managing the OSC and counselors were called through NGOs while LBSH stated that a proposal was submitted in January 2016 for 11 additional posts which was not sanctioned as of August 2016. LNH stated (September 2016) that counselors were called from Rape Crisis Cell working under the Delhi Commission for Women.

2.3.5.3 Overloaded pharmacy counters

As per Committee Report on Norms for Manpower in Hospitals of GNCTD (2003), a pharmacist can entertain 180 patients. As per records made available to Audit, counter-patients ratio in BSAH, LBSH, MVH, GTBH and LNH ranged from 1:198 to 1:586 during 2010-16 reflecting a phenomenally higher ratio than prescribed as shown in **Annexure 2.3.5**. Audit observed that despite increase in patient load, hospitals failed to address the issue of overcrowding at pharmacy counters for distribution of medicines.

2.3.5.4 Shortage of Dieticians

A Dietician along with medicine and therapeutics is important for taking care of admitted patients. In guidelines for standardized hospital diets issued by DHS, staff requirement³⁸ for supervising the dietary needs of patient is mentioned.

³⁸For 500 Beds (BSA Hospital): 01 Senior Dietician, 01 Dietician, 04 Assistant Dieticians and 02 Supervisors and, For 750 Beds (GBPH and GTBH): 01 Chief Dietician, 01 Senior Dietician, 01 Dietician, 06 Assistant Dieticians and 02 Supervisors

Audit observed that in GBPH, BSA and GTBH, no post of Chief Dietician, Senior Dietician, Assistant Dietician and Supervisor was sanctioned. There was only one Dietician in each of these hospitals against the requirement, reflecting inappropriate dietary services to the patients. In DCBH (200 bedded) the sanctioned post of only one Assistant Dietician was lying vacant as of August 2016.

2.3.5.5 Shortage of Radiologists

An ultrasound machine was installed in October 2008 in Tibbia Hospital but no ultrasound was done after December 2012 due to non-availability of radiologist, leading to patients being referred to other hospitals.

2.3.5.6 Inadequate staff in forensic medicines/ mortuaries

Audit observed that the mortuary unit in GTBH did not have the required 45 posts though 12,106 autopsies were conducted during the last seven years while 28 posts were required to be filled up in BSAH. LBSH submitted (January 2015) requirement of 19 posts for the mortuary to the Department of Administrative Reforms (AR) but no post was created as of August 2016.

A meeting of HODs of the Forensic Medicines of hospitals held (January 2015) to discuss hospital wise need assessment/gap analysis for medical equipment and human resource in mortuaries recommended posting of staff according to number of autopsies conducted by the hospitals. The Meeting also recommended expediting the process of creation of required posts and recruitment of staff against the existing vacant posts. However, no action was taken by GNCTD on the request by the selected hospitals.

2.3.6 Internal control mechanism

Internal control is a management tool used to provide assurance that the objectives of the organization are being achieved as planned. It was, however, noticed that internal control in DHS and the hospitals was weak as evident from deficiencies and shortcomings highlighted in the preceding paragraphs.

Audit also observed that after entrustment of works to executing agencies (PWD, NBCC, and DSIIDC) there was lack of coordination between the executing agencies and DHS for monitoring of these projects. As per the conditions of the Administrative Approvals and Expenditure Sanctions issued by the DHS/Hospitals, the executing agencies should regularly inform the client departments about the progress of work and expenditure on projects. It was noticed that five selected hospitals issued sanctions aggregating to ₹ 112.22 crore during 2010-16 to PWD for up-gradation and maintenance of medical facilities. However, DHS/Hospitals did not pursue the physical and financial status of ongoing works reflecting poor internal control and monitoring mechanism.

2.3.7 Conclusion

Thus, plans and projects for upgradation of health facilities in NCT of Delhi were marked with poor planning and execution resulting in delay in fructification of projects and denial of the intended benefits to needy patients. During 2007-16, Directorate of Health Services (DHS) took possession of 77,558.65 sqm of land at a cost of ₹ 14.26 crore for 30 planned projects and further spent ₹ 3.28 crore on boundary walls and fencing; but none of these projects could be started. Not much head way could be made in other 11 projects of new medical facilities and hospitals though DHS had incurred an expenditure of ₹ 17.06 crore on them towards land cost and boundary walls. Expansion and upgradation projects in existing hospitals could not be fully utilized due to lack of coordination and proper sequencing of various inter-linked activities including failure to provide for the requisite medical staff.

2.3.8 Recommendations

In light of the audit findings, Government may:

- *Strengthen project planning and execution by ensuring due diligence at the time of land procurement so as to ensure that the plot being acquired was actually available and suitable for the intended medical facility;*
- *Create a separate dedicated wing in the Department of Health and Family Welfare for coordination with various agencies and synchronization of planned activities for creation of medical facilities; and*
- *Ensure optimum utilization of upgraded/new medical facilities by filling of sanctioned posts of doctors/ paramedical staff/ support staff including technical staff.*

Department of Labour
2.4 Implementation of Labour and Safety Laws in Industries by the Labour Department

With a view to assessing the performance of the Department in enforcing the labour laws and safety measures in industries, a performance audit covering the period 2011-16 was conducted from May 2016 to September 2016. The audit exercise brought out that lack of diligent adherence to and enforcement of the provisions of the Acts provided no assurance as to the achievement of the fundamental objective of ensuring expeditious and fair resolution of industrial disputes and protection of the legitimate interests of the workers in terms of safety and health standards and protection from exploitation. Some of the significant findings are summarised below:

Highlights

- *The conciliation and dispute redressal machinery for Industrial Disputes was neither fully constituted nor activated. Works Committees had not been set up.*
(Paragraph 2.4.3.1)
- *There was delay ranging from 1 to 121 days in commencement of the conciliation proceedings by the Conciliation Officers and also in completion of conciliation proceedings beyond the prescribed period of 14 days in 891 cases.*
(Paragraph 2.4.3.2(a))
- *There were delays in publication and implementation of awards. 45 per cent of the awards were published with a delay ranging from three months to more than six months.*
(Paragraph 2.4.3.3(d))
- *The enforcement of awards and recovery of dues from the employers of workmen was inadequate. Out of 1,245 recovery certificates aggregating ₹ 36.32 crore issued during 2011 to 2016 (April), recoveries in 379 cases amounting to ₹ 4.46 crore were pending.*
(Paragraph 2.4.3.3 (e))
- *The department did not carry out periodical verification of establishments/contractors to ensure that they were registered and had the requisite licenses under the Contract Labour Act. Inspections were not conducted in a planned manner and follow-up action on inspection reports was not adequate to ensure prevention of exploitation of contract labour.*
(Paragraph 2.4.4.1)

- ***Factory licences were granted without ensuring whether factories had prepared the Health and Safety Policy in 54 out of 55 cases.***

(Paragraph 2.4.7.4)

- ***The assessment of cess cases was done without considering all cost factors in construction of buildings. There was short levy and collection of cess and interest thereon, amounting to ₹ 1.53 crore.***

(Paragraph 2.4.8(b))

2.4.1 Introduction

The Department of Labour, Government of National Capital Territory of Delhi (the Department), plays a crucial role in maintaining industrial peace and harmony between the employers and workers which goes a long way in furtherance of economic prosperity and employment generation. The Department aims to promote growth of industrial and commercial activities by ensuring harmonious relationship between the employer and workmen through preventive steps, conciliatory effort, adjudicatory and punitive action and promoting welfare activities for workmen in the National Capital Territory of Delhi. This is done through provisions of 21 Central Acts enforced both by the Centre and States including the Government of National Capital Territory of Delhi (GNCTD) and 17 Central and local Acts enforced by GNCTD (**Annexure 2.4.1**). Disputes between workers and management are settled through the process of conciliation and by the Labour Courts and Industrial Tribunals.

2.4.1.1 Organisational set up

For administrative purposes, the Department is organised on territorial basis into nine districts each headed by a Joint/Deputy Labour Commissioner who is assisted by Assistant Labour Commissioners and Labour Officers. The laws relating to safety in industries are enforced by the Directorate of Industrial Safety and Health (DISH) with the help of Inspectorate of Factories, Inspectorate of Boilers and Electrical Inspectorate. These Inspectorates issue and renew licenses under various Acts (the Factories Act, 1948, the Indian Boilers Act, 1923, the Bombay Lifts Act 1939, the Cinematography Act, 1952 and the Electricity Act 2003).

2.4.1.2 Audit scope and methodology

A performance audit on implementation of two Acts (the Industrial Disputes Act, 1947 and the Contract Labour (R&A) Act, 1970) appeared in the Audit Report of the Comptroller and Auditor General for the year ending March 2007 relating to GNCTD. Neither the Government submitted a comprehensive Action Taken Note (ATN) nor did the Public Accounts Committee (PAC) discuss the performance audit report as of October 2016. Hence, many of the issues highlighted in the

Audit Report remained unaddressed viz. establishment and functioning of Works Committees, Boards of Conciliation and Courts of Inquiry and conduct of conciliation proceedings under the Industrial Disputes Act 1947 and mechanisms to ascertain unregistered establishments and unlicensed contractors under the Contract Labour (Regulation & Abolition) Act, 1970.

With a view to assessing in a more holistic manner the performance of the Department in enforcing the labour laws and safety measures in industries and work places, a performance audit covering the period 2011-16 relating to the implementation of four Acts viz. the Industrial Disputes Act, 1947, the Minimum Wages Act, 1948, the Building and Other Construction Workers Cess Act, 1996, and the Contract Labour (R&A) Act, 1970 was conducted from May 2016 to September 2016. Records were examined in the office of the Secretary-cum-Commissioner (Labour) and three District Offices selected on the basis of highest number of cases and complaints received during the period covered under the audit. Besides, safety measures and the process of issuance and renewal of licences under two Central Acts enforced by the GNCTD (the Factories Act, 1948, and the Employees Compensation Act, 1923) were also examined in the office of the Labour Commissioner and Directorate of Industrial Safety and Health (DISH).

An entry conference was held with the Secretary-cum-Labour Commissioner on 26 May 2016 to discuss the audit objectives, scope and methodology. An exit conference was held on 29 September 2016 to deliberate on the audit findings. Replies received from the Government have been suitably incorporated in the report.

2.4.1.3 Audit objectives

The primary objectives of this audit were to assess whether:

- the Department was able to provide safeguards to workmen through preventive, conciliatory, adjudicatory and punitive action as provided under various provisions of labour laws, and
- the Department was able to enforce statutory laws relating to safety measures in industries.

2.4.1.4 Audit criteria

The following criteria were applied to assess the performance of the Department:

- Provisions of selected six Acts³⁹ and Rules framed there under;
- Directives issued by Courts; and
- Notifications, orders and circulars issued by the Department.

³⁹(i) The Industrial Disputes Act, 1947, (ii) The Contract Labour (R & A) Act, 1970, (iii) The Minimum Wages Act, 1948, (iv) The Employee's Compensation Act, 1923, (v) The Factories Act, 1948, and (vi) The Building and Other Construction Workers' Welfare Cess Act, 1996.

Audit findings

2.4.2 Absence of appropriate data

With a view to ensuring that the legitimate interests and entitlement of workers as guaranteed under various labour laws⁴⁰ are safeguarded, Department must have a comprehensive database of number of establishments, shops and factories in both the organised and unorganised sectors including the number of workers employed by them covered under the Contract Labour (R & A) Act, 1970, the Minimum Wages Act, 1948, and the Factories Act, 1948. However, the Department did not institutionalise any mechanism to collect such data including data of establishments, factories and shops which are required to be registered with it under various Acts. In the absence of such data, the Department neither prepared a comprehensive action plan nor set annual targets for conducting periodic inspections which would facilitate its efforts towards ensuring the legitimate interests, welfare and safety of the workers envisaged under the various acts.

The Government stated (November 2016) that 12,370 factories and 3,59,100 shops/establishments are registered under the Factory Act, 1948, and Delhi Shops and Establishment Act, 1954, respectively and there is no provision for conducting survey under any Act. The fact remains that the Department had no mechanism to ascertain whether all shops, industries and establishments in Delhi have been registered as required under various Acts and to ensure that the rights of workers are safeguarded under the labour laws.

2.4.3 The Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947, was enacted by Parliament to provide a machinery and forum for investigation and settlement of industrial⁴¹ disputes. The Act came into force with effect from 01 April 1947. The primary objective of the Act is early settlement of industrial disputes through collective bargaining, mediation and conciliation, arbitration and adjudication in an amicable and peaceful manner so as to maintain industrial peace and harmony. To achieve its objectives, the Act envisages setting up of Works Committees, Conciliation Officers and Boards of Conciliation. Audit appraisal revealed that there were chronic delays in disposal as well as referral of cases to the Labour Courts/ the Industrial Tribunals, delay in publication of awards and ineffective mechanism for watching implementation of awards as discussed in the succeeding paragraphs.

⁴⁰As mentioned in section 4 of Industrial Dispute Act,1947; section 16 to 19 of Contract Labour (R&A) Act,1970; section 3 of Minimum Wages Act, 1948; section 3 of Employee's Compensation Act, 1923 and Chapter III, IV & V of Factories Act, 1948.

⁴¹Industrial dispute means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any persons.

2.4.3.1 Absence of mechanism to check constitution of Works Committee

As per Section 3 of the Industrial Disputes Act, in an industrial establishment in which 100 or more workmen are employed or have been employed on any day in the preceding 12 months, the Government may require, by general or special order, the employer to constitute Works Committee to promote measures for securing and preserving amity and good industrial relations in the establishment.

However, the Government has not evolved any mechanism to check whether all industries having 100 or more employees had constituted the Works Committees. Therefore, Audit could not authenticate whether the provisions of this particular section of the Act have been implemented to cover all workers. Further, in the absence of any data about the number of industries/establishments alongwith the number of workers employed, Audit was also unable to assess the number of workers whose interests have been placed at risk on account of non-formation of the Works Committees.

The Government stated (November 2016) that with the limited number of inspectors, it was not possible to check each and every establishment adding that trade unions play an important role in espousing the interests of workers and Works Committees do not have much significance. Fact remains that the purpose for which these committees were to be formed was not fulfilled.

2.4.3.2 Conciliation proceedings

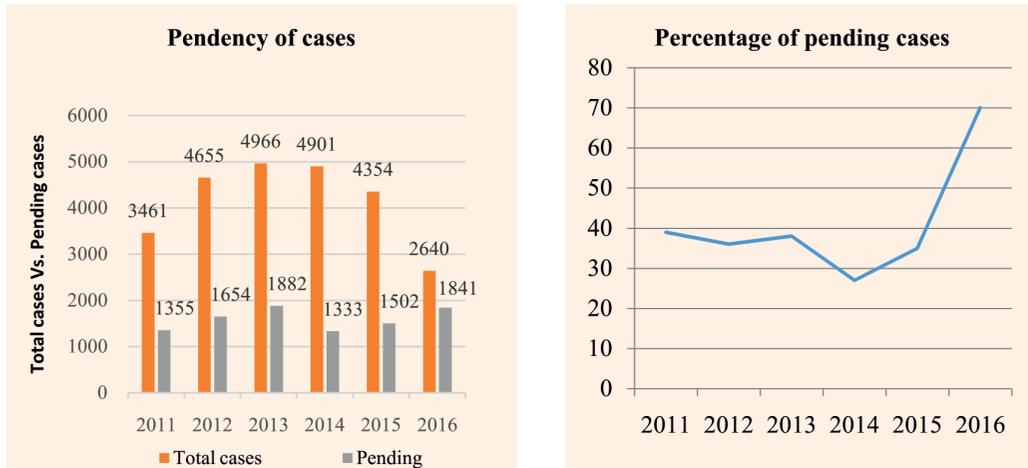
Section 4 of the Act authorizes the Government to appoint Conciliation Officers who are charged with the duty of mediation and promoting the settlement of industrial disputes between the workmen and management.

(a) Delay in conciliation proceedings: Section 12 of the Act stipulates that where any industrial dispute exists or is apprehended, the Conciliation Officer shall hold conciliation proceedings for the purpose of bringing about a settlement without delay. If no settlement is arrived at, a report under this section is to be submitted within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the Government. However, following shortcomings were noticed in this regard:

(i) Commencement of proceedings: The Act does not prescribe any time limit for commencement of conciliation proceedings and the Department also did not fix any time limit for this purpose. Test check of cases revealed that Conciliation Officers took one to 121 days to commence the conciliation proceedings from the date of receipt of dispute cases during 2011-16.

(ii) Completion of proceedings: Out of 948 cases test checked, there was delay beyond the prescribed period of 14 days in completing conciliation proceedings in 891 cases (94 per cent). Out of these, there was delay upto 45 days in 158

cases, 46 to 90 days in 214 cases and more than 90 days in 519 cases. The delay in commencement and completion of conciliation proceedings resulted in pendency of cases ranging from 27 to 70 per cent from January 2011 to April 2016. Details of dispute cases received and pending during January 2011 to April 2016 are shown in the graph/chart:



The Government stated (November 2016) that efforts were made by District Conciliation Officers to bring about mutual settlement between contesting parties; but in most cases, management was not willing to settle the disputes at conciliation level with the intention to prolong the litigations. However, in order to reduce the pendency, special campaign including 'Industrial Adalat' in association with Delhi Legal Services Authority is being envisaged.

(b) Low success rate of conciliation proceedings: Scrutiny of records in three selected districts revealed that most of the cases could not be resolved by Conciliation Officers and were referred to the next level of dispute resolution i.e. Labour Courts and Tribunals. The failure rate was 54 per cent in West District, 52 per cent in South District and 62 per cent in North-West District during 2011-16. The overall percentage of cases settled by Conciliation Officers of these districts ranged from 11 to 16 per cent only. Low rate of settlement and high rate of failure undermined the purpose of the conciliation machinery.

For test check, Audit requisitioned 1,564 case files (10 per cent of total 15,643 cases which were registered during 2011-16 in three selected districts). However, only 948 files were made available to Audit and remaining files were not traceable. Out of the test checked cases, only 20 per cent were settled during the conciliation proceedings and 65 per cent cases were declared as failure and referred to the next adjudication level (**Annexure 2.4.2**).

Section 11(4) of the Act empowers the Conciliation Officer to enforce the attendance of any person relevant to the industrial dispute. For the aforesaid purpose, Conciliation Officer shall have the same powers as are vested in the civil court under the Code of Civil Procedure. However, in 293 cases (31 per cent),

department failed to enforce the attendance of the employer despite the above enabling provision.

The Government stated (November 2016) that they are not adopting the Code of Civil Procedure for enforcing attendance of disputants as this practice consumes more time and may not necessarily result in conciliation settlement. Audit observed that given the failure rate of conciliation of 52 to 62 *per cent* in the three selected districts, adhering to provisions of the Act may compel parties to attend hearings and facilitate resolution of disputes at the conciliation stage itself.

(c) Boards of conciliation, investigation and arbitration: Sections 5 and 6 of the Act authorize the Government to constitute Boards of Conciliation and Courts of Inquiry for promoting settlement of industrial disputes and inquiring into any matter appearing to be connected with or relevant to an industrial dispute respectively. However, the GNCTD had not constituted the Boards of Conciliation nor Courts of Inquiry upto March 2016. Further, Section 10A envisages referring of an industrial dispute to arbitration for settlement; however, no such Board was constituted upto March 2016 despite the pendency of cases ranging from 27 to 70 *per cent* from January 2011 to April 2016.

The Government stated (November 2016) that such Boards and Courts of Inquiry are set up by the Government only on the request of parties and during 2011-16, no such request was received. The reply is not tenable as nowhere in the act is it mentioned that the Board of Conciliation and Court of Inquiry will be constituted on the request of the parties. The Government itself had to assess the need for constitution of the Boards of Conciliation and Courts of Inquiry.

2.4.3.3 Adjudication mechanism

Adjudication refers to mandatory settlement of industrial disputes by quasi-judicial bodies (eight Labour Courts and one Industrial Tribunal in Delhi) constituted under the Act and functioning under the administrative control of the High Courts of Delhi. Audit observed certain shortcomings as summarized in **Table 2.4.1** below:

Table 2.4.1: Shortcomings in adjudication mechanism

Sl. No.	Nature of shortcomings	Details of shortcomings
(a)	Non-maintenance of status of cases referred for adjudication	Three selected districts did not maintain the status of 8,577 cases during the period January 2011 to April 2016 after these were referred to the Labour Courts/Tribunal for adjudication. In the absence of such details, Audit could not ascertain the pendency of cases in the Labour Courts/Tribunal.
(b)	Delay in forwarding dispute cases for adjudication	Out of the 948 test checked cases, there was failure in 615 cases out of which details of reference orders were not available in 42 cases. Out of the remaining 573 cases, there was delay of upto 3 months in 459 cases and delay of more than three months to a year in 28 cases in forwarding them to the Labour Courts/Industrial Tribunals (Annexure 2.4.3).

Sl. No.	Nature of shortcomings	Details of shortcomings
(c)	Time frame not prescribed for Award in Reference Order with reference to Section 10(2A) of the Act.	Section 10(2A) of the Act stipulates that an order referring an industrial dispute to a labour court, tribunal or national tribunal under this section shall specify the period within which such labour court, tribunal or national tribunal shall submit its award on such dispute to the appropriate government. Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months. No such time frame was mentioned in the reference order by the Department while referring cases to the Labour Courts/Tribunal. In the North West District out of 304 cases test checked by audit, 186 were referred to the Labour Court. The Labour Court adjudicated 59 cases (32 per cent) wherein the Labour Court took 3 to 188 days to finalize the award. Out of these 59 cases, nine cases were finalized beyond 3 months. In rest of the 127 cases (68 per cent) North West District has not received any information from the Labour Court as of August 2016. Though called for, information regarding cases referred by West and South districts was not furnished by these two Districts. Non-adherence to the statutory provisions defeats the intent of the Act of expeditious resolution of industrial disputes.
(d)	Delay in receipt of awards from the Labour Court in district office and publication of awards in the gazette with reference to Section 17 of the Act.	Scrutiny of records revealed that awards of the Labour Courts were received in district offices after 1 to 354 days from the date of awards. The Act stipulates that the Government shall publish an award in the official gazette within a period of 30 days from the date of receipt of the award. In 424 out of 948 test checked cases, there was a delay ranging from 3 months to more than six months in publication of awards in the official gazette resulting in delay in implementation of the award.
(e)	Delay in recovering dues from the employers as per Section 33(C) the Act	Section 33(c) of the Act stipulates that where any money is due to a workman from an employer under a settlement or an award, the workman himself or any other person authorized by him in writing in this behalf, may make an application to the Government for the recovery of the money due to him, and if the Government is satisfied that any money is so due, it shall issue a Recovery Certificate (RC) for that amount to the Collector who shall proceed to recover the amount in the same manner as an arrear of land revenue. Audit noted that 1,245 RCs aggregating to ₹ 36.32 crore were issued during 2011 to 2016 in three selected districts of the Department. Against this, recovery amounting to ₹ 4.46 crore in 379 cases was outstanding in two districts as of April 2016. North West District stated that periodic reminders are issued to District Collector or on the representation of workmen. However, sometimes delay is caused due to shortage of officers/staff and lack of infrastructure. South District intimated that proper registers have now been maintained for keeping records of RCs.
(f)	Improper/non-maintenance of industrial dispute records	The maintenance of records at District and Headquarters level was incomplete and ad-hoc which hindered effective cross-linking at each step of the process involved in disposal of disputes. Vital information like nature of dispute, date of commencement of dispute, nature of disposal and date of disposal were not entered in the Conciliation Registers. As a result, out of 1,564 cases selected for scrutiny by Audit, the Department was not able to produce records of 616 cases.

As the time frame envisaged in the Act for disposal of cases by the departmental officials and the Labour Courts/Tribunal was not being adhered to, there was undue delay in disposal of dispute cases defeating the objective of expeditious resolution of disputes for maintenance of industrial harmony.

The Government stated (November 2016) that the prescribed time limit of three months is well known to the Labour Court being a statutory provision and the reference order does not warrant mentioning it. In case of delay in recovery

of dues from employers, Government stated (November 2016) that the delay is attributed to frequent change of address of the management. The concerned District officers have been advised to take up the issue of pendency of RC with Deputy Commissioner (Revenue). With regard to other audit observations mentioned in the table above, the Government assured that necessary advisory/ instructions have been/ would be issued to concerned officers.

2.4.4 The Contract Labour (Regulation and Abolition) Act, 1970

With a view to eliminating exploitation of workers employed under the contract labour system, the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971 came into effect from 10 February 1971. This Act regulates the employment of contract labour in certain establishments and provides for its abolition in certain circumstances. The Act applies to every establishment and contractor employing 20 or more workmen and provides for registration of establishments employing contract labour and licensing of contractors who arrange contract labourers.

2.4.4.1 Absence of a mechanism to ascertain unregistered establishments and unlicensed contractors

Every principal employer of an establishment to which this Act applies is required to register with the Registering Officer of the Department under the Act. No contractor can undertake or execute any work through contract labour except under and in accordance with a licence issued by the Licensing Officer under the provisions of the Act.

Audit observed that the Department issued 282 registration certificates (RCs) to principal employers and 865 licenses to contractors employing contract labours out of 317 and 912 applications respectively during January 2011 to April 2016 and pendency in this respect ranged from 35 to 67 *per cent* and 12 to 56 *per cent* respectively (**Annexure 2.4.4**). Further, the Department did not undertake any survey to ensure that all eligible establishments got registered and contractors employing contract labour had proper licenses. In the absence of any such exercise, the Department was not in a position to ascertain whether all establishments who should register with it had actually registered and whether all contractors employing contract labour had valid licenses.

2.4.4.2 Deficiencies in system of issue of licences

As per the Act, no contractor shall undertake or execute any work through contract labour except in accordance with its provisions. Section 12(1) of the Act provides that no contractor to whom this Act applies shall undertake or execute any work through contract labour except under and in accordance with the licence issued in that behalf by the Licensing Officer. Section 23 of the Act provides for imposition

of penalty by way of imprisonment and/or fine in cases of contravention of the provisions of the Act. Audit observed the following:

(i) In 54 cases, contractors applied for licenses after four to 353 days from the date of commencement of work. Thus, they worked without the mandatory license during this extended period. Government stated (November 2016) that delay was on the part of contractor and prosecution of contractor would affect workers.

(ii) No time frame has been fixed for disposal of applications for licenses. Section 13(2) of the Act provides that the Licensing Officer may make such investigation in respect of applications received. No investigation was carried out in 71 test checked cases to ascertain the validity of the claims and documents/claims submitted with the application and for compliance with the health and welfare facilities that are to be provided by contractor under the Act. Even then, the Department took two to 251 days to issue the licences to 45 contractors after considering 15 days as reasonable time to process the application. In the interim, the contractors operated without the mandatory licenses.

(iii) As per Rule 25(2), every licence is subject to the condition that the licensee shall, within 15 days of commencement and completion of each contract work, submit a return to the Inspector intimating the actual date of commencement or, as the case may be, completion of such contract work. In 52 cases, the contractors did not submit the required information.

(iv) As per Rules 21(1) and (2), every application for grant of a license shall be accompanied by a certificate from the principal employer to the effect that the applicant has been employed by him as a contractor and that he undertakes to be bound by all the provisions of the Act and the rules made thereunder in so far as the provisions are applicable to him as principal employer. However, the contractors did not furnish details of principal employers and their registration numbers in 34 out of the 71 test checked cases.

Thus, prolonged delay in both applying for licenses by contractors as well as subsequent delay on part of department in granting licenses resulted in contractors operating without there being any assurance as to their compliance with the provisions of the Act.

2.4.4.3 Deficiencies in registration of Principal Employer

As per section 20 of the Act, if any amenities required to be provided under the Act for the benefit of the contract labour is not provided by the contractor, such amenities shall be provided by the principal employer. Audit test checked 34 cases relating to the registration of principal employers and noticed the following:

(i) As per Section 9(a), no principal employer of an establishment employing 20 or more contract labour on any day of the preceding 12 months shall employ contract labour without registration under the provisions of the Act. Scrutiny of records revealed that in 29 out of 34 test checked cases, applications were filed with delay ranging from one day to more than five years after the commencement of the work. This delay was compounded by further delay ranging from one to 287 days in issue of registration certificates in 32 cases. Thus, these principal employers continued to employ contract labour without having valid registration certificates in contravention of the Act during this period of delay.

(ii) As per Rule 81(3), every principal employer shall, within 15 days of the commencement or completion of each contract work under each contractor, submit a return to the Inspector intimating the actual date of commencement or completion of such contract work. Scrutiny revealed that in 20 cases, the principal employers did not submit the required information.

(iii) As per Rule 82(2), every principal employer of a registered establishment shall send an annual return so as to reach the registering officer not later than the 15th February following the end of the year to which it relates. Audit scrutiny revealed that in 27 out of 34 cases, yearly returns were not submitted by the principal employers during the period 2011-16.

In view of the above, it is not clear how the Department had ensured that the principal employer fulfilled its liability towards welfare and health of contract workers as envisaged in the Act.

2.4.5 The Minimum Wages Act, 1948

The Minimum Wages Act, 1948, provides for fixation by the Government of minimum wages for employments covered by the Schedule to the Act. The primary objective of the Act is to ensure that no industry pays its workmen less than minimum wages fixed by the concerned government through notification. For this purpose, the Act envisages setting up of Advisory Committee and Sub-Committees as well as an Advisory Board for advising the government in the matter of fixing minimum rate of wages. Audit observed the following shortcomings:

- **Pendency of cases:** In selected three districts, there were 299 cases pending at the beginning of the year 2011. Subsequently, 5,101 new cases were received upto April 2016 and 3,819 were disposed of during this period leaving 1,581 cases pending as on 30 April 2016 (**Annexure 2.4.5**). The pendency of cases ranged from 58 to 69 *per cent* during the year 2011 to 2015. The rate of disposal of cases was slower than the rate at which new cases were being filed with the Department leading to huge pendency of cases.

The Government stated (November 2016) that due to heavy load of multifarious activities under various Acts to be handled by district Joint

Labour Commissioner/Deputy Labour Commissioner, pendency does occur occasionally. It added that the issue would be taken on campaign basis to liquidate pendency.

- **Time taken in finalisation of cases:** Out of 512 selected cases (10 *per cent* of 5,101 cases received during period 2011-16), the Department provided only 157 files to Audit. Audit scrutiny revealed that time taken in finalising the cases (from the date of receipt of application till the date of disbursement of award money) ranged from 21 days to 1,654 days (**Annexure 2.4.6**).

The Government stated (November 2016) that efforts are made by the department to bring about settlement between the parties, but in many cases due to contradictory stands of the parties, settlement is not possible.

- **Inadequacy of inspections:** The Inspecting Officer performs the role of an Inspector under Minimum Wages Act, 1948 and attends complaints relating to non-payment of wages and non-maintenance of records under the said Act. Inspecting Officer also files prosecution against the accused under the said Act. However, audit observed that regular inspections of establishments and contractors were not carried out by the Department during 2011 to 2015. Further, against 16,373 complaints disposed of in selected districts, only 4,432 cases i.e. 27 *per cent* were inspected by the Department (**Annexure 2.4.7**).

The Government stated (November 2016) that suo-motu inspections are not carried out to discourage unethical practices in the field. Regarding non-furnishing of data by the District offices to Audit, it was stated that necessary advisory is being issued.

Department failed to fulfil the objective of effective enforcement of the Minimum Wages Act, as employees were made to suffer unduly from the date of receipt of application till the date of disbursement of award money. In 73 *per cent* cases, inspections were not carried out, therefore, Audit could not derive reasonable assurance that the Department was able to prevent exploitation of the labour by employers.

2.4.6 The Employee's Compensation Act, 1923

The basic intent of the Employee's Compensation Act is to make the employer an insurer of the workmen, responsible against the loss caused by injuries or death while the workmen are engaged in work.

As per section 25A of the Act, the Commissioner shall dispose of matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.

Scrutiny of 69 compensation case files revealed that an amount of ₹ 1.90 crore was disbursed during January 2011 to April 2016 in 30 cases with delays ranging from 38 days to 4 years beyond the stipulated period of three months. Delay in disposal of cases as envisaged in the Act resulted in postponement of timely relief to the injured or to the family of deceased.

The Government stated (November 2016) that due to multiple responsibilities at Deputy Labour Commissioners level, cases remain pending; however, extra officers have been deployed to deal with the pending compensation cases.

2.4.7 The Factories Act, 1948

The Factories Act, 1948, was enacted with the prime objective of protecting workmen employed in factories against industrial and occupational hazards. The Act imposes upon the owners and occupiers certain obligations to protect the workers unwary as well as negligent and to secure for them employment conducive and safe. The Act is enforced by the Directorate of Industrial Safety and Health (the Directorate) of the Government of NCT of Delhi.

2.4.7.1 Renewal of Licences of Factories

As per Rule 7 of the Delhi Factories Rules, 1950, every application for renewal of a licence of factory shall be submitted within 30 days before the date on which the licence expires. Further, as per Rule 106, the occupier or manager of every factory shall report in writing to the Inspector any intended closure of the factory or any section or department thereof, immediately when it is decided to do so, intimating the reasons for the closure, the number of workers on the register, the number of workers likely to be affected by the closure and the probable period of the closure.

Audit requisitioned 112 files (10 per cent of total files relating to factories registered during the last five years). The Directorate could make available 95 files for examination in audit. In 18 out of 95 test checked cases, occupiers neither applied for renewal of their licenses after expiry nor submitted the closure report with regard to their factories. The Directorate did not conduct any inspection to confirm the status of these factories resulting in either factories running without licence or closing down without ensuring the safety and rights of the workers.

The Government stated (November 2016) that after the intimation regarding closure of factories is received, no inspection is warranted. Reply is not tenable as Audit could neither find in files any intimation from factory owners regarding closure of their factories nor any renewal application from the occupiers. Thus, Directorate failed to ensure strict adherence of provisions of the Act and Rules by the occupiers of these factories.

2.4.7.2 Absence of action plan for inspection of Factories

The Directorate issues licences to factories under the Factories Act and is vested

with the responsibility of enforcing the provisions of the Act and the Delhi Factories Rules, 1950, in Delhi. However, the Directorate had neither prepared an action plan nor had fixed any annual targets for inspection of factories to ensure observance of the provisions of Act and Rules by the factory management.

The Factory Act empowers the Government to appoint Inspectors for making examination of the premises, plant, machinery, articles or substance and for requiring the production of any prescribed register or any other document relating to the factory so as to ensure the safety and welfare of the workers. Audit observed that the Directorate inspected only 1,036 to 2,167 factories out of 8,625 to 9,397 registered factories (11 to 25 *per cent*) during the period January 2011 to December 2015. Out of 326 to 386 hazardous factories, only 145 to 183 factories (38 to 50 *per cent*) were inspected during the last five years (**Annexure 2.4.8**). The Directorate did not plan to have at least one annual inspection in factories engaged in hazardous processes or dangerous operations.

The Directorate informed that inspections are carried out only at the time of issue of license and on the basis of references or complaints. However, it was observed that against total 3,442 complaints and new registrations during the years 2011 to 2015, the Directorate carried out 7,913 inspections (**Annexure 2.4.9**). Thus, out of 7,913 inspections, 4,471 of the inspections were not against the complaints or applications for issue of license. In the absence of any prescribed criteria and frequency of inspection, the system is fraught with the risk of sub-optimal utilisation of available resources and some factories being ignored for inspection, apart from redressal of specific complaints and ensuring rights of labour.

The Government stated (November 2016) that inspections are carried out on the basis of complaints but added that it was devising a mechanism for inspection based on risk profile.

2.4.7.3 Grant of licence to factories

As per Section 7 of the Factories Act, 1948, the occupier shall at least 15 days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice enclosing therewith details such as name and address of the occupier, owner and factory, the nature of manufacturing process, total rated horse power to be used, the number of workers and such other particulars as prescribed by the Directorate. Further, Rule 11A stipulates that license if not granted or not refused within 60 days of receipt of the application, shall be deemed to have been granted. Every licence as granted or renewed shall remain in force upto 31st December of the year or for period, upto which it is renewed.

Out of 112 files requisitioned, scrutiny of 95 files provided to Audit revealed that in 29 cases, the Directorate took more than 60 days in disposing of applications for licences for factories as detailed in **Annexure 2.4.10**. Besides, the following shortcomings were also noticed:

a) The Directorate was not insisting on submission of mandatory annual returns regarding details of workers and facilities provided to them by the factories as prescribed under Rule 100 of Delhi Factories Rules, 1950. In 52 cases, factories did not submit prescribed returns at the time of renewal of licences. In the absence of returns submitted by the occupiers, it is not clear, how the Department ensured that the facilities as per provisions of the Act and Rules were provided to the workers.

(b) As per section 92 of the Factory Act, 1948, if the manager/ occupier contravenes any Rule/Act, he is guilty of an offence and is punishable with imprisonment for a term which may extend to two years or with fine which may extend to ₹ 1 lakh or with both. In seven cases, the factories continued operations for periods ranging from six months to six years even though licences were not granted to them for reasons such as non-submission of complete documents by occupier and short comings noticed during inspection before issue of licence. However, the Directorate did not take any action to penalise occupiers or to stop unlawful operations. In one particular case, the firm engaged in food products having 100 workers applied for license in 2004 but the Directorate issued deficiency letter to the firm to comply with the required documents. However, the firm did not comply with the instructions of the Directorate. Though, it was found operating without licence during an inspection conducted by the Directorate in 2009, no penalty was imposed for the violation of Act and Rules and subsequently the firm was granted license in the year 2012. In a similar case, a firm engaged in manufacturing of furniture having 50 workers applied for licence in the year 2006 and the Directorate issued deficiency letter to comply with the mandatory documents to which the firm did not heed. Subsequently, the firm applied in 2013 with complete documents and the Directorate granted the license. However, there was no record of any inspection of the firm carried out by the Directorate during the period 2006 to 2013.

The Government stated (November 2016) that shortage of manpower and non-submission of documents were the reasons for delay. The fact remains that there were delays in issuing licenses, non-inspection of factories and non-prosecution of defaulters.

2.4.7.4 Health and Safety Policy

As per Rule 61G, the occupier of every factory shall prepare written statement of his policy in respect of health and safety of workers. Factories with less than 50 workers which carry on the manufacturing process with the aid of power and factories with less than 100 workers which carry on the manufacturing process without the aid of power, provided they are not covered under the category of factories involved in hazardous process or dangerous operation, are exempted from these provisions. The Health and Safety Policy should contain or deal

with organisational set up to carry out the declared policy clearly assigning the responsibility at different levels, arrangements for marking the policy effective, etc. A copy of the policy shall be made available to the Inspector/Chief Inspector.

Scrutiny of 95 files by Audit revealed that in 55 cases, declaration of Health and Safety Policy by occupiers was mandatory under the above mentioned provisions. However in 54 cases involving 5,201 workers, neither the occupiers submitted the copy of the Policy nor did the Directorate check this aspect during inspections prior to grant of licences. As these factories were not inspected regularly by the Directorate, the possibility of their operating without having mandatory Health and Safety Policy could not be ruled out.

The Government stated (November 2016) that when violation is reported, the same is duly examined by the Directorate and necessary challan is filed. The reply is not specific to the audit observation on non-submission of the copy of the Health and Safety Policy by the occupiers of factories.

2.4.8 The Building and Other Construction Workers' Welfare Cess Act

The main objective of the Building and Other Construction Workers' Welfare Cess Act (BOCWWC Act) is to provide for the levy and collection of a cess on the cost of construction incurred by employers with a view to augment the resources of the Building and Other Construction Workers' Welfare Boards constituted under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) (BOCW(R&E)) Act, 1996.

Section 3 (1) of the BOCWWC Act states that there shall be levied and collected a cess at such rate not exceeding two *per cent* but not less than one *per cent* of the cost of construction incurred by an employer. Every employer who is carrying on the building or other construction work is required to furnish a return to an officer or the authority prescribed by the Government. On the basis of the return, the authority shall make inquiry and after satisfying himself, by order, assess the amount of cess payable by the employer. In Delhi, every employer carrying out construction work has to deposit 1 *per cent* of the cost of construction.

Audit selected 15 files (10 *per cent* of the total assessments done in the three selected districts of the Department during the period 2011-15) on the basis of highest value of assessment. The Department could provide only 11 files as South District did not furnish four files. Scrutiny of these 11 files revealed discrepancies in the assessment of cess as shown in **Table 2.4.2:**

Table 2.4.2: Discrepancies in assessment of cess

Sl.No.	Provisions of the Act	Audit observation
(a)	<p>Rule 3 of the Building and Other Construction Workers' Welfare Cess (BOCWWC) Rules, 1998</p> <p>For the purpose of levy of cess, cost of construction shall include all expenditure incurred by an employer in connection with the building or other construction work except cost of land and any compensation paid under the Workmen's Compensation Act, 1923.</p>	<p>Non-inclusion of complete details of cost of construction</p> <p>In all the 11 test checked cases, assessee did not submit complete details of the cost of construction of buildings i.e. borrowing cost, land development charges, costs of design and technical assistance and complete details of work in progress. Further, complete balance sheets alongwith schedules were also not available in the files. In the absence of basic details, finalization of assessment of cess by assessing officers was questionable and probability of under assessment cannot be ruled out.</p>
(b)	<p>Section 8 of the BOCWWC Act</p> <p>If any employer fails to pay any amount of cess payable under Section 3, within the time specified in the order of assessment, such employer shall be liable to pay interest on the amount to be paid, at the rate of two <i>per cent</i> for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid.</p> <p>Rule 4(1) of the BOCWWC Rules, 1998:</p> <p>Cess levied shall be paid by the employer within 30 days of completion of the construction project or within 30 days of the date on which assessment of cess payable is finalized, whichever is earlier.</p> <p>Rule 4(2) of the BOCWWC Rules, 1998</p> <p>Where duration of project exceeds one year, cess shall be paid within 30 days of completion of one year from the date of commencement of work and every year thereafter on the cost of construction incurred during the relevant period.</p>	<p>Under assessment of cost of construction resulting in short collection of cess and interest</p> <p>Audit scrutinised 2 cases (Construction of Hospital and Multilevel car parking) out of 11 cases, where partial details of cost, like pre-operative expenses, development charges, taxes, etc. were available and found that even these components of cost were not considered for calculating the cost of buildings and assessing the amount of cess payable by the assesseees. This resulted in short levy of cess and interest aggregating to ₹ 51.97 lakh. In eight cases, the Department did not levy interest in terms of Section 8 and Rule 4, resulting in short collection of ₹ 1.01 crore (Annexure 2.4.11).</p>
(c)	<p>Section 4 of the BOCWWC Act</p> <p>Every employer shall furnish such return to such officer or authority in such manner and at such time as may be prescribed. If any person carrying on the building or other construction work, liable to pay the cess under section 3, fails to furnish any return, the officer or the authority shall give a notice requiring such person to furnish such return. Further, Rules 6 and 7 of BOCWWC</p>	<p>No action for violation of the Act and Rules: Scrutiny of records revealed that there was delay of 782 days to 2,711 days in furnishing Form-I by the assesseees in 11 cases. However, no notice was served on assesseees by the assessing officer as per Section 4. If Form-I was submitted on time, the department could have made the order of assessment within six months of receipt of information in Form-I as per Rule 7. Further, information regarding registration number and name</p>

Sl.No.	Provisions of the Act	Audit observation
	Rules lays down that every employer shall, within 30 days of commencement of his work or payment of cess, as the case may be, furnish to the assessing officer, information in Form I and assessing officer, on receipt of information in Form-I shall make an order of assessment within a period not exceeding six months from the date of receipt of such information.	of the registering authority, were not given in Form-I by nine assesseees ⁴² . Thus, it is not clear, how the assessing officer ensured that the company is registered under the BOCWWC Act, 1996, or not.

The above cases are indicative of the fact that department has no mechanism to ascertain the exact cost of construction and thus, short levy of cess and interest cannot be ruled out. This has resulted in lesser amount being credited to Building and Other Construction Workers' Welfare Board.

The Government stated (November 2016) that the concerned district offices have been directed to re-examine the issue. It was also stated that issue of discrepancies related to Form I was being examined by the Board and the Department, and would be sorted out after developing online deposit of cess.

2.4.9 Conclusion

The primary purpose of the above legislations was to ensure industrial peace and harmony while protecting the legitimate interests of the workers in terms of safety and health standards and protection from exploitation. Lack of diligent adherence to and enforcement of the provisions of the Acts provided no assurance as to the achievement of this fundamental objective. Institutional mechanisms like Boards of Conciliation and Courts of Inquiry were not constituted under the Industrial Disputes Act for promoting early settlement of industrial disputes. The Department also did not ensure the constitution of Works Committees in factories and establishments. The Conciliation Officers did not adhere to the stipulated time frame for disposal of cases and even the awards of the Courts were implemented with delay in most cases.

Further, there was no system in place to ensure that eligible establishments are registered and contractors obtain licenses under the Contract Labour Act. Adequate and planned inspections were not carried out to check exploitation of contract labour. The Department even failed to initiate action against Principal Employers and Contractors for violation of provisions of the Act and overlooked several discrepancies during issue of registration certificates and licences. Adjudication mechanism for dispute resolution under the Minimum Wages Act, was not effective as there were unreasonable delay in disposal of cases. The

⁴²North West District - M/s Negolice India Ltd (M2K), M/s Brilliant Builtech (P) Ltd., M/s PGF Ltd., M/s Max Healthcare Institute Ltd M/s Seven Seas Hospitality (P) Ltd. and M/s Jaksons Developers (P) Ltd.; West District- M/s Gold Cause construction(P) Ltd and M/s Reliance Prolific Commercial (P) Ltd; South District- M/s DLF Universal Ltd.

Department failed to enforce attendance of the employers for hearing in disputed cases. Regular inspections were not carried out to ensure minimum wages for the workers.

2.4.10 Recommendations

In light of the audit findings, it is recommended that the Government may:

- *Review the functioning of the Conciliation Officers to ascertain the reasons for high rate of failure in conciliation of disputes and delays at different stages of conciliation and take steps to constitute and activate mechanism like Works Committees, Boards of Conciliation and Courts of Inquiry to facilitate speedy resolution of industrial disputes;*
- *Institutionalize an effective oversight mechanism for timely implementation of awards and expedite enforcement of Recovery Certificates under various Acts;*
- *Setup a mechanism for periodical identification of establishments/contractors employing contract labour and prosecute employers and contractors violating provisions of the Contract Labour Act; and*
- *Strengthen the monitoring mechanism including inspections for ensuring legitimate rights of labour and prevention of exploitation of labour.*

