

CHAPTER IX : MINISTRY OF EXTERNAL AFFAIRS

9.1 Avoidable expenditure on rent for Ambassador's residence

Ministry delayed decision on alternative use of Embassy Residence in Brasilia, resulting in avoidable expenditure on continued payment of rent on Ambassador's residence (₹ 0.60 crore).

The Ministry of External Affairs (Ministry) sanctioned¹ the construction of Chancery-cum-Residential complex for India based officers and staff in Brasilia (on a plot owned by Government of India) at an estimated cost of R\$ 34,751,780.32 (₹ 96.53 crore)². A local Architect cum Consultant was also appointed with a consultancy fee of 7 per cent of project cost and a project management fee of 3 per cent. The Embassy of India, Brazil (Mission) informed Ministry (June-July 2013) that primarily in view of the increase in staff strength from 21 in June 2008 to 26 in June 2013, lack of adequate space for storage etc., and Ministry's recent decision to establish a Commerce Wing headed by a First Secretary in Brasilia, the existing official premises would be insufficient. The Mission therefore proposed that the new Embassy Residence building be converted as part of the Chancery and the Ambassador be allowed to continue in the existing private residence (rented at R\$ 28,184 or ₹ 7.68 lakh per month).

A property team deputed by the Ministry (August 2013) agreed with the above proposal of the Mission, but also recommended that the Mission should obtain the opinion of the Architect cum Consultant in this regard. The premises were completed in November 2013 and the remaining premises (except Embassy Residence) were occupied in January 2014. Without communicating a decision on the recommendation of the property team, the Ministry deputed (April 2014) a second property team for the same purpose. The second property team consulted the Architect cum Consultant who opined that the additional space requirement of the Mission and the privacy issue raised by the then Ambassador could be met by modification in the existing chancery and suitable changes in architectural/landscape scheme respectively, and reversed the recommendation of the earlier property team. Accepting the recommendation of the second team, Ministry directed (July 2014) the Mission to furnish and occupy the Embassy Residence without further delay. Accordingly, the Ambassador occupied the newly constructed embassy residence on 30 September 2014.

¹ Letter no. Q/Proj./862/22/2011, dated 27 December 2011

² Official rate of exchange for October 2011: ₹ 1.00 = R\$ 0.036.

Audit observed that the needless deputing of two property teams and delay in finalising a decision resulted in avoidable expenditure of R\$ 224,060 (₹ 0.60 crore) from January 2014 to August 2014 on rent of private premises by the Ambassador till the end of his tenure in August 2014 even though the Embassy Residence was completed and ready for occupation.

In reply, the Ministry explained the delay by stating (July 2016) that the decision making process was complex in view of the new requirements and had to be referred to various divisions.

The reply is not acceptable. The Ministry should not have unduly delayed in rejecting the proposal of the Mission due to the following reasons:

- (i) The proposal of the Mission to use the Embassy Residence as part of Chancery and for housing its other staff including security staff was *ab-initio* untenable as the Embassy Residence is built to far superior specifications than the other premises since it is the official residence of the Ambassador of India to Brazil.
- (ii) The proposal to establish the new Commerce Wing was only tentative. In fact it has not been established till date (December 2016). Further, though the sanctioned strength had increased from 21 to 26 in June 2013, the men in position has at no stage exceeded 18. It was therefore, premature, if not unnecessary, to have unduly delayed the occupation of the Embassy Residence on grounds of possible expansion in functions and staff that were not anticipated at the time of according project approval, and eventually did not occur.
- (iii) Mission's requirement of additional space should have been provided for at the planning stage itself and not after the construction was nearing completion. In any case, even if all the additional requirements projected by the Mission had been met by redesigning the Embassy Residence as proposed, it would result in additional requirement of only 337 sq.m., against the built up area of 1035.40 sq.m., of the Embassy Residence. Thus, the Mission's proposal was inherently flawed and should have been rejected outright.
- (iv) The recommendation of the second property team not to change the Embassy Residence for Chancery offices hinged on the confirmation of Architect cum Consultant to the Mission's proposal, could be met by

modifications in the existing chancery. Had the Mission consulted the Architect cum Consultant as advised by the first property team in August 2013, the Ministry could have rejected the Mission's proposal before the completion of the premises in November 2013, and the wasteful expenditure in continuing the hiring of the Ambassador's official residence could have been avoided.

Thus, inadequate monitoring and delayed action by the Ministry resulted in avoidable expenditure of ₹ 0.60 crore towards rent of the private residence of the Ambassador.

9.2 Fraud in Consulate General of India, San Francisco due to absence of internal controls

Three instances of fraud by the Head of Chancery and others were detected in Consulate General of India, San Francisco that arose due to absence of internal controls. These relate to fraudulent claim against servicing of the official staff car (₹ 3.37 lakh), widespread and recurring reimbursement of fictitious conveyance charges (₹ 55.21 lakh) to employees, and presumptive fraud on payment to local repair firm.

Internal control is broadly defined as a process, effected by an entity's management, designed to provide reasonable assurance regarding the achievement of objectives of effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations. A strong internal control mechanism acts as deterrence and mitigates the chances of fraudulent activities and aids in achieving all the above objectives. Test check of records during the audit (March 2016) of Consulate General of India, San Francisco, revealed an overall lack of effective internal control systems which resulted in instances of fraud, misappropriation and overpayments as below:

A. Fraudulent expenditure of ₹ 3.37 lakh on servicing of personal car

It was observed from records that the Consulate claimed to have serviced the official staff car for USD 5,326.31 (₹ 3.37 lakh). Detailed audit scrutiny of the invoice revealed tampering of details of the license plate, year, make and colour of the vehicle (servicing of the personal car of the Head of Chancery: Honda Accord with license number CDL-0216 was shown as servicing of the official staff car: Honda Odyssey with license number CDL-0206). Audit requisition of copy of original invoice from the car service centre confirmed the tampering.

The fraud had been made possible by the Clerk (local staff) directly submitting the note for sanction of expenditure to the Head of Chancery, bypassing other superiors, including the Vice Consul (Administration). Further, the delegated powers of the Chancery that were limited to USD 5,000 per annum on repairs and maintenance of the staff car, were also bypassed by the Head of Chancery.

The Ministry of External Affairs informed (July 2016) that it had taken serious cognizance to the audit observations, and taken the following actions:

- a. The irregular payment had been recovered from the Head of Chancery and deposited in Government account;
- b. The Head of Chancery who had since been posted as Head of Chancery at the Embassy of India in Bogota, Columbia had been relieved of his charge and vigilance action had been initiated against him;
- c. The Consulate in San Francisco had been advised to strengthen its internal financial control mechanism to avoid such lapses in future.

The Ministry's reply is silent on the action taken on the acts of omission and commission of the other Consulate officers/officials who were entrusted with the responsibility of processing such bills and monitoring expenditure.

B. Irregular reimbursement of conveyance charges based on fake and self-generated receipts

Rule 21 of the General Financial Rules (GFR) stipulates that every officer incurring or authorising expenditure from public moneys should be guided by high standards of financial propriety and should enforce financial order and strict economy. It also states that the amount of allowances granted to meet expenditure should be so regulated that the allowances are not on the whole a source of profit to the recipients.

The Principal Chief Controller of Accounts (PCCA), Ministry of External Affairs observed (January 2016) during post check of cash accounts, serious irregularities in reimbursement of conveyance charges to staff members of the Consulate General of India, San Francisco. PCCA observed that the taxi receipts enclosed with vouchers were generated by the staff themselves and did not seem to be genuine. PCCA instructed the Consulate to check the genuineness of claims/taxi receipts. Test check of accounts by Audit in March 2016, however, did not indicate any action by the Consulate to implement the orders of the PCCA.

Further scrutiny in Audit (March 2016) revealed that, between March 2015 and February 2016 alone, the Consulate had reimbursed ₹ 76.58 lakh towards conveyance charges to its employees, out of which, ₹ 55.21 lakh was based on fake and self-generated receipts. The reimbursement of conveyance charges was the highest in October 2015 (₹ 19.49 lakh), of which, one employee was reimbursed ₹ 2.37 lakh, which amounted to 166 *per cent* of his monthly salary. 17 officials were each reimbursed conveyance charges of USD 500 (₹ 0.32 lakh) or more in October 2015. In most of these cases, the taxi claims were attached with manually filled in taxi receipts.

Audit contacted some of the cab agencies against whose purported receipts Consulate employees had been reimbursed claims, and they confirmed that these taxis were equipped with machines to generate receipts. In fact, one of the cab agencies informed that the cab numbers noted in the taxi receipts purportedly issued by their firm and submitted by the Consulate employees did not belong to that firm. Audit requested the Consulate to verify each of the taxi receipts from the respective cab agencies, but the Consulate has taken no action in this regard.

It was also observed that the Consulate routinely reimbursed conveyance charges in excess of the delegated powers available under Rule 5 of the Financial Powers of Government of India's Representatives Abroad, which is limited to USD 1,680 (₹ 1.1 lakh) *per annum* to each non-gazetted employee. Between March 2015 and February 2016 alone, the Consulate reimbursed ₹ 37.99 lakh to 13 local employees in excess of delegated powers.

In the above cases also, the concerned dealing hands directly submitted the reimbursement claims to the Head of Chancery, bypassing other superiors, including the Vice Consul (Administration).

The Ministry informed Audit (October 2016) that the matter had been taken seriously and orders to recover the excess had been issued. Where recoveries were not possible in respect of local employees, no longer with the Chancery, responsibility was being fixed on their superiors who authorised the payment without scrutiny/authority. The Consulate had also been instructed to exercise due care in future.

C. Presumptive fraud in payments to local repair firm

Rule 132 of the General Financial Rules (GFR) stipulate that final payment shall be made only on the personal certificate of the officer-in-charge of execution of the work that the work has been executed as per the specifications laid down in the contract agreement and the workmanship is up to standard. Rule 146 *ibid* further stipulates that on each occasion of purchase of goods or services costing above ₹ 15,000 (USD 240) and up to ₹ one lakh (USD 1,597), a duly constituted local purchase committee consisting of three members will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier. Schedule 1 of the Financial Powers of Government of India's Representatives Abroad, prescribes the general monetary limit of powers to Category I and II officials³ for each case of recurring expenditure at USD 700 (₹ 0.44 lakh) and USD 350 (₹ 0.22 lakh) *per annum*, respectively.

The Principal Chief Controller of Accounts (PCCA), Ministry of External Affairs observed (January 2016) during post check of cash accounts, that the Consulate had been paying a local firm⁴ large amounts for petty works and the payments were being split to bypass higher authorities. Test check of accounts by Audit in March 2016, however, did not indicate any action by the Consulate on the observations of the PCCA.

Further scrutiny in Audit (March 2016) revealed that between March 2015 and February 2016⁵ alone, the Consulate had paid the local firm USD 92,928.73 (₹ 60.09 lakh). Between March 2015 and November 2015⁶, the firm was paid a flat sum of USD 300 on 236 occasions (amounting to ₹ 47.11 lakh) for various petty works⁷. In November 2015 alone, the firm had been paid a flat sum of USD 300 on 57 occasions. All these bills had been directly submitted to the Head of Chancery without routing them through the proper channel, including Vice Consul (Administration). In all 57 cases, the name and designation of the

³ Category I officials: Ambassadors, High Commissioners, Charge d' Affairs of Grade IV of IFS and above; Category II officials: All other officers in charge of Indian Missions/Posts abroad, all officers of the Missions not below the rank of Second Secretary and who are declared as Head of Chancery (Source: Financial powers of GoI's representative abroad).

⁴ M/s Joao Mendonca Home Repair and Remodelling.

⁵ Present audit period.

⁶ Head of Chancery transferred in November 2015.

⁷ Removal and disposal of old furniture, replacing door bell and kitchen strainer at Chancery, replacing of bulbs at CG's residence, trimming of trees in the backyard of Chancery, repairing of vacuum cleaner and heater at CG's residence, shredding of documents, cleaning of drains in the roof of Chancery, pest control, repairing of air conditioner in the roof of OCI room, etc.

official who initiated the note was not found on record. There was no certificate of competent authority that the work had been completed satisfactorily. There was no indication on record of the date on which the works were purportedly done. The name of the person who had generated the vouchers in IMAS⁸ had been indicated as 'A' in some cases; in some other cases, the voucher had been generated by using the overriding privileges of the system Administrator. Therefore, the integrity of the information on the IMAS database is also suspect.

Audit also observed that after the transfer of the Head of Chancery from the Consulate (November 2015), the number of such payments had come down to eight in December 2015, none in January 2016 and two in February 2016. This is to be viewed in light of a certificate, which the firm had furnished the Consulate following the audit observation, where the firm has informed that the repairs had actually been done. Considering the large number of instances of purported repairs that has precipitously dropped after the transfer of the Head of Chancery, the role of the firm and other officials of the Consulate in the presumptive fraud merits investigation.

The Consulate informed (October 2016) that the systems had been reviewed and all due care is since being exercised, and the issues relating to the IMAS have been rectified. Ministry in its reply (January 2017) informed that in view of the serious administrative issues regarding internal financial control mechanism, the Post has been directed to get all the bills under question, certified from the concerned officers/official on request of whom, the firm was asked to undertake the work. The Post has also been advised to strengthen its financial control mechanism and in case, the work as mentioned in voucher could not be confirmed, individually responsibility would be fixed in all such cases.

9.3 Receipt and expenditure outside Government accounts

Embassy of India, Tokyo violated the General Financial Rules and the Receipt and Payments Rules by keeping receipt and expenditure out of embassy account during the conduct of the Sakura festival 2015.

Embassy of India, Tokyo (Mission) organises an annual 'Sakura festival' at the chancery premises, where food, handicrafts and garment stalls are set up by outside vendors. Participating vendors are required to pay fees to the Mission at different rates. For the Sakura festival held in March-April 2015, the Mission

⁸ Integrated Management and Accounting System of the Ministry of External Affairs.

deposited the equivalent of JPY 3,073,719 (₹ 16.29 lakh⁹) into Embassy Account representing the balance of receipt of JPY 6,673,500 (₹ 35.37 lakh) and expenditure JPY 3,599,781 (₹ 19.08 lakh).

Audit scrutiny of the accounts revealed the following:

❖ Out of the stated receipts of ₹ 35.37 lakh, only ₹ 10.12 lakh was taken immediately into Embassy account, and ₹ 6.17 lakh was deposited one to six months after the festival. The balance of ₹ 19.08 lakh was kept out of Government account and stated to have been spent. By this practice, the Mission violated Rule 7 of the General Financial Rules 2005 (GFR) which stipulates that all moneys received by or on behalf of the Government shall be brought into Government Account without delay, and Rule 13 of the R&P Rules¹⁰ which prescribes that all monetary transactions should be entered in the cash book as soon as they occur and attested by the Head of the Office in token of check. There is also no assurance that the amounts claimed to have been received and spent by the Mission represented the actual amounts received and spent.

❖ The Mission did not issue any receipts to vendors for stated revenues totaling ₹ 35.37 lakh. The Mission thereby violated Rule 21 of R&P Rules which stipulates that the Head of an Office, where money is received on behalf of the Government, must give the payer a receipt duly signed by him after he has satisfied himself that the amount has been properly entered in the cash book.

❖ The Mission diverted JPY 472,108 (₹ 25.02 lakh) out of the receipts of the Sakura festival for activities like contributions to Indian Food festival, 2 October reception and artists resident programmes, for which separate budget is provided annually to the Mission by the Ministry of External Affairs or the Indian Council of Cultural Relations. Also, the Mission paid embassy staff (including India based staff) on duty an honorarium of JPY 124,000 (equivalent to ₹ 0.66 lakh) out of the receipts. At no stage did the Mission intimate the Ministry that such diversion of funds would be taking place.

❖ Audit requisitioned the records relating to the Sakura festivals held in 2012-13 and 2013-2014. The Mission informed that it is trying to locate the records.

⁹ Official ROE for March 2015 of 1 JPY = ₹ 0.53

¹⁰ Central Government Account (Receipt and Payments) Rules 1983

In their replies (June 2016, September 2016 and October 2016) the Mission, while confirming the facts and figures stated that in light of the audit observations, a revised framework has been devised for the Sakura festival 2016.

The matter was reported to the Ministry of External Affairs in July 2016; their reply was awaited as of January 2017.

Nalanda University, Rajgir, Bihar

9.4 Establishment and Functioning of Nalanda University, Rajgir, Bihar

Regular Governing Board was not constituted by the Ministry as provided in the Act. The Endowment committee, though formed was ineffective. The University failed to frame rules and regulations for appointment of academic staff and there were irregularities in appointment of Vice Chancellor and OSD (University Planning). The Vice Chancellor and OSD (University Planning) were given undue reimbursement of income tax amounting to ₹ 57.40 lakh. The University failed to establish schools in time and could not start the construction of University campus work.

The fourth East Asia Summit at Thailand (October 2009) proposed the establishment of the Nalanda University (University) in the State of Bihar as an International institution for pursuit of intellectual, philosophical, historical and spiritual studies and for the matters connected therewith or incidental thereto. Pursuant to the above, the Government of India enacted the Nalanda University Act 2010 (Act), which came into effect from 25 November 2010.

The records of the University since creation (November 2010) to March 2016 and records of Ministry of External Affairs (MEA) from 2007 to March 2016 were examined in audit during January 2016 to July 2016. Important findings are as under:

9.4.2 Constitution of Nalanda Mentor Group

The Government of India (GoI) constituted (28 June 2007) a Nalanda Mentor Group (NMG) comprising eminent persons for revival of Nalanda University as a Centre for Cultural Exchange between East Asia and South Asia, framework and structure of international cooperation and partnership, governance structure of the University. Professor Amartya Sen was appointed as Chairman of NMG.

Audit examination of records of the MEA revealed that though NMG was required to submit final recommendations in a Report to the Government of India within a period of nine months from its constitution, the report was not submitted even after three years (2007 to 2010) of its constitution.

The Ministry stated (January 2017) that NMG was set up for the purpose of making broad proposals for the revival of Nalanda University and many recommendations of the NMG have been incorporated in the Act. Further, NMG carried out the vital and seminal work for the establishment of Nalanda University and hence its activities got extended under Section 8 of the Act.

The reply of the Ministry is not acceptable as the terms of reference for constitution of NMG clearly stipulated submission of final recommendations in a report to the Government of India within a period of nine months which NMG failed to do.

9.4.3 Implementation of the Act

9.4.3.1 Non-constitution of Governing Board

Section 7 of the Act, provides constitution of a Governing Board (GB) consisting of Chancellor, Vice-Chancellor, five members from Member States, one member not below the rank of Secretary from Ministry of External Affairs (MEA), two members to be nominated by the State Government of Bihar, one member (not below the rank of Additional Secretary) from Ministry of Human Resource Development (MHRD) and three renowned academicians or educationists, to be nominated by the Central Government.

Section 8 (1) of the Act provides that the GB will be responsible for all the policies and directions of the University and management of its affairs. Section 8 (2) of the Act, provided that NMG will exercise the powers and discharge the functions of the GB for a period of one year or till such time the members referred to in clauses (c) to (g) of sub-section (1) of section 7 were nominated, whichever is earlier.

Audit examination of records revealed that the GB has not been constituted (March 2016). It was noticed that MEA invoked (November 2011) the provision of Section 41 of the Act relating to removal of difficulties in giving effect to the provisions of the Act and gave extensions to NMG for a year each time by substituting “one year” with “two years” and “three years” in November 2011 and November 2012 respectively. The last amendment in November 2013 to extend the NMG indefinitely was done to overcome the proviso to section 41 of the Act, which

stated that no orders shall be made after expiry of period of three years from the commencement of the Act (November 2010) by deleting the provision wherein the timeframe of NMG was given.

It was observed that in absence of regular GB, all major decisions i.e. formation of Statutes, Rules & Regulation, creation of post in the Nalanda University etc. were taken by the NMG during September 2010 to March 2016. However, NMG did not have participation of Bihar State Government and MHRD as provided under the Act.

Ministry stated (January 2017) that due to non-receipt of financial contributions from Member States, their membership in GB as defined in Section 7 of the Act¹¹ could not be finalised and hence GB could not be constituted. GoI has constituted the GB (November 2016) in terms of Section 7 of the Act contains members from Bihar State Government and MHRD.

The reply of the Ministry is not acceptable as India, Indonesia, China, Australia, Laos and Thailand had already contributed funds during 2011-12 to 2014-15 and the GB could have been formed earlier. Further, the NMG was intended to be stop gap arrangement only.

9.4.4 Functioning of the University

Irregularities noticed in non-finalisation of terms and conditions of appointment of academic personnel, Vice-Chancellor, Officer on Special Duty, and establishment of schools are discussed in succeeding paragraphs.

9.4.4.1 Non finalisation of terms & conditions of service for the posts of academic staff

Section 18, 19 and 20 of the Act, provides that the Controller of Examination, Librarian and other officers of the University will be appointed in such manner and on such terms and conditions of service as may be prescribed by the Statutes. Further, Section 27 (e) of the Act provides that the Statues shall provide service regulation, term and conditions of the service for the appointment of teachers and other employees.

Though Statues for terms and conditions of services for Controller of Examination, Librarian, Teachers and other academic staff have not been framed (March 2016), University appointed one Dean, three Founding Professors, three Associate

¹¹ Five members from amongst the Members States which provide maximum financial assistance during a period of three years to be nominated by the Member States [Section 7(1)(c)]

Professor, eight Assistant Professors as Academic staff (May 2014 to January 2016) on adhoc basis. Further, the pay was fixed at different levels in the pay structure.

University stated (October 2016) that the University framed terms & conditions of service of all academic staff at the time of advertising the positions. The Ministry endorsed (January 2017) the reply of the University

The reply is not acceptable as the Statues defining these should have been framed before proceeding for appointments.

9.4.5 Irregularities in appointments

Audit examination of records of the University and Ministry of External Affairs revealed irregularities in appointment of various post as discussed below:

9.4.5.1 Irregular consideration for the name of Rector

The terms of reference under which the NMG was constituted (June 2007) did not include recommendations for appointment of Rector.

However, Chairman of the NMG, recommended (6 February 2009) three names (Dr. Gopa Sabharwal, Dr. Ramachandra Guha and Dr. Pratap Bhanu Mehta) on behalf of NMG to the MEA for appointment as first Rector of the University.

Based on the above recommendations, MEA intimated (March 2009) Dr. Gopa Sabharwal, that she has been selected for the post of inaugural Rector of the Nalanda University. Hence, consideration of the names recommended by NMG was in violation of their terms of reference.

In reply, the Ministry accepted (January 2017) that initial TOR of the NMG did not have reference for selection/recommendation but it was suggested by NMG itself.

9.4.5.2 Irregular appointment and arbitrary fixation of pay of Vice-Chancellor

As per Section 15 (1) of the Act, the Vice-Chancellor will be appointed by the Visitor¹² in such manner, for such term on such emoluments and other condition of service, as may be prescribed by the Statutes. Section 12 (1) of the Statutes provides (March 2012) that the Vice-Chancellor will be appointed by the Visitor from a panel of not less than three persons recommended by the Governing Board.

¹² President of India

Audit examination of records of the MEA revealed that although the terms of reference of NMG did not include recommendations for any appointment, NMG in its 6th meeting recommended (August 2010) single name of Dr. Gopa Sabharwal as Vice-Chancellor-designate for Nalanda University. The NMG also proposed salary of ₹ 3.50 lakh per month *plus* other allowances.

MEA, based on this recommendation, informed (9 September 2010) Dr. Gopa Sabharwal that the competent authorities have accorded approval for appointment as Vice Chancellor-designate with salary of ₹ 2.00 lakh per month *plus* other allowances. She joined as Vice Chancellor designate of Nalanda University on 8 October 2010. However, the Visitor confirmed (March 2012) her appointment as Vice Chancellor with retrospective effect from 8 October 2010. Subsequently MEA (September 2012) informed Dr. Gopa Sabharwal that her confirmation date has been changed to 25 November 2010 i.e. from the date on which Nalanda University Act came into force.

Further, GB¹³ in its first meeting (February 2011) enhanced the VC's salary from ₹ 2.00 lakh to ₹ 3.50 lakh per month from March 2011 without any recorded reasons which was subsequently reduced by Dr. Gopa Sabharwal herself to ₹ 2.50 lakh per month from October 2011. Thus, arbitrary enhancement of approved salary resulted in excess payment of ₹ 37.00¹⁴ lakh to the VC during March 2011 to February 2016.

Ministry stated (January 2017) that NMG was converted (25 November 2010) into GB and hence it was empowered to recommend names for the post of VC and confirmed that her salary was fixed at ₹ 2.00 lakh per month along with other terms and conditions.

The reply of the Ministry is not acceptable as the NMG recommended (August 2010) single name for the post of VC well before the NMG was given the powers of GB (25 November 2010).

9.4.5.3 Irregular appointment of Dr. Anjana Sharma as OSD (University Development)

The Act did not provide any post of Officer on Special Duty (University Development) and Dean (Academic Planning). Audit examination of records of the University revealed that Dr. Anjana Sharma was appointed (14 January 2011) as

¹³ NMG was to discharge the function of GB w.e.f 25 November, 2010

¹⁴ Difference of pay fixed by MEA (₹ 129.55 lakhs) and pay actually drawn (₹ 166.55 lakh)

Officer on Special Duty (University Development) on fixed monthly salary of ₹ 2.00 lakh along with other allowances as prevailing in SAU¹⁵ for the post of Registrar/Director Finance. Subsequently, Dr. Anjana Sharma was re-designated (30 July 2012) as Dean (Academic Planning) by the sub-committee of the GB on the same scale of pay.

Thus, appointment of Dr. Anjana Sharma as OSD (University Development) and Dean (Academic Planning) was irregular, as the Act did not provide for any such post.

The University stated (October 2016) that Governing Board drawing powers from section 3 (m) and (n) of Statue 2012 created such posts. The Ministry endorsed (January 2017) the reply of the University.

Reply is not acceptable as Dr. Anjana Sharma was appointed as Officer on Special Duty (University Development) during January 2011 whereas Statues were notified during March 2012 hence it was not to be linked with Statues.

9.4.6 Undue reimbursement of income tax liability

As per Section 21 of the Act, the members of academic staff will enjoy such privileges and immunities as the Central Government may after entering into an agreement with the University, notify under Section 3 of the United Nation (Privileges and Immunities) Act 1947. The MEA notified (January 2014) the agreement with the University, which provided that the academic staff of the University shall be entitled to exemption from taxation in respect of salaries and emoluments paid to them by the University.

Audit observed that University extended the benefit of reimbursement of income tax liability to Dr. Gopa Sabharwal, VC and Dr. Anjana Sharma, Officer on Special Duty (re-designated as Dean, Academic Planning) from November 2010 and February 2011 respectively although the GoI notification was issued in January 2014. Consequently, University gave undue benefit to above officers and reimbursed ₹ 57.40 lakh of income tax liability by enhancing their salary.

University stated (June 2016) that in the interim period of notification issued by GoI, the GB took decision (February 2011) to compensate the tax paid by the

¹⁵ ₹ 2.17 lakh @ US\$ 40,000 *per annum* in the pay scale of US\$ 30,000-45,000 *per annum*.

Academic staff by proportionately enhancing the salary to cover the tax liability. The Ministry endorsed (January 2017) the reply of the University.

The reply of the University is not acceptable as the benefit given by the University was not consonance with the Section 21 of the Act, which provide that benefit of tax holiday was to be given only after notification issued by GoI.

9.4.7 Establishment of schools

As per Section 24 (2) of Act, six schools and any other school as may be prescribed by the statutes, were to be established by the University.

GB approved (July 2012) the Project Report submitted by the Ed.CIL India Limited which, inter-alia prescribed that the first school will begin in the 2014-15 (summer of 2014).

University commenced (2014-15) the academic program by launching two schools viz. School of Historical studies and School of Ecology and Environment Studies. It was observed that the above two schools were having 12 and 50 students for two batches i.e. 2014-16 and 2015-17 as against 220 and 440 as per project report.

As per Project Report, the School of Language and Literature was to be operationalised during 2015-16, but as of date (March 2016), School of Language and Literature was not established.

In reply, the University stated (October 2016) that the Detailed Project Report (DPR) is an indicative document. The roll out plan of the Schools and the intake of students cannot be determined by the time lines set in the DPR. The Ministry endorsed (January 2017) the reply of the University.

The reply is not acceptable as DPR provides the milestones for complete planning of the project.

9.4.8 Finances and Construction activities

The financial performance of the University is discussed in the succeeding paragraphs:

9.4.8.1 Utilisation of Grants

Audit examination of records revealed that the University, against the grants of ₹ 81.21 crore¹⁶, could utilise ₹ 76.37 crore during 2010-11 to 2015-16 leaving a balance of ₹ 4.84 crore.

The University accepted the audit observation and stated (October 2016) that delay in finalisation of phase-I construction of the University and vacancy in certain posts due to remoteness of area were, the reasons for non utilisation of grant.

The Ministry endorsed (January 2017) the reply of the University.

9.4.8.2 In-effective External Endowment Committee

The GB constituted¹⁷ an External Endowment Committee (EEC) to raise resources for the Endowments Fund of the University, which was notified (March 2014) by the MEA in Statutes. As per notification EEC was constituted to raise resources for the University and assist the GB in furtherance of Public Private Partnership for achieving the objectives of the University.

Audit examination of records of the University revealed that after constitution of EEC, no meeting of EEC was held (March 2016). Thus, EEC failed to raise contribution from external sources and fulfil its objective for which it was constituted.

The University accepted the audit observation and stated (October 2016) that non-finalisation of methodologies for seeking External Endowments and not having bi-lateral agreements with some countries were the main reasons for in-effective Endowment Committee.

The Ministry endorsed (January 2017) the reply of the University.

9.4.9 Construction activities

Government of Bihar handed over (February 2011) the possession of 450 acres of land to the University in Rajgir for Nalanda University campus. The Cabinet Committee on Economic Affairs, Government of India approved (January 2014) the budgetary support of ₹ 2727.10 crore to the University project during the period

¹⁶ Including internal receipts of ₹ 2.77 crore.

¹⁷ Item No. 3 of the Governing Board (GB) Meeting, held at Patna during 19-20 July 2012.

2010-11 to 2021-22. Till March 2016, the University constructed boundary wall and called tenders for construction of Phase-I campus of the University.

Irregularity noticed in construction of boundary wall and tenders for construction of Phase-I campus are discussed in succeeding paragraphs.

9.4.9.1 Blocking of funds in construction of Boundary Wall

An agreement for construction of boundary wall at new campus of Nalanda University on deposit work basis was executed (3 November 2011) with Bihar Rajya Pul Nirman Nigam Limited (BRPNNL) having estimated cost of ₹ 1019.70 lakh. As per clause 3 of the agreement, the two members Joint Member Committee (JMC) would be constituted (one member of Nalanda University and one member of BRPNNL) to monitor the progress of the project every 15 days and payment would be made in instalments after checking of progress of work.

The University was required to pay 30 *per cent* as advance to the BRPNNL of the sanctioned/approved amount (Clause 4 of the agreement). Further, as per clause 6.8 of the agreement, the BRPNNL would be responsible for intimating the physical and financial progress at periodical interval.

In the third Meeting (14-15 October 2011) of the GB, the Member-Secretary mentioned that ₹ 300.00 lakh was being released specifically for starting construction work of the boundary wall with the stipulation that it would not be used for any other activity.

Audit examination of records of the University revealed that the University had paid (28 November 2011) ₹ 300.00 lakh as advance to BRPNNL. It was further observed that the University had further released (29 March 2012) ₹ 100.00 lakh without getting the physical and financial progress as well as progress report of the JMC. After several requests, BRPNNL submitted (22 November 2012) its first bill of ₹ 551.007 lakh and requested for release of balance amount. Consequently, the University had released ₹ 500.00 lakh (₹ 400.00 lakh on 7 December 2012 and ₹ 100.00 lakh on 21.03.2013) without taking care of the clause of the agreement as mentioned *supra*. After protracted correspondence BRPNNL submitted (18 March 2013) second bill of ₹ 62.91 lakh. Thus, against the total advance of ₹ 900.00 lakh, the BRPNNL had submitted bills of ₹ 613.91 lakh (₹ 551.007 lakh + ₹ 62.91 lakh) till 31 March 2013.

Further, the Assistant Finance Officer of the University instructed (20 October 2014) BRPNNL to utilise the un-spent amount for renovation of the temporary campus of the Nalanda University.

Thus, the University had not adhered to the provisions of the agreement, diverted funds for renovation work which was specifically prohibited by the GB, released the amount without getting the physical and financial progress as well as progress report from the JMC, which resulted into the blockage of fund to the tune of ₹ 286.09 lakh with BRPNNL, the University deprived of interest.

The University intimated (October 2016) that against the advance release of ₹ 900.00 lakh, the BPRRN submitted (April 2016) final bill amounting to ₹ 756.06 lakh leaving a balance of ₹ 143.94 lakh.

The Ministry endorsed (January 2017) the reply of the University.

9.4.9.2 Construction of Nalanda University campus

The University issued (17 February 2015) E-Tender for construction of Phase-I of campus. The single bid received of ₹ 65.71 crore against an estimated cost of ₹ 60.50 crore was rejected and fresh consolidated tender with an estimated cost of ₹ 614.00 crore was invited (6 July 2015). Out of the five bid received, only two bids were declared technically qualified. The financial bids of two successful bidders (after obtaining the approval from MEA) was opened on 14 December 2015 and M/s L&T emerged as L1 with a bid of ₹ 774.10 crore.

As the entire process from opening of financial bids had flaws in terms of by-passing of required channels of approval, not following the provisions of CPWD Manual and going for negotiation without obtaining approval of BWC, the MEA's representative recommended for fresh tender in the 9th BWC meeting (12 February 2016). Accordingly, University decided to go for fresh tender. Hence even after a lapse of more than one year, University was unable to award the work (March 2016) of campus development.

In reply, the Ministry intimated (January 2017) that work of internal road and water bodies excavation package was awarded (September 2016) and also floated (September 2016) tender for non-residential pocket.

9.4.10 Conclusion

Ministry did not constitute the regular GB as provided in the Act. The rules and regulation for appointment of academic staff have not been notified even after a lapse of more than five years. The Endowment Committee of the University was non-functional. There were irregularities in appointment and payment of salary and emoluments to VC and OSD (University Planning) and OSD (Finance). The enrollment of students were far below the projection and one school as per project report has not been opened. The University authorities could not start construction of University campus work.