

CHAPTER-III

COMPLIANCE AUDIT OF SELECTED TOPICS

FISHERIES AND PORTS DEPARTMENT

3.1 Regulation of Houseboats

3.1.1 Introduction

Alappuzha, the ‘Venice of the East’, is an important backwater destination in Kerala attracting tourists every year. The Vembanad lake, a Ramsar site¹ is spread over 36,500 hectare covering the districts of Alappuzha, Ernakulam and Kottayam. This lake is connected to a network of rivers, canals and drains and is famous for Houseboat (HB) tourism. With the increased arrival of tourists, the HB industry began to grow and developed into a huge source of revenue for the people of the area.

All inland vessels, including HBs, are regulated by the Inland Vessels Act, 1917 (IVA), a Central Act, which came into force in the State of Kerala with effect from 01 December 1987. Subsequently, Government of Kerala (Coastal Shipping and Inland Navigation Department) notified (April 2010) the Kerala Inland Vessels Rules, 2010, under IVA, to regulate and control the operation of mechanically propelled vessels. Later, the Kerala Inland Vessels Rules, 2010, were amended by incorporating provisions for safety and security, pollution control and quality service with a view to foster backwater tourism without compromising on safety, efficiency and pollution aspects and notified the amended rules in April 2015. (The Kerala Inland Vessels Rules, 2010 and their amendment in 2015 are together defined as ‘KIVR’ hereinafter).

For a vessel to ply in the backwaters, three procedures are mandatory according to KIVR, viz., initial survey/annual survey², registration³ and dry dock inspection⁴. KIVR also mandates adoption of measures to prevent and mitigate water pollution.

¹ The convention on wetland called the Ramsar convention, is an intergovernmental treaty that provides the framework for national action and international co-operation for the conservation and wide use of wetland and other resources.

² Initial Survey/Annual survey: Complete examination of hull, machinery, arrangements, safety and security, pollution aspects and quality of service as required under IVA by the Surveyor under the Directorate of Ports. Initial survey is done before the HB is put in service, whereas the annual survey is done periodically once in 12 months in respect of HBs which are in operation.

³ Registration: The Chief Registering Authority under the Directorate of Ports issues Registration Certificates to HBs on completion of initial survey. It is a process of documentation and also a proof of ownership of the vessel.

⁴ Dry dock inspection: The Surveyor conducts detailed examination of vessels in slip way or dry dock in day light, once in three years, to ensure that all the portions of the hull external are intact.

3.1.1.1 Organisational set up

Director of Ports (DoP), under the Government (Fisheries and Ports Department) regulates inland vessels, including HBs, by virtue of implementing KIVR. Six⁵ ports in Kerala are designated (September 2010) as Port Registries, which are places of survey of Inland Vessels. The DoP exercises his powers under KIVR, through multiple officials, such as the Chief Registering Authority, Chief Examiner, Chief Surveyor, Surveyor (Two) and Conservators of the six Port Registries. The functions of these officials with regard to inland vessels include conducting initial/annual survey, issuing Registration Certificates, issuing Competency Certificate to crew, and conducting periodical surprise inspection.

Since the HB industry is closely related to backwater tourism, Directorate of Tourism (DoT), under Government (Tourism Department), executes its tourism promotion activities in this industry through the District Tourism Promotion Council (DTPC). Activities of DTPC with regard to HBs includes fixing tariffs in consultation with HB owners' associations, establishing and operating Common Sewage Treatment Plant (CSTP) for discharging the effluents generated from the bio-tank of HBs etc.

Another stakeholder in the HB industry is the Kerala State Pollution Control Board (KSPCB), which functions under the administrative control of the Government (Environment Department). The main functions of KSPCB with regard to HB industry include issue of Integrated Consent to Operate (ICO) to HBs which is mandatory according to provisions contained in the Water Act, 1974, and the Environment Protection Act, 1986, and periodical inspections to check whether the prescribed parameters of sewage/effluents discharged from the CSTP/bio-tank of HBs are within the limits mentioned in the ICO conditions.

The Local Self Government Institutions (LSGI) are another stakeholder from the Government side in the HB industry. LSGIs are mainly responsible for collection, segregation, and disposal of solid waste generated by HBs in terms of the Solid Waste (Management and Handling) Rules, 2000.

3.1.2 Audit objectives and scope

The objectives of the Compliance Audit were to assess whether:

- the registration and operation of HBs were in accordance with the above Rules and the concerned environmental laws;
- Rules and regulations were in place to standardise the facilities provided, regulate the fees/tariff charged from tourists and regulate the number of people that can be carried in HBs; and

⁵ Alappuzha, Azhikkal, Beypore, Kollam (Thangassery), Munambam (Kodungallur) and Vizhinjam.

- mechanisms existed for effective monitoring of adherence to these rules.

As of April 2016, out of a total of 926 tourist inland vessels registered with the six Port Registries of Kerala, 847 were registered with the Port Registry, Alappuzha. Hence, compliance audit was limited to the activities under the Port Registry at Alappuzha.

Audit scrutiny covered the records of the Directorate of Ports, Directorate of Tourism and KSPCB, their Administrative departments⁶ and relevant subordinate offices with special focus on survey, registration, safety of passengers and environmental aspects relating to HBs covering the period from 2010-11 to 2015-16. Audit also examined the records of KSPCB and DTPC in Alappuzha and Kottayam districts and that of Alappuzha Municipality, interacted with various stakeholders and raised audit queries. In addition, the audit team along with departmental officers jointly verified 42 HBs, which operated in Vembanad lake. (Detailed in **Appendix – 3.1.1**)

An Entry Meeting with the departmental officials concerned was held on 20 July 2016 and an exit meeting at the close of audit was conducted on 30 December 2016 to share and discuss the audit findings.

3.1.3 Audit findings

3.1.3.1 Registration of Houseboats

i) Houseboats operating without valid registration

Rule 5(1) of KIVR requires all HB owners to intimate the Chief Surveyor regarding construction of new vessels. After the Surveyor completes the stage inspection, KSPCB verifies the HBs and issues the ICO. On receipt of ICO, the vessel is registered with the Port Registry concerned. Initially the registration had to be renewed annually. Subsequently, the validity period of registration was increased (March 2013) to five years. Further, in terms of Rule 31(2) (c) of KIVR, the Surveyor is duty-bound to conduct surprise inspection of vessels to ensure that they comply with mandated requirements. On detecting violations, the Surveyor recommends suspension/cancellation of the Registration Certificate (RC) /Survey Certificate of the vessel to the DoP and serves detention order to defaulting HB owners.

We observed that, as of 31 March 2016, 326 (44.41 *per cent*) out of the 734 HBs registered under Port Registry, Alappuzha, had not renewed their registration as detailed in **Table 3.1**.

⁶ Department of Fisheries and Ports, Department of Tourism and Environment Department.

Table 3.1

Details of HBs which had not renewed registration

Sl. No.	Year from which renewal of registration was pending	Number of HBs pending renewal of registration
1	2011-12	238
2	2012-13	70
3	2013-14 ⁷	18
Total		326

(Source: Records of Port Office Alappuzha)

A joint verification of 42 HBs revealed that 23 of them were plying in Vembanad lake without registration (**Appendix – 3.1.2**). Of the 42 HBs subjected to physical verification, we found that seven out of the eight HBs operated by M/s Kerala Backwaters were unregistered. Further, as per the DoTs estimation, there were 1,500 HBs operating in Alappuzha. However, we observed that only 734 (48.93 *per cent*) HBs were registered with the Port Registry Alappuzha, as on 31 March 2016.

Detection of a substantial proportion of unregistered boats pointed to ineffective monitoring by the Surveyor causing threat to the safety and security of the passengers on board.

- ii) Rule 14 (2) of KIVR stipulates that RC issued to a vessel shall be valid for a maximum period of five years, but the registering authority may issue RC for a shorter period considering the ecological parameters of each water body.

We observed that the Registering authority under DoP issued RC subject to fulfillment of certain conditions regarding certificate of survey (including stability), third party insurance, competency certificate of crew, pollution control aspect, provision of firefighting equipment and life-saving appliances etc. These conditions were to be satisfied by the HBs within 30/60/90 days of the issue. The Port Registry, after the issue of RC did not verify compliance of those conditions by the HB owners even though many of these conditions related to safety of passengers. During joint verification it was found that HBs operating with conditional RCs had not fulfilled the prescribed conditions and hence were not safe for operation. Further, absence of third party insurance could deprive passengers of compensation and protection under law in the event of an accident.

Port Officer, Alappuzha, replied that prior to implementation of KIVR (September 2010), HBs were registered under Canals and Public Ferries Act, 1890. On implementation of KIVR, the existing HBs were issued registration certificates conditionally. The reply of the Port Officer, Alappuzha, was

⁷ Since 2014-15, registration is issued for five years; hence audit observation is up to 2013-14.

silent about the HBs operating without fulfilling the RC conditions and the consequent risk to the safety of passengers.

- iii) According to Section 19 C of IVA, a book containing all particulars of the RC shall be kept by the Registering Authority after due authentication by the authority. Further, a true copy of the book should be sent to the State government within a month, together with the number of every RC granted.

We observed that registration details were not completely recorded in the Registration book and not duly authenticated by the Registering Authority, as prescribed. Moreover, the copy of the Registration book was not sent to Government every month as mandated. Hence, veracity of the registrations recorded in the book could also not be assured by Audit.

- iv) In terms of Section 71 of IVA, all fees payable may be recovered as fines. Schedules I and II of KIVR prescribes the rate of fees payable by HB owners for the registration, survey etc. According to Rule 26 of KIVR, registration fee was to be collected by the registering authority at the rate of ₹ 50 per ton of vessel weight, subject to a minimum of ₹ 3,000.

A scrutiny of the records revealed that as on 31 March 2016, registration fees amounting to ₹ 11.26 lakh was pending from 326 HB owners who had not renewed their registration as detailed in **Table 3.2**.

Table 3.2

Details of unrealised registration fee

Sl. No.	Year from which registration was pending	Number of HBs pending renewal of registration	Amount pending realisation (in ₹)
1	2011-12	238	8,19,250
2	2012-13	70	2,45,250
3	2013-14 ⁸	18	61,100
Total		326	11,25,600

(Source: Records of Port Office Alappuzha)

The Port Officer, Alappuzha, stated in this regard, that due to non-receipt of application from HB owners for renewal of registration, it could not realise the fee from them.

The above reply was not acceptable, as the main reason for non-realisation of registration fee was the lack of a monitoring system whereby the Port Officer would be alerted of the due dates of RC renewal without waiting for the HB owners to submit applications. Also, had the Surveyor carried out surprise

⁸ Since 2014-15, registration is issued for five years; hence audit observation is up to 2013-14.

inspections as mandated in KIVR, a substantial number of HB owners could not have escaped from renewing their registration.

v) Issue of Registration Certificates without considering the carrying capacity of Vembanad lake

The Government (Fisheries and Ports Department) accorded (June 2012) administrative sanction for conducting 'Environmental Study of Vemabanad lake', considering the large number of HBs operating in the lake and resultant pollution. Accordingly, the DoP entrusted (September 2012) the Centre for Water Resources Development and Management (CWRDM), Kozhikode to identify the carrying capacity of the lake for each category of vessels. CWRDM reported (November 2013) that the recreational carrying capacity of the lake was 262 HBs. Subsequently, DoP directed (June 2014) the Port officials that only those applicants who had submitted their application for survey on or before 31 December 2013 but had not presented their vessels for survey on or before 31 March 2014 could be permitted to present their vessel till 30 June 2014. Further, according to note below rule 54 of KIVR, new RC shall be issued only against deregistration and condemnation of existing vessels.

But, as reported (December 2013) by DoP, registrations were issued to 588 HBs, which was nearly double the carrying capacity of the lake, thus threatening the environmental stability of the lake.

Further, the directions (June 2014) of the DoP were violated by the registering authority as it had issued RC to 22 HBs during 2014-15, 55 during 2015-16 and nine during 2016-17 respectively, even though the owners of these vessels had not presented their vessels for survey on or before 30 June 2014. Further, the new RCs issued were not against deregistration or condemnation of existing HBs. Also, this direction of the DoP issued in June 2014 was irregular because the CWRDM had reported to the DoP in December 2013 itself that the carrying capacity of the lake was only 262 HBs as against 588 in operation. Hence, permission granted by the DoP for conducting further survey to enable registration of new HBs without ensuring decommissioning of old HBs was in total disregard to the recommendations of CWRDM for the environmental sustainability of the lake and actually enabled increasing the number of HBs in the lake.

The Port Officer, Alappuzha replied that registration was given only to those HBs who had submitted their application prior to 31 December 2013. The reply was factually incorrect, as the department had issued fresh RCs to 86 HBs which were presented for survey even after the cut-off date of 30 June 2014.

3.1.3.2 Survey of houseboats

i) Failure to conduct surveys, enforce compliance with certificate conditions and recover survey fees

- In terms of Rules 3 (1)(ii) and 3(3) of KIVR, every vessel shall be subjected to survey before it is put in service. The Surveyors in the Port Registry conduct survey before the vessel is put in service, annual survey once in 12 months, additional survey as occasion demands and dry dock inspection once in 36 months in a dry dock or slip way in day light to ensure that the external hull is undamaged.

The initial survey includes inspection of hull, machinery and equipment to ensure that they are in satisfactory condition and fit for service for which the vessel is intended. Further, the HB owners shall make an application for survey to the Surveyor, who fixes the date, time and place of survey and intimates the same to the applicant.

Though conduct of annual survey for HBs was mandated under KIVR to ensure their operational worthiness, we observed that as of 31 March 2016, out of 734 registered HBs under the jurisdiction of Port Registry, Alappuzha, 304 HBs (41.42 *per cent*) did not renew their periodical annual certificate and 85 had not been subjected to annual survey. During joint verification of 42 HBs, we observed that, 27 HBs had not presented themselves for even a single survey (**Appendix – 3.1.2**) and five HBs had not got their survey certificate renewed (January 2013-March 2016). This scale of non-compliance existed even though Surveyors were empowered to conduct surprise inspections onboard the HBs.

We further observed that in order to fully automate implementation of KIVR, a Computerised Management Information System (CMIS) was introduced in the Port Registries. But due to ineffectiveness of CMIS, expiry of validity of these mandatory certificates could not be monitored as the system did not alert the Port Registry of such expiry in advance for it to take necessary action.

On this being pointed out, Port Officer, Alappuzha, replied that due to non-receipt of application for renewal from the HB owners in time and absence of CMIS, the port authorities could not conduct the survey periodically. The reply was not acceptable as KIVR mandated that Surveyors should conduct these surveys annually. By not doing so, port authorities were being indifferent to the safety of passengers onboard.

- We also observed that the survey certificates issued by the Surveyor were provisional, subject to certain conditions such as valid crew certificate, insurance certificate, approved stability booklet etc., to be complied with within stipulated period. Many of these conditions were related to the safety of passengers. There was nothing on record to establish that the boat owners had

fulfilled the prescribed conditions. Further, Surveyor did not take any steps to ensure that the HBs fulfilled the conditions within the stipulated time.

Port Officer, Alappuzha replied that due to heavy work load, shortage of staff and absence of CMIS in Port Department, follow-up action in respect of conditional survey certificate could not be carried out within the stipulated time.

- DoP fixed the fees for annual survey based on the gross tonnage of vessel. As on 31 March 2016, the total fees forgone by the DoP due to non-renewal of annual survey certificates in respect of 389 HBs for the period from 2010-11 to 2015-16 worked out to ₹ 44.46 lakh (**Appendix – 3.1.3**).

Port Officer, Alappuzha, stated that, if annual survey application was not received within the stipulated time, double the rate was imposed even for a lapse of one day. The reply was silent about the department's failure in collection of annual survey fees due from the HB owners. This also enabled the HB owners to ply without displaying the mandatory distinguishing mark as required under Rule 18 of KIVR. Of the 42 HBs jointly verified, only one had the distinguishing mark.

ii) Non-conducting of dry dock inspection

- In terms of Rule 3(4) of KIVR, all vessels shall be inspected once in every 36 months by the Surveyor in a dry dock during the hours of day light. The Surveyor shall go on board any vessel and inspect it or any part thereof or any machinery or article thereon relevant to the purpose of the Act.

We observed that as on 31 March 2016, 476 HBs were pending to be inspected in dry dock, of which 251 had not undergone even a single dry dock inspection since the vessel was put to use (**Appendix – 3.1.4**). This compromised the safety of passengers.

Port Officer, Alappuzha, replied that Surveyor could not conduct the dry dock inspection unless the vessel was dry docked. Besides, due to non-availability of sufficient dry dock yards, all vessels could not be dry docked in time. The reply is not tenable, as KIVR required the Surveyor to conduct surprise inspection to ensure that the HBs plying in the backwaters were dry docked in time.

- According to Schedule I of KIVR, the fee for dry docking was ₹ 3,000 per vessel which was enhanced (October 2014) to ₹ 3,750 with effect from 01 October 2014. We observed that as on 31 March 2016, the Department had forgone revenue of ₹ 17.66 lakh due to non-enforcement of mandatory dry dock inspection (**Appendix – 3.1.5**).

Port Officer, Alappuzha, replied that the operators evaded dry docking due to personal interest and lack of awareness and that lack of CMIS prevented effective monitoring by them. The reply is not acceptable as the Surveyor failed to ensure mandatory dry docking survey, leaving the safety of the passengers to the mercy of the HB owners.

3.1.3.3 Deployment of crew in the houseboats

In terms of Section 21 of IVA and Rule 33 of KIVR, when the mechanically propelled vessel proceeds on any voyage, the crew shall possess Competency Certificate (CC) and that every vessel shall have a minimum of one Serang, Driver and a Lascar⁹ possessing CC on board. Further, according to Section 59 of IVA, any crew proceeding on any voyage without possessing a CC shall be punishable with fine extending to five hundred rupees.

Of the 42 HBs (**Appendix – 3.1.6**) jointly verified, in 29 HBs the Serang did not possess CC, in 31 HBs the Drivers did not possess CC and in 27 HBs, the Lascars did not possess CC. In six HBs, validity of CC of all the crew had expired. In 13 HBs sufficient number of competent crew were not in place and in four HBs the cook, helper or lascar operated the HB. Port officer stated that during peak season sufficient competent crew were not available which resulted in operation of HBs by unauthorised persons. The reply of the Port Officer is not acceptable since the operation of HBs by unauthorised persons affects the safety of passengers. Further, increasing number of HBs by granting RCs to new HBs without considering the directions of DoP regarding the carrying capacity of HBs in lake also contributes to the shortage of sufficient crew members. Out of the 42 HBs jointly verified, 36 HBs did not have competent crew. No action was taken by Surveyor even against the HBs mentioned in the joint verification report.

We also observed that of the 17 surprise inspections conducted by Port/Police departments during the period 2011-12 to 2015-16, fine was imposed in the case of 38 HBs which did not have crew with valid CC.

Lack of monitoring and failure to enforce rules by Port/Police Departments facilitated the owners to operate their HBs in violation of the rules, which endangered the safety of the passengers.

3.1.3.4 Safety and security of houseboats

i) Insufficient life saving appliances and firefighting equipment in houseboats

- Rule 103 of KIVR stipulates that each vessel shall be provided with one life jacket for each passenger and crew onboard plus 10 *per cent* extra and one

⁹ Serang is the person who controls the wheel of the HB while the vessel is on voyage and acts as the master of the vessel. Driver is the person in charge of the engine (operation and maintenance) of the HB. Lascar is the person who assists the Serang during embarking and disembarking of the vessel.

lifebuoy for two persons onboard and these should be kept in position for quick deployment in case of emergency.

A joint verification of 42 HBs (**Appendix -3.1.7**) revealed that, 23 HBs did not have adequate number of life jackets and lifebuoys. Further, 11 HBs were plying without any life jackets and 10 HBs were plying without any lifebuoys. We observed that life-saving appliances were kept on the upper deck of the HBs, which is not easily accessible by passengers in an emergency. The Surveyor did not ensure that HBs were provided with adequate number of life-saving appliances through periodical surveys as required under Rule 31 (2) (c) of KIVR.

Port Officer, Alappuzha, replied that they ensured that the required number and type of life-saving appliances were available on board at the time of survey. But, later the owners of HBs remove some of these items, which would only come to the notice of the team which conducts surprise inspections to ensure compliance. The reply was not tenable because, Surveyors were responsible for conducting periodical surprise inspections in terms of KIVR. Large scale non-compliance to KIVR mandating provision of lifesaving appliances, as found out during joint verification by Audit, revealed lapse on the part of the authorities concerned in ensuring safety and security of passengers onboard.

- According to Rule 109 of KIVR, all inland vessels shall be provided with the approved type of firefighting equipment on board. Fire alarm and smoke alarm should be located in gallery and engine room, fire pump should be capable of being switched on from main deck and LPG used onboard should have gas fuse/spark arrester fitted.

A joint verification in 42 HBs (**Appendix – 3.1.8**) revealed that fire and smoke alarm was not provided in 38 HBs and fire pump in 33 HBs. Besides, none of the HBs had gas fuse /spark arrester for LPG cylinder and 19 HBs did not have sufficient number of fire extinguishers. During joint inspection the Audit team witnessed a fire incident in HB bearing KIV No. 1149/13. This HB did not have any firefighting equipment and the fire was suppressed using firefighting equipment from adjacent HBs. Even though the Surveyor issued survey certificate after conducting detailed survey of HBs, including firefighting equipment, the Surveyor did not conduct frequent surprise inspections to ascertain the presence of the equipment on board the HBs, as mandated by KIVR.

Port Officer, Alappuzha, replied that it ensured compliance with the requirements at the time of survey and it was the responsibility of HB operators to maintain sufficient number of lifesaving appliances on board during operation. However, the Surveyor had conducted annual survey in only 345 cases out of 734 HBs registered with Port Registry, Alappuzha, as referred in Para 3.1.3.2(i). Absence of continued monitoring enabled non-compliance to safety measures.

ii) Lack of data on passengers on board and schedule of journey

According to Rule 148 of KIVR, owner of the vessel has to maintain a passenger register in its on-shore office and it is the responsibility of the DoP to ensure that these requirements are adhered to by the HB owners. Further, as per sub Rule 6(h) of Rule 136, schedule of journey shall be made available at the off-shore office.

We observed that the 42 jointly verified HBs had neither maintained the passenger register nor the schedule of journey. Consequently, in the event of an accident, it would not be possible to identify the persons on board. By virtue of being the competent authority under KIVR, the DoP was responsible to ensure that HB owners maintained passenger lists and schedules of journey, as mandated by KIVR.

The Port Officer, Alappuzha, replied (March 2017) that all HBs which had applied for survey had been given instructions and further a circular was displayed at various offices to instruct HBs in this regard. The reply was unacceptable because by virtue of being the implementing authority for KIVR, the DoP was responsible to ensure compliance to provisions in this regard in KIVR and moreover displaying a circular at various offices did not ensure compliance to provisions in this regard. We suggest compulsory display of mandatory conditions in all HBs at a prominent place where passengers can read them.

iii) Non-establishment of enforcement wing

Rule 143 of KIVR made it mandatory for the DoP to establish an enforcement wing with three divisions, one each at Alappuzha, Ernakulam and Kottayam for periodical inspection of the operation of the HBs. The wing was to be constituted under a Deputy Superintendent of Police assisted by a Sub-Inspector in each division. The main objective of this was to carry out patrolling in inland waters to ensure the safety of the passengers on board including at night halt centres.

However, the DoP had not constituted the enforcement wing as of November 2016. The Department did not contest the audit observation.

iv) Non-conduct of annual safety audit of inland vessels jetties

Rule 140 (1) of KIVR stipulates that as a precaution against accidents during embarking and disembarking of passengers, overcrowding of vessels at jetties should be avoided and each jetty shall have safe boarding arrangements. With this end in view, KIVR mandates that jetties have to be identified and selected as approved jetty for vessels and that safety audit be conducted every year. The safety measures prescribed by Port officials for approving jetties included road

connectivity, depth of pile, materials used, present condition, draft¹⁰ available, hand rails and their strength, handling capacity etc.

We observed that though there were 78 jetties in Alappuzha, none had been approved as a safe jetty. Further, as safety audit was pending (March 2017) in all cases, it could not be ensured whether these jetties had the requisite safety measures to prevent accidents during embarking and disembarking of passengers.

The Port Officer, Alappuzha, replied (March 2017) that a Safe Jetty Inspection Committee had been formed for this purpose and safety auditing is pending. Thus, on the one hand there were 734 HBs as against the recreational carrying capacity of the lake being 262 HBs, unsafe jetties further added to the risk to safety of passengers.

3.1.3.5 Operation of houseboats without third party insurance

Section 54 C of IVA mandates that every mechanically propelled vessel shall take insurance against third party risks and further in terms of section 62 B of IVA non-compliance in this regard is punishable with a fine extending to ₹ 1,000. In addition, Rule 15 (2) (d) of KIVR stipulates that copy of such insurance certificate shall be submitted along with the application for registration to the Port Registry.

We observed that out of 734 registered HBs (against recreational carrying capacity of only 262 HBs), only 225 had valid insurance certificate against third party risks. The remaining 509 HBs (69.35 *per cent*) were operating without valid third party insurance. It was also noticed that 196 HBs (26.70 *per cent*) had never taken a policy. Further, during joint verification of 42 HBs, we noticed that 23 did not have third party insurance.

We also observed that during the 17 surprise inspections conducted by Port/Police departments during the period 2011-12 to 2015-16, fine was imposed on 49 HBs which did not have valid third party insurance. Absence of valid insurance could deprive the passenger and the crew of legal benefits and compensation in the event of any mishap.

The Port Officer, Alappuzha, replied (November 2016) that the survey certificate was issued only on production of valid insurance certificate. The reply was not acceptable as conditional survey certificates were issued by the Surveyor directing the HB owners to produce third party insurance certificate within the period prescribed in the certificate. But, it was clear that HBs did not comply with this condition, as was seen from the fact that 69.35 *per cent* of HBs operated without valid third party insurance. Laxity in monitoring was the reason behind non-compliance of conditions relating to third party insurance.

¹⁰ The draft of a ship or boat is the distance between the surface of the water and lowest point of vessel.

3.1.3.6 Non-conduct of surprise inspections by the Port Registering Authority

According to Section 19 (O) (2) of IVA, the registering authority can either suspend or cancel the registration if the vessel is found unfit for service during inspection. Further, in terms of Rule 31(2) (c) of KIVR, the Surveyor shall conduct surprise inspection on board vessels and verify all the mandatory requirements. In case of default, he shall detain the vessel and make necessary recommendations for suspension/cancellation of the RC/survey certificate, to the registering authority. Further, according to Sections 55 to 64 of IVA and Rule 139 of KIVR, penalties can be imposed on HBs for non-compliance to various Sections/Rules in the Act/Rules. Further, the DoP had instructed (April 2011) that inspection of vessels under KIVR shall be carried out based on a quarterly inspection plan to be prepared by Registering Authority/Chief Surveyor/Chief Examiner and approved by the DoP.

We observed that out of the 237 HBs inspected, though provisional detention order was issued to 170 HBs, none was detained due to non-availability of safe place for keeping the detained vessels. Further, 117 HBs were penalised, of which 31 HBs only remitted the fine to Government (**Appendix – 3.1.9**). In the remaining 86 cases, no further action was initiated by the Port Officer, Alappuzha, to recover unpaid fines. No monitoring was done by the DoP to ensure that HBs had rectified the shortfalls noticed during inspection. Further, the Registering Authority/Chief Surveyor/Chief Examiner had never prepared and presented the quarterly inspection plan as directed by DoP for his approval.

Port Officer, Alappuzha, replied that Government had not constituted a separate inspection team and the department did not have sufficient space for keeping seized vessels in safe custody. The Port Officer also added that service of more personnel were required for the safe custody of confiscated vessels which were not presently available with the department.

The reply was silent about the department's failure to prepare inspection plan, recover unpaid fines, and follow up on rectification of shortfalls by HB owners or suspend registration of violators.

3.1.3.7 Inadequate manpower to monitor compliance of KIVR

In terms of Rule 31 and 32 of KIVR, the duties and powers of surveyor includes conducting of initial/annual survey, dry dock inspection and surprise inspection of all inland vessels such as HBs, passenger boats, motor boats, speed boats and barges. The sanctioned strength of surveyors in DoP was one Chief Surveyor and two surveyors (contract basis) for all the six port registries in Kerala.

The shortfall in renewal of registration and conduct of annual/periodical surveys and dry dock inspections noticed were as detailed in **Table 3.3**.

Table 3.3

Shortfall in renewal of registration and conduct of annual/periodical surveys and dry dock inspections

Year	Number of HBs where		
	registration not renewed	initial/annual survey not conducted	periodical dry dock inspection not conducted
2010-11	0	206	239
2011-12	238	48	60
2012-13	70	18	29
2013-14	18	63	58
2014-15	0	21	34
2015-16	0	33	56
Total	326	389	476

We observed that inadequate monitoring by the surveyors and deficiency in detection of violations resulted in non-compliance of several provisions in KIVR. Moreover, joint verification of 42 HBs conducted by Audit revealed that HBs were operating in the backwaters without sufficient/competent crew, lifesaving appliances and firefighting equipment which was an indication of insufficient monitoring which in turn compromised safety of passengers. Further, ineffective monitoring also resulted in non-realisation of revenue due to Government.

In the exit meeting, the Registering Authority, DoP replied that due to shortage of surveyors in the department, the above functions could not be carried out by them.

3.1.3.8 Non-fixation of maximum tariff rate for houseboats

Section 54 A of IVA stipulates that the State Government may fix the maximum rate per kilometer for passengers of any class travelling on inland mechanically propelled vessels.

We observed that neither the DoP nor the DoT had fixed the tariff rate. Though IVA empowers the State Government to make rules for tariff rates of vessels, the State Government/DoP/DoT did not take any action for incorporating the stipulation either during framing of KIVR or during its amendment in 2015. DoP replied that it was issuing only the RC for the HBs after conducting necessary survey and as the Tourism department was controlling the HB industry and facilitation of tourists, the authority to fix the maximum rate rested with DoT. However, the DoT replied that, at present, DTPC had no role in fixing the tariff rate for HBs in Kerala. Further, the DoT had no control over the operation of HBs as DoT was only implementing the classification scheme for HBs having RC from registering authority. As a result the passengers were left to the mercy of HB operators.

3.1.3.9 Impact on environment

i) Operation of HBs without renewal of Integrated Consent to Operate

Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act), stipulates that previous consent of KSPCB is necessary to establish any industry or any treatment or disposal system, which is likely to discharge sewage or trade effluents into a stream or on land. For this purpose KSPCB issues ICO to industries. Further, in terms of KIVR, the Surveyor issues the certificate of annual survey based on the ICO issued by KSPCB.

We observed that, even though ICO was mandatory for obtaining the certificate of survey/RC, the Surveyor issued conditional survey certificate directing the HB owners to produce ICO within the prescribed time limit. The Surveyor also did not ensure that the HB owners fulfilled the condition within the stipulated time, as discussed below.

We observed that out of 811 HBs that had applied (2010-11 to 2015-16) for ICO to the Environmental Engineer (EE), KSPCB, Alappuzha, validity of ICO had expired in respect of 324 HBs (39.95 per cent) and 113 HBs (13.93 per cent) were operating without ICO as on 31 March 2016.

It was also noticed that, though 811 HBs applied for ICO, only 734 HBs were registered with Port Registry, Alappuzha. We observed that initial survey of HB was compulsory for obtaining ICO while registration was not. Hence, many of the HBs which underwent initial survey obtained ICO but failed to apply for registration. This resulted in discrepancy between the number of HBs that were registered and those which obtained ICO. This discrepancy occurred due to lack of coordination between the Port Registry, Alappuzha and KSPCB, Alappuzha.

The results of joint verification conducted by Audit to ascertain the compliance of HBs to mandatory requirement of ICO are given in the **Table 3.4**.

Table 3.4

Details of HBs operating without ICO

Particulars	Number of Houseboats		
	subjected to JV by Audit	which never obtained an ICO	where validity of ICOs had expired
Kerala Backwaters Pvt. Ltd.	8	7	0
Kerala Tours Backwaters	2	1	0
Other individual HBs	32	14	3
Total	42	22	3

(Source: Joint verification reports)

Joint verification of 42 HBs revealed that ICO had expired in the case of three¹¹ HBs, whereas 22 HBs (**Appendix – 3.1.8**) never obtained an ICO. Of the 22 non-compliant HBs, M/s Kerala Backwaters Pvt. Ltd. owned the maximum number.

Audit analysis further revealed that, out of 22 HBs, seven (owned by M/s Kerala Backwaters Pvt. Ltd.) were unregistered since 2010 and seven had not been surveyed since 2010. KSPCB had not taken any punitive action against these HBs, as stipulated in the Act/Rules.

ii) Non-conduct of periodical inspection and water analysis

In terms of Rules 118(1) and 115(5) of KIVR, every HB should be fitted with bio-tank for collecting the sewage from the toilets and all exhaust pipeline of bio-tank should be fitted above the water line mark of HB. Further, according to Ministry of Environment and Forests, Government of India notification (December 1999), KSPCB should inspect and analyse water samples from the final outlet pipe of each HB once in six months and ensure that the prescribed parameters of discharged water were within the acceptable limit (BOD¹²- 30 mg/l). Further in terms of section 21(1) of Water Act, 1974, KSPCB had to take samples.

We found that in all the 42 HBs jointly verified, the final outlet pipes from the bio-tank of HBs were fitted below the water line mark of HBs. This meant that sewage from the bio-tank was discharged through the final outlet pipe below the water surface. Consequently, collection of mandated water samples from the final outlet pipes of HBs, which was inside water, for periodical analysis was impossible due to its incorrect position. Moreover, had the Surveyor in the Port Registry ensured that the final outlet pipe of bio-tank of HBs was fitted above the water line mark, during initial/annual survey of HBs, KSPCB could have monitored the quality of discharged water with respect to the prescribed parameters.

We also observed that 811¹³ HBs had applied (2010-11 to 2015-16) for ICO. Further, as inspection and analysis of water samples from the final outlet pipe of each HB was mandated twice annually, the stipulated inspection of HBs by KSPCB for the purpose would come to 1,622 annually¹⁴. However, KSPCB had not inspected and collected water samples in any of the HBs up to March 2016. KSPCB, Alappuzha replied that it was practically difficult to collect effluent samples from the final outlet of bio tank with the existing facilities and hence samples could not be taken for analysis. Due to non-availability of speed boat and shortage of man power, the Board could not conduct frequent inspection in HBs.

¹¹ Regn Nos (1) KIV/ALP/HB/919/11; (2) KIV/ALP/HB/1149/13; and (3) CIB 872.

¹² Biochemical Oxygen Demand (BOD) is the amount of dissolved oxygen needed by aerobic biological organisms in a body of water to break down organic material present in a given water sample at a certain temperature over a specific time period.

¹³ HBs registered in KSPCB, Alappuzha for obtaining ICO.

¹⁴ 811 HBs x 2 mandatory sample analysis to be done annually = 1,622 targeted inspections.

iii) Under-utilisation/functioning of CSTP

The Common Sewage Treatment Plant (CSTP), operated by District Tourism Promotion Council (DTPC), Alappuzha, started functioning from March 2014. The sewage from HBs was discharged into the CSTP for effluent treatment. According to specific condition 3.12 of ICO issued by EE of KSPCB, not less than four discharges per year shall be made by each HB into the CSTP. Further, in terms of condition 3.2 of ICO, samples of effluent should be collected from all outlets and analysed in any laboratory approved by the board at least once in six months¹⁵.

The status report of CSTP usage by the HBs indicates large scale non-compliance in this regard, as shown in the **Table 3.5**.

Table 3.5
Details of discharges made by HBs into CSTP

Year	Number of discharges				Total usage
	4 times	3 times	2 times	One time	
2014	Nil	1	13	240	269
2015	Nil	1	33	298	367
2016	Nil	Nil	15	202	232
Total	Nil	2	61	740	868

(Source: Records of District Tourism Promotion Council, Alappuzha)

Though 811 HBs had applied for ICO to KSPCB, Alappuzha, in different years, only an average of 290 HBs (35.75 per cent) had discharged sewage during the years 2014 to 2016, which pointed to unauthorised methods employed for sewage discharge by HBs.

We further observed that District Office, KSPCB, Alappuzha, did not conduct periodical water analysis/inspection of the CSTP since its commissioning in March, 2014. During joint verification, water samples from the final outlet of the CSTP were collected and analysed and found that BOD level and suspended solids were 118 mg/l and 116 mg/l respectively, which was beyond the limit prescribed (30 mg/l and 100mg/l).

In reply to an audit query DTPC, Alappuzha, stated that the under utilisation of CSTP by HBs was due to lack of strict monitoring on the part of KSPCB. However, District Office, KSPCB, Alappuzha, stated that due to shortage of staff and lack of infrastructure, they could not ensure compliance with the conditions. The reply was unacceptable as the condition of the water samples, as discussed above, warranted urgent action on the part of KSPCB to put in place the prescribed monitoring mechanisms.

¹⁵ As per the requirement of Ministry of Environment and Forests notification, 1999.

iv) Defective management in collection, segregation and disposal of solid waste and hazardous waste

According to specific condition 3.11 of ICO issued by EE of KSPCB, solid waste shall be disposed as per Solid Waste (Management and Handling) Rules 2000. Further, schedule II of the said rules stipulates that solid waste shall be segregated and disposed of scientifically by LSGIs. Further, Rule 146 of KIVR requires vessel owners to provide separate bins to dispose solid waste scientifically. Similarly, as per Hazardous Waste (Management and Handling) Rules, 1989, waste engine oil shall be disposed through collection agents authorised by KSPCB.

We observed that none of the 42 HBs subjected to joint verification were provided with separate bins for segregation of wastes. Plastic and paper wastes were being collected in a single container and disposed of by burning in private lands or on the banks of the backwaters where the HBs were anchored. Waste oil was disposed of by the HB owners on the land or by applying it on the interior part of the hull. None of the owners of HBs disposed it through collection agents authorised by KSPCB.

We observed that the LSGI did not provide facilities for collection of solid/hazardous wastes from these HBs in the land area for scientific disposal as required under the rules.



Solid waste floating in water body/heaped and burnt on the land and waste oil inside the hull

KSPCB replied that LSGI, Alappuzha did not follow a routine system for collection, segregation and disposal of solid wastes from HBs while the LSGI¹⁶ stated that, it was the responsibility of HB owners to dispose of the solid wastes at the source itself. However, Schedule II of the Solid Waste (Management and Handling) Rules, 2000, stipulates that it is the responsibility of the LSGI to manage the solid waste.

¹⁶ Alappuzha Municipality.

Environment Department replied that the disposal of solid waste was the responsibility of the LSGI and that the Port Authority was directed to ensure that no waste was dumped into the lake. It was also stated that the HB owners were informed that they had to provide own facilities to dispose of organic wastes and also to give plastic wastes only to recyclers. The reply also stated that the possibility of providing a mobile unit was also under consideration.

3.1.4 Conclusion

About 44.41 *per cent* of HBs registered under Port Registry, Alappuzha, had not renewed their registration. Further, about 53 *per cent* of the HBs did not conduct the mandatory annual survey required under KIVR. This pointed to ineffective monitoring by the Surveyor causing threat to the safety and security of the passengers on board. Though the recreational carrying capacity of Vemabanad lake was only 262 HBs as found out by CWRDM in the Environment study of Vembanad lake, DoP issued registration to 734 HBs as of March 2016 which is approximately three times the carrying capacity of the lake. This action of the Ports department posed a serious threat to the environmental stability of the lake. Ineffective monitoring by the surveyors of DoP also resulted in non-conduct of dry dock inspection (64.85 *per cent*) once in three years. While compromising the safety of passengers onboard, this also resulted in revenue loss of ₹ 17.66 lakh to the Government.

Even though the survey certificate/registration were issued to HBs conditionally, DoP did not ensure that the HBs operating in the backwaters complied with the conditions. Inadequate monitoring mechanism increased the number of unauthorised HBs operating in the back waters. Further, non-constitution of an enforcement wing by DoP emboldened them to operate illegally. Meagre penalties for employing unqualified crew and insufficient surprise inspections by the surveyors failed to deter the HB owners from repeating the same offence. Surveyors of DoP also failed to ensure the provision of life saving appliances and fire fighting equipment in HBs. Non-fixing of tariff rate by the Government/ Department paved the way for charging high rates from the tourists.

KSPCB did not have adequate monitoring mechanism for identifying the offenders. Most HBs did not utilise the CSTP and could be discharging their sewage into the lake, thus polluting the environment.

During exit meeting (December 2016), details of all paras mentioned above were discussed with the department. The department did not contest the audit observations.

The matter was referred (December 2016) to Government and reply is awaited (March 2017).

INDUSTRIES DEPARTMENT

3.2 Allotment and utilisation of industrial plots

3.2.1 Introduction

The Department of Industries (Department) acts as a facilitator for industrial promotion and sustainability of Micro, Small and Medium Enterprises (MSME) and traditional industries sector. The Department, under its land allotment scheme, provides Development Areas¹⁷ (DAs) and Development Plots¹⁸ (DPs) for industrial use to prospective entrepreneurs either on hire purchase or on lease basis. Assignment of government land for industrial purposes is governed by the 'Rules of assignment of government land for industrial purposes, 1964'. Other than assignment, allotment and utilisation of DA/DP are governed by 'Rules for the allotment of land in DA/DP on hire purchase basis' (1969 and 1970) and 'Rules for lease of land in industrial DA/DP for industrial purposes' and orders issued under them from time to time. Since June 2013, the Department provides land for industrial purposes on lease basis only. The Department had promoted 38 DAs/DPs up to March 2016 having a total acquired area of 2,443.72 acres, of which 2,049.506 acres¹⁹ were allotted to 2,583 industrial units in these DAs/DPs as on 30 September 2016.

The Department is headed by the Additional Chief Secretary to Government of Kerala (Industries), assisted by the Director of Industries & Commerce (Director), who in turn is assisted by the General Managers (GMs) in 14 District Industries Centres (DICs).

3.2.2 Audit objectives and scope

The compliance audit was conducted to ascertain whether, the allotments were transparent and in compliance with the rules framed for the purpose; there was a prescribed methodology for fixing the price of industrial plots; and appropriate and effective mechanism existed for ensuring and enforcing the utilisation of land for the intended purpose.

We examined the records at the Government Secretariat/Directorate/field units, interacted with the personnel at the audited entities, raised audit queries, and discussed the audit findings with the management. Records of 385 land allotment cases were examined in the DAs/DPs of five sampled districts, viz. Ernakulam, Kannur, Kozhikode, Palakkad and Thrissur which were selected using Probability Proportionate to Size without Replacement method. Joint physical verification was also conducted along with the departmental officials in some DAs/DPs. The audit was conducted from June to September 2016.

¹⁷ DA is land acquired by Government for the purpose of the industrial development of an area

¹⁸ DP is area divided into convenient small plots of land

¹⁹ The balance includes area for common facilities, internal roads and about 38 acres under development

Audit Findings

3.2.3 Non-updating of land value in line with fair value and consequent non-collection of revenue

As per the Rules for lease of land in industrial development area and development plot for industrial purposes – 2016 (lease rules), which came in to effect from 10 June 2013, the lease premium²⁰ realisable from the entrepreneur is the fair value of land fixed by Government from time to time or the cost of acquisition inclusive of all administrative overheads plus development charges (acquisition either by LA Act, 1894 or outright purchase or transfer by Government/Local Self Government Institution), whichever is higher. Government has not fixed the cost of industrial land so far. Hence, the Department has not been able to derive financial benefit of lease premium. Government replied that the Revenue Department had not fixed fair value of industrial land and that the Department would review its land pricing policy.

3.2.4 Allotment of land in violation of lease rules

The land in DA/DP is to be allotted to prospective entrepreneurs only on lease basis since 10 June 2013. According to the lease rules, the land is allotted only for industrial purposes for a term not exceeding 30 years. This term can be extended for another 30 years subject to leaseholders satisfying the terms and conditions of the earlier lease.

We observed that allotments were made in violation of the lease rules in the cases illustrated below, which resulted in loss of lease premium and rent to the Department while giving a right to the allottee to possess the land without time restriction, subject to allotment conditions.

- The GM, DIC, Thrissur transferred (June 2016) land (52 cents) allotted to a defunct unit²¹ (plot number 13) situated in DP Velakkode to another firm²² in terms of Hire Purchase (HP) rules instead of the lease rules. The GM replied (March 2017) that the allotment was made on the directions (May 2016) of the Director.
- The Revenue Department assigned (December 2015) industrial land measuring 2.50 acres in DA Edayar resumed from M/s Cochin Leathers Pvt. Ltd. to M/s Cochin Minerals and Rutilites Ltd. The Government stated (March 2017) that the transfer was done at the instance of DIC by Revenue Department as it was assigned land. The reply is not acceptable as the assigned land was resumed by the Department and hence the new lease rules should have been applied on re-allotment.

²⁰ The lease premium is a lump sum compensation payable by the licensee in consideration of the lease of land.

²¹ M/s Speed Lubes.

²² M/s NCI Paints.

3.2.5 Transfer of land in violation of allotment rules

According to rules for allotment of land for industrial purposes, transfer or alienation of such land is not permissible without the prior written consent of the Government/Director. Any entrepreneur who desires to cease operation should intimate his intention to the Government/Director, who will resume the land and re-allot it to applicants from the priority list. The Director also instructed (December 2015) the GMs to ensure that industrial land was not allowed to be used as a means to make private gains by engaging in real estate deals.

We observed that the allottees of industrial land transferred the same to others in contravention of the rules by adopting methods like changing the constitution of ownership of the firm by bringing in new director(s) or sub-leasing or by proposing transfer of ownership on the grounds of loan default, etc. Details of such instances are given in **Appendix – 3.2.1**. An example is detailed below:

- Industrial land measuring 23.22 acres was allotted (August 2004) to M/s Dhaan Ispat Pvt. Ltd. in the New Industrial Development Area (NIDA), Kanjikode, Palakkad. The original allottee was Shri. G.R. Elangovan who was also the Managing Director of the industrial unit. As the land was kept idle, the GM, DIC Palakkad held (October 2006) a personal hearing of the allottee. But instead of the original allottee, the meeting was attended by Shri. C.K. Ismail Haji and Shri. Abdul Rahiman, who were directors of M/s Dhaan Ispat Pvt. Ltd. Subsequently, Shri. Sushil Vijoy Arora also was inducted (December 2015) as a director and the new list of directors furnished by the firm to the GM, DIC Palakkad did not contain the name of the original allottee. The change of directors was in effect transfer of ownership and hence a land deal. The firm had not undertaken any industrial activity on the allotted land other than possessing it and transferring it through change of directors. The Government reply (March 2017) was silent on the audit observation.
- A joint inspection conducted (September 2016) by the audit party with departmental officials at DP Ayyankunnu, Thrissur revealed transfer of land without the knowledge of the DIC, Thrissur. The land (25 cents) allotted (May 2010) to M/s Promise Industries was found to be used by M/s Envirogreen Carrybags India Pvt. Ltd. without the approval of DIC. The Government stated (March 2017) that the transfer has been regularised by the Director.

Further, in a survey conducted (November 2016) by DIC, Ernakulam, 72 cases of violations relating to unauthorised transfers of land/ change of constitution were identified and show cause notices issued which reiterates the audit observation (**Appendix – 3.2.2**).

We observed that the Department did not have an exit policy to enable entrepreneurs who wanted to discontinue their ongoing profitable industry for

personal or other reasons. If they surrendered their industry to the Department as prescribed by rules they stood to lose most of their investment by way of resumption interest payable to Government. This prompted them to transfer the land to others without departmental consent. Government in reply (March 2017) accepted the audit observation.

3.2.6 Issues relating to utilisation of land

3.2.6.1 Encroachment of industrial land

Section 5 [8] (1) of the Kerala Land Conservancy Act, 1957, stipulates that the land which is the property of Government is not to be occupied by anyone without Government's permission. If any person occupies any land unauthorisedly, he is liable to pay a fine and may be summarily evicted by the Collector. Moreover, any crop or other product raised on the land will be forfeited and any building or structure erected or anything deposited thereon will also, if not removed by him even after receipt of written notice from the Collector, be forfeited.

Audit examination revealed that:

- Revenue Department had acquired 9.53 acres of land (1965) in Koppam village of Palakkad district and handed over (July 1967) the same to Industries Department. Out of 9.53 acres, three acres were allotted to an entrepreneur in July 1965 itself. The land was declared as DP in 1987. The balance 6.53 acres of land was kept idle without allotting to prospective entrepreneurs and proper monitoring. Consequently, over the years it was encroached upon by 54 families. The encroachment was first reported (1992) to Revenue Department for eviction.

We observed that the GMs of DIC, Palakkad had failed to detect the encroachments in time and report the same to Revenue Department for eviction since 1967. We also observed that none of the encroachers have been evicted so far (March 2017).

Government accepted (March 2017) the audit observation and replied that it has been proposed to give alternate land to the encroachers under zero landless scheme²³ of Revenue Department.

²³ A scheme by Kerala Govt. to provide land to land less (citizen) in the State.



- A survey (1998) of the 1.50 Acres of land allotted to M/s Cochin Petro Mine (P) Ltd. in DA Edayar, Ernakulam district found that 10 cents of land had been encroached upon. The Government accepted the fact and stated (March 2017) that the *Tahsildar*, Paravur *Taluk* has been asked to resurvey the land. It was further stated that appropriate action would be taken against encroachers.
- An extent of 90.96 acres of excess land in the possession of M/s Instrumentation Ltd, Palakkad was resumed and transferred (July 1994) to Industries Department for setting up a DA/DP in Pudussery, Palakkad. The land has been kept idle till date without allotment, though applicants have been waiting for allotment. During joint verification (March 2017) it was found that around 30 cents of land was encroached by a few families but not yet evicted. In reply (March 2017) Government stated that the land was never under DIC, Palakkad. The reply is not acceptable as the land was transferred (July 1994) to Industries Department and the GM, DIC, Palakkad took over the land on 22 July 1997.

3.2.6.2 Failure to obtain land in lieu of land handed over to KSEB

The Revenue Department allotted (December 1988 and July 1992) free of cost an extent of 115.097 acres of industrial land at Kanjikode under DIC Palakkad to Kerala State Electricity Board (KSEB) on the condition that KSEB would acquire and hand over an equal extent of similar land nearby to Industries Department forthwith. The industrial land was required by KSEB for installing 220 KV Substation and for setting up of a wind farm in NIDA, Kanjikode.

But neither KSEB handed over the agreed land nor did the Industries Department take steps to obtain the same. The Government stated (March 2017) that the issue had been taken up with KSEB and they had assured to handover an equal extent of land in return.

3.2.6.3 Inordinate delay in completion of development works

The Department proposed setting up of multi-storied industrial parks (Gala) in Ernakulam, Palakkad and Thrissur districts to tide over land scarcity in the State. The implementation of the project at Ernakulam was entrusted (March 2010) to M/s Kerala Police Housing Construction Corporation Ltd. with a completion period of eighteen months and those at Palakkad and Thrissur to Kerala Small Industries Development Corporation Limited (SIDCO) in February 2013 and July 2013 respectively with a completion period of 24 months. In Ernakulam and Thrissur districts, civil works costing ₹ 16.93 crore were completed (August 2016) but the structures were not provided with electrical and water connections. In Palakkad, the Industries Department deposited ₹ 7.5 crore with SIDCO, but the work had not yet started. Instances of idling were also observed in the two DPs, one each at Kattipara in Kozhikode district and at Varavoor in Thrissur district, which were under development at a cost of rupees four crore. In respect of DP at Kattipara, the DIC could not provide (September 2016) hindrance free land. The development works at these two locations acquired in October 2003 and October 2010 respectively were still in progress. Thus, despite spending ₹ 28.43 crore²⁴ the department could not achieve the desired objective.

The Government replied (March 2017) that Gala at Ernakulam was fully operational and allotments were done. In Thrissur, the delay in execution was due to the managerial problems of the implementing agency, SIDCO which had been sorted out. In the case of Palakkad the work was resumed from SIDCO and reassigned to another implementing agency. The development works in Varavoor and Kattipara would be completed in six months and ten months respectively.

3.2.6.4 Non-resumption of idling industrial land

All Government orders regulating the allotment of industrial land insist that land should be used only for the purpose for which it is allotted, within the period stipulated. As per the lease rules, if the lessee is unable to commence industrial activity within the stipulated time, it can be extended for six-monthly periods, subject to a maximum of four times, after remitting 5, 10, 20, and 25 *per cent* of lease value respectively as penalty. The land allotted under assignment, hire purchase or lease was not to be alienated (in the form of gift, mortgage, transfer, etc.) without the written permission of Government/Director. On violation of any or all of the agreement conditions, the Department shall resume the allotted industrial land. The responsibility to resume the unutilised land vested with the GM.

(a) Test-check of records and joint verification of DAs/DPs by Audit with departmental officials found 11 instances of industrial land kept idling. The instances detected showed that in one case the land was idling since its allotment ten years back, while in another case it was idling for more than 30 years. In two

²⁴ ₹ 16.93crore + ₹ 7.5 crore + ₹ 4 crore = ₹ 28.43 crore

other cases, the industries which functioned on the allotted lands had shut down nearly 10 years back after defaulting on electricity and sales tax dues. Details of the cases detected are given in **Appendix – 3.2.3**.

(b) We also observed that there was delay in resumption of land even after the department noticed the violations. The resumption clause was to be invoked in case of violation of allotment conditions, but the GMs did not take any action. Delay in resumption ranged from two-and-a-half years to ten years (**Appendix - 3.2.4**). The Government stated (March 2017) that estate managers had since been appointed in all the DA/DPs so as to closely monitor utilisation of industrial land in future.

3.2.6.5 Mortgage of industrial land

According to the delegation of powers²⁵, the GMs are authorised to accord permission to mortgage the superstructure put up by the allottee in the allotted land to avail institutional finance. But the then Director decided (December 1995) to allow mortgaging of the land also and authorised the GMs to issue such permission under intimation to the Director. The Director observed (June 2016) that entrepreneurs got land at a low price, while on mortgaging they got 70 per cent of the market value. Revenue Department issued (June 2011) a circular stating that the ownership of any Government land was vested with them and any orders relating to Government land should be issued with the concurrence of the Revenue Department. The Principal Secretary to Government (Revenue) objected (April 2013) to the mortgaging of industrial land.

The Government stated (March 2017) that the procedure followed for issuing mortgage permission by GM was not wrong as the Director would ratify such cases and the ultimate responsibility continued to reside with the Director. The reply is not acceptable since the land allotment rules do not authorise mortgaging of industrial land without prior permission of the Government/Director.

We observed that as a result of the irregular decision of the Director, the GM permitted the allottees to mortgage industrial land in addition to the superstructure. On non-repayment of loan, the financial institutions which held the first charge on the land, auctioned it to recover their dues. We noticed that in the following cases, the land auctioned was not being used for industrial purpose due to mortgage and subsequent auction:

- Department allotted (December 1970) 8.29 acres of land to M/s Trio Packaging Company in DA Angamaly, under DIC, Ernakulam, for industrial purpose on hire purchase basis and issued the title on remitting the full value of land. The Department allowed (February 1975) the Managing Partner of the unit to mortgage the land to State Bank of India for a loan. Due to default on repayment of the loan, the Bank filed a case in the

²⁵ Vide order No. G.O.M.S 15/79/P&ARD dated 02.07.1979.

court of law. On obtaining a favourable decree the land was sold (1988) in auction to Shri Kuruvila who neither utilised the land for industrial purpose nor approached the Department with any proposal for starting industry. It was seen from the file that the land was subsequently sold to several other parties in parts and the purchasers did not get the transactions regularised by the DIC. As the land was lying idle, it should have been resumed in terms of HP rules. However, DIC did not resume the idling industrial land.

The Government accepted (March 2017) that the land has been transferred several times to several users and that GM, DIC has been directed to initiate resumption proceedings in respect of transferees who have not started industrial activity.

- In another case, 8.66 acres of land allotted to M/s Kerala Acids and Chemicals Ltd. in DA Edayar, Ernakulam, was auctioned by the official liquidator as per the directions (August 2004) of the Honourable High Court. In the permission granted by the Court, it was specifically mentioned that the sealed tenders for sale were to be invited on the condition that the property notified for sale was an industrial area. In the sale deed signed (July 2005) by the official liquidator, however, a clause was inserted permitting the purchaser to use the land without any reservation.

As this was an assigned industrial land, it was bound by the Assignment Rules, 1964 which required that the land shall be used only for the purpose for which it was assigned. As the sale deed permitted use of the assigned industrial land for any purpose without reservation, it was diverted for non-industrial activities like container parking, godown, training centre etc. We came across several such instances (**Appendix – 3.2.5**).

In reply (March 2017) Government stated that the transferees of the plots were using 1.07 acres for manufacturing of ready-mix concrete, 2.23 acres for the manufacture of PVC pipes and the remaining 5.36 acres for service sector activities such as container parking, godown, training centre etc. A very narrow definition of industry cannot be taken especially when a major port such as Cochin Port is in the vicinity and offers opportunities in logistics. The reply is not acceptable as the activities of those entrepreneurs have not been regularised by DIC, Ernakulam.

In terms of the new lease rules, leasehold right alone is allowed to be mortgaged after entering into a tripartite agreement among the Department, the entrepreneur and the financial institution which is a good practice.

3.2.6.6 Misuse of industrial land

The Department decided (February 2014) to allot land not exceeding five *per cent* of total land area of DA/DPs to service sector industries such as logistics, godown, food court etc. being supporting infrastructure for industries operating in them.

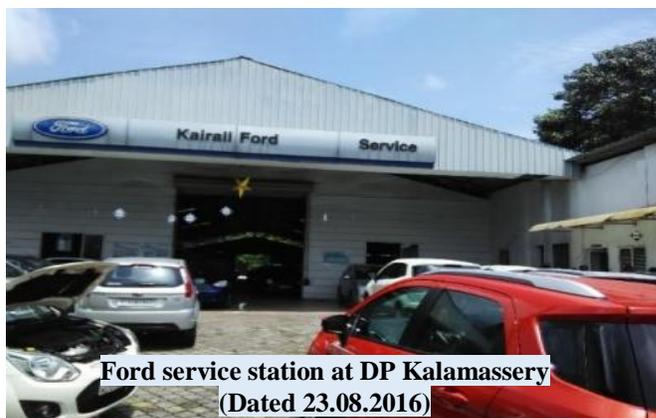
We observed that the land thus allotted were misused in most of the cases and their activities did not support the industries operating in the DA/DP at all. It was also seen that some entrepreneurs protested against the unauthorised activities of these units. Moreover, according to the details provided by GM, DIC, Ernakulam, the land allotted to service industries in DA Edayar in Ernakulam district was more than the permissible five *per cent*. We observed that the GM allotted land to the service sector in excess of the prescribed limit on directions from the Director, which was irregular. The following examples illustrate misuse of industrial land:

- An extent of 12.21 acres of land located in Cheruvannur village, Kozhikode Taluk, was allotted (May 1964) to M/s West India Steel Company for steel re-rolling mill, foundry and workshop activity. The company was non-functional since the year 1997. During joint physical verification with departmental officials we observed that the land was being used by M/s Indus Motors (authorised Maruti dealer) as vehicle showroom, which was a violation of the land allotment conditions. Thus, the land allotted for industrial activity was not being used for the intended purpose and the GM, DIC, Kozhikode failed to ensure its proper utilisation.

The Government stated (March 2017) that this allotment predated issue of the rules for DA/DP in 1969/1970. Therefore, it was not fair to apply the same yardsticks as in the other cases to this case. The reply is not acceptable as the unit violated agreement condition No 4 (b) stipulating that the land should be used only for the purpose of establishing a steel re-rolling mill, foundry and workshop.



- In another case, an extent of 1.01 acres of land in DP Kalamassery assigned (March 1987) to M/s Anand Wire and Allied Industries Pvt. Ltd., was transferred (March 2006) to M/s Kerala Cars Pvt. Ltd. to set up an automobile body building unit. The allottee did not utilise the land for the intended purpose till April 2009 after which, the land was being used as a Ford service station, which was not an industrial activity. This was a lapse of GM, DIC, Ernakulam.



The Government replied (March 2017) that the land was being utilised for manufacturing automobile body which was the sanctioned activity. The reply is not tenable since during joint physical verification (August 2016) with DIC staff, we observed that a Ford service station functioned on the land.

A few more cases of similar violation are shown in the **Table 3.6**.

Table 3.6

Details of service sector industries not supporting the activities of the industries in the DAs/DPs

Sl. No.	Name of DIC / DA	Name of Unit	Extent of land allotted in cents	Remarks
1	2	3	4	5
1	Ernakulam/DA Edayar	M/s Kerala acids and chemicals Pvt. Ltd.	866.00	The land is used for container parking and training centre which is not regularised by the DIC and not required by other entrepreneurs.
2	Ernakulam/DA Edayar	M/s Goldstar Rubber Products	60.50	Used as cement godown, though the entrepreneurs in the DA did not require it.
3	Ernakulam/DA Edayar	M/s New Generation Minerals and Warehousing Pvt. Ltd.	310.00	The proposed activity is warehousing, but used as cement godown which is not required by the entrepreneurs in the DA.
4	Palakkad/DA Kanjikode	M/s Dhaan Ispat Pvt. Ltd.	1,432.00	Few containers are dumped on the land against the approved activity of cold storage & logistics park.
			2,668.50	

(Source: Data furnished by the Directorate of Industries and Commerce)

The GMs concerned were responsible for permitting the unauthorised activities as timely action was not taken to resume such land.

The Government replied (March 2017) that as the DA was in the vicinity of Cochin Port, the allotment in excess of permissible five *per cent* and utilisation of land for container parking, godown etc. was not a misuse of industrial land. The reply is not tenable as the Government had ordered (February 2014) that not more than five *per cent* of land area in DA/DPs be allotted for service sector industries. In the case of DIC, Ernakulam, the industrial land allotted for service sector activities are more than the permissible five *per cent*.

3.2.7 Departmental lethargy in vacating stay on resumption granted by Government

In DP Koppam, out of three acres of industrial land held by one Smt. Valsala Paulson, 2.5 acres were resumed (July 2010) by GM, DIC, Palakkad as the land was not being utilised for industrial purpose. But on the basis of a representation submitted by one Shri. K.P. Abdul Naser to the Minister of Industries, the Additional Chief Secretary stayed (October 2011) the resumption until disposal of the petition. The stay has not been vacated till now even after the lapse of five years. The Government stated (March 2017) that the case had been taken up for immediate disposal.

3.2.8 Lack of monitoring

As per Rule 22 of Assignment Rules, 1964, the *Tahsildar* and the District Industries Officer (GM) shall conduct periodical check to ensure that the conditions of assignment are not violated and shall immediately bring to notice of the Collector and Director of Industries & Commerce in case of contravention of the provisions of the rules or orders.

We noticed that periodical checks to detect violations of allotment conditions were not conducted by the GMs as envisaged. Though there were serious issues such as idling of land, misuse, transfer etc. departmental inaction varied from months to years. Some of the cases of idling or transfers were detected by the department only after several years of their occurrence. A few examples in this category are given below:

- During the joint inspection conducted (August 2016) by Audit with the departmental officials in DP, Andoor, under DIC, Kannur, the official who accompanied the team was unable to identify many of the units. This indicated inadequacy in monitoring.
- In DPs at Ayyankunnu, Athani and Velakkode under DIC, Thrissur, the official who accompanied the audit team discovered illegal transfers and unauthorised activities in the DPs during the joint physical verification only.

- The Women Apparel Park in DP Kalamassery, functioned without an agreement. Though the lease period expired in the year 2011, the unit continues to function and the rent was yet to be fixed.

The Government stated (March 2017) that the department had conducted a detailed survey to identify cases of unauthorised activity, illegal transfers, etc. in November 2016.

3.2.9 Conclusion

Non-fixation of fair value of industrial land resulted in non-collection of revenue due to Government. Even though the new lease rules came into force from 10 June 2013, allotments were made violating them. The Department did not take any action to evict the encroachments on industrial land. It also failed to get 115 acres of land from KSEB in lieu of an equal extent of industrial land given to KSEB. The Department did not take timely action to resume unutilised/underutilised industrial lands. Erroneous decision to permit entrepreneurs to mortgage industrial land in contravention of the orders issued by Revenue Department resulted in loss of land. The General Managers concerned were unaware of the violation of allotment conditions by industrial units in the DA/DPs, due to ineffective monitoring of the units and failed to take timely remedial action.