

# **OVERVIEW**



## OVERVIEW

This Report contains the following chapters:

- Chapter-1:** General information on functioning of State Public Sector Undertakings (PSUs),
- Chapter-2:** Performance Audit of Bihar State Building Construction Corporation Ltd., and, Audit on Development of Educational Infrastructure by Bihar State Educational Infrastructure Development Corporation Ltd.
- Chapter-3:** Eight Compliance Audit Paragraphs on PSUs.

The total financial impact of Audit findings is ₹ 370.25 crore.

### 1. Functioning of State Public Sector Undertakings

As on 31 March 2017, there are 74 PSUs in Bihar, of which only 27 Government companies and three Statutory corporations are working. The remaining 44 non-working PSUs are all Government companies.

Out of 74 PSUs, only 18 PSUs finalised their accounts in the last three years, and 65 PSUs had arrears in accounts ranging from 1977-78 onwards. Delays/non preparation of accounts are fraught with risk of misrepresentation of facts, fraud and misappropriation.

As per the latest finalised accounts of these 18 PSUs, 10 PSUs earned profit of ₹ 278.18 crore, seven PSUs incurred loss of ₹ 1,437.93 crore, and the remaining one PSU is a holding Company functioning on no profit no loss basis. These PSUs registered a turnover of ₹ 11,277.70 crore.

The 18 PSUs generated an average negative Return on Investment of 6.14 *per cent* on the investments made by the State Government. This remained well below the average cost of borrowings of 8.49 *per cent* during 2014-15 to 2016-17. Thus, the loss to the public exchequer as a result of the investment in the 18 PSUs that had finalized their accounts in the past three years amounted to ₹ 1,159.75 crore. The loss, if any, incurred by the remaining 56 PSUs who have not finalized their accounts could not be assessed.

**(Paragraphs 1.1 and 1.9)**

#### *Investment in State PSUs*

As on 31 March 2017, the investment (Capital and Long Term loans) in 74 PSUs was ₹ 53,891.59 crore. The thrust of the State government investment in PSUs during the last five years was in the Power sector (₹ 39,492.32 crore) consequent to the unbundling of the erstwhile Bihar State Electricity Board (BSEB) into five companies in 2012.

**(Paragraphs 1.5 and 1.6)**

#### *Arrears in finalisation of accounts*

The Companies Act 2013 stipulates that the annual financial statements of companies are to be finalized within six months from the end of the relevant financial year i.e., by September end. Failure to do so may attract penal provisions, under which every officer of the defaulting company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to ₹ five lakh, or with both.

Out of 30 working PSUs, only nine PSUs finalised their accounts for the year 2016-17 while 21 PSUs had arrears of 142 accounts as of 31 December 2017 with the extent of arrears ranging from one to 23 years. Out of 44 non-working PSUs, five PSUs were in the process of liquidation and the remaining 39 PSUs had arrears of 1,029 accounts for one to 40 years. The State Government had extended budgetary support (Equity, Loans, Grants and Subsidy to consumers, etc.) of ₹ 4,476.54 crore to 10 working PSUs, during the period their accounts were in arrears, out of which ₹ 2,467.06 crore was extended to seven working PSUs, whose accounts were in arrears for more than three years during 2014-17. The State Government has not formulated any dividend policy for PSUs. Out of 10 PSUs which earned profit during 2014-17, only two PSUs proposed dividend of ₹ 4.05 crore as per their latest finalised accounts.

**(Paragraphs 1.9, 1.10, 1.11 and 1.15)**

### ***Placement of Separate Audit Reports***

Separate Audit Reports (SARs) of one to 32 years of three corporations were not placed in the State Legislature. This weakens legislative control over Statutory corporations and dilutes the latter's financial accountability.

The lack of financial accountability in the Bihar State Road Transport Corporation (BSRTC) is so serious that the CAG has refused to provide an opinion on the accounts of the BSRTC for 2003-04 to 2005-06 when they were finalised during May 2014 to September 2015. The State Government has provided loans of ₹ 775.01 crore to BSRTC during 2006-17 when its accounts were in arrears and there was no possibility of evaluating the financial capability of the corporation. Further, BSRTC has neither paid back loan amount of ₹ 775.01 crore nor paid interest dues of ₹ 407.63 crore from 2010-11.

**(Paragraph 1.12)**

### ***Winding up of non-working PSUs***

Out of 44 non-working PSUs, five PSUs<sup>1</sup> have commenced liquidation process in the last five to 18 years, which are pending with the official liquidator, High Courts Patna and Ranchi. Further, the State government has issued orders to initiate liquidation of 12 PSUs, but final action by the concerned authority is still pending.

**(Paragraph 1.17)**

### ***Accounts Comments***

The quality of accounts of companies needs improvement. The Statutory Auditors had given qualified certificates for 52 accounts finalised by 25 companies. Compliance to the Accounting Standards by the companies remained poor as there were 85 instances in 19 accounts of 12 companies where there was no compliance with the Accounting Standards. Further, CAG also has declined to give an opinion

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<sup>1</sup> Kumardhubi Metal Casting and Engineering Limited, Bihar State Leather Industries Development Corporation Limited, Bihar State Finished Leathers Corporation Limited, Bihar State Small Industries Corporation Limited and Bihar State Export Corporation Limited.

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in view of the serious shortcomings in the functioning of three companies<sup>2</sup>, whose accounts were finalised in 2016-17.

(Paragraph 1.18)

#### ***Follow-up action on Audit Reports***

In terms of extant instructions, Administrative departments were required to submit replies/explanatory notes to audit paragraphs/performance audits included in the Audit Reports of the CAG of India within a period of three months of their presentation to the Legislature. It was observed, however, that out of 77 audit paragraphs/performance audits, explanatory notes to 47 paragraphs/ performance audits in respect of 15 departments, which were placed in the State Legislature during the last five years, were still awaited (December 2017).

(Paragraph 1.20)

#### ***Restructuring of PSUs***

Consequent to the reorganization of the erstwhile Bihar State into the states of Bihar and Jharkhand w.e.f. 15 November 2000, it was decided (September 2005) to divide the assets and liabilities of the then existing 12 PSUs. This exercise, has, however, been completed only in respect of five PSUs as of December 2017.

(Paragraph 1.23)

#### ***Reforms in Power Sector under Ujjwal Discom Assurance Yojna (UDAY)***

Memoranda of Understanding were signed (February 2016) between Ministry of Power, GoI, Government of Bihar and the two State DISCOMs viz., South Bihar Power Distribution Company Limited and North Bihar Power Distribution Company Limited for implementation of the scheme with identified financial and operational targets. While the financial targets have been achieved, the achievement of operational targets by both the DISCOMs especially in rural areas, was far from satisfactory.

(Paragraph 1.24)

#### **Summary of recommendations**

- **Since the continued existence of loss making and non-working PSUs constitute a substantial drain on the public exchequer, the State Government may review (i) the functioning of all loss making PSUs and (ii) status of non-working PSUs to initiate/ expedite the process of their winding up.**
- **The Finance Department and the concerned administrative departments should ensure that the State PSUs take immediate action to make their accounts current, so that the directors of these PSUs do not continue to fall foul of the Companies Act and the relevant Acts governing State Statutory corporations.**

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<sup>2</sup> Bihar State Food and Civil Supplies Corporation Limited for the year 1991-92 to 1993-94, Bihar State Agro Industries Development Corporation Limited for the year 2008-09 to 2015-16 and Bihar State Construction Corporation Limited for the year 2000-01 to 2002-03.

- **The Finance Department and the concerned administrative departments should initiate steps to ensure that budgetary support is extended only to such PSUs whose accounts are current.**
- **The Finance Department should ensure that the SARs of the Statutory corporations are placed in the Legislature immediately, and no further budgetary support is extended to these corporations till this is done.**
- **The Finance Department may review the working of BSRTC where the CAG had declined to give an opinion on the accounts of the corporation.**
- **The Finance Department and the concerned administrative departments may review the working of the 25 companies where the Statutory Auditors had given qualified comments, and the three companies where the CAG had declined to give an opinion.**
- **The Finance Department may formulate dividend policy for payment of specified dividend on equity invested in profit making PSUs as per practice of Governments of Uttar Pradesh (five per cent of equity capital) and Madhya Pradesh (20 per cent of profit after tax).**

### **2.1 Performance Audit on Bihar State Building Construction Corporation Limited**

Bihar State Building Construction Corporation Limited (Company) functions under the administrative control of the Building Construction Department, Government of Bihar (GoB). The Company executed through sub-contractors, construction projects for 27 user departments/ PSUs/agencies of GoB. During 2012-17, the Company undertook works valued at ₹ 3,371.99 crore and completed works valued at ₹ 1,692.44 crore.

Audit findings on the performance of the Company are as under :

#### **Human Resource Management**

The Company does not have a full time Managing Director (except once) since inception in 2010. Against sanctioned strength of 428, the actual manpower available as on March 2017 was only 132, due to advertisement of vacancies in piece-meal instead of in a consolidated manner. These vacancies adversely impacted the implementation of the schemes and led to uneven distribution/non-rationalisation of work load.

**(Paragraph 2.1.5)**

#### **Financial Management**

Reserves and Surplus, which grew from (-) ₹ 0.03 crore in 2012-13 to ₹ 57.39 crore in 2016-17, included an irregular amount of ₹ 47.52 crore booked towards centage charges without approval from two user departments.

**(Paragraph 2.1.6)**

During 2012-14, the Company surrendered ₹ 181.92 crore as the works could not be executed in the initial years of the Company.

**(Paragraph 2.1.7)**

The Company utilised ₹ 55.44 crore of its own funds in various projects and failed to claim interest of ₹ 4.55 crore from user departments.

**(Paragraph 2.1.8)**

## **Project Management**

### ***Planning***

Out of 699 works test checked, 361 works suffered from various delays ranging from one month to 21 months in commencement of the work. The reasons for delay included non-setting up of timelines for various stages of planning process, which resulted in procedural delays in preparation of estimates, delay in according technical sanctions, delay in inviting tenders, etc.

**(Paragraph 2.1.13)**

The Company, without obtaining administrative approval from the user department or approval of Board of Directors, and reportedly on verbal instructions of the user department, ordered construction of seven pre-fabricated godowns. Due to shortage of funds, the works stopped after April 2016 after incurring expenditure of ₹ 1.28 crore.

**(Paragraph 2.1.14)**

The consultant wrongly included Central Excise duty in the estimates of 101 Buniyad Kendras, though duty exemptions were available for such World Bank aided projects. As a result, the Company failed to avail Central Excise duty exemption of ₹ 5.25 crore.

**(Paragraph 2.1.16)**

### ***Tendering***

In violation of the Bihar Financial Rules, the Company, without inviting tenders, awarded on nomination basis, additional works worth ₹ 19.48 crore in 88 works, each valued above ₹ 10 lakh, to the same contractor who had executed the original works.

**(Paragraph 2.1.18)**

The Company awarded five contracts for construction of 60 pre-fabricated godowns at a cost of ₹ 125.66 crore on the basis of an ineligible experience certificate furnished by the bidder.

**(Paragraph 2.1.19)**

While assessing bid capacity, the Company failed to reduce the value of existing works of a contractor as per requirements of Standard Bidding Document (SBD). Consequently, the contractor with insufficient bid capacity, was awarded the work of construction of nine pre-fabricated godowns at a cost of ₹ 34.41 crore. The contractor failed to complete any of the nine godowns.

**(Paragraph 2.1.20)**

The Company failed to obtain No Objection Certificate (NOC) from the local administration before award of work of construction of eight godowns at a cost of ₹ 22.12 crore. Consequently, the work could not be started even after delay of nine to 26 months of award of tender.

**(Paragraph 2.1.21)**

### ***Project Execution***

Completion of 215 godowns, 75 Community Health Centres (CHCs) and 42 other works were delayed by one to 33 months. Further, 111 godowns, 11 CHCs and 41 other works were incomplete even after delay of one to 36 months, due to non-availability of dispute free land and slow execution of works. Consequently,

- delay in utilisation of 326 godowns with storage capacity of 6,82,950 MT resulted in payment of avoidable rent of ₹ 9.72 crore on hired godowns during 2014-17.
- delay in completion of 86 CHCs delayed the intended objective of providing improved health care facilities.

**(Paragraph 2.1.24)**

Due to delay of one to 30 months in handing over of 84 godowns and failure to hand over (by 12 to 33 months) six completed godowns, the user (Bihar State Food and Civil Supplies Corporation Limited) incurred avoidable rent of ₹ 76.95 lakh on hired godowns during 2014-17.

Due to delay of one to 22 months in handing over 40 CHCs and non-handing over of six CHCs by three to 18 months, the benefits of improved healthcare facilities were delayed.

**(Paragraph 2.1.25)**

In two agreements, Company paid carriage to the contractors at the rates applicable for the longer distance rather than the actual distance which resulted in excess payment of ₹ 5.37 crore. In 358 cases, though the contractors did not submit the requisite forms as proof of transportation of stone chips and coarse sand, the Company approved payment of carriage of ₹ 50.43 crore to the contractors.

**(Paragraphs 2.1.27 and 2.1.28)**

### **Summary of recommendations**

- **The Company should appoint full time Managing Director.**
- **The Company should review its present HR structure to analyse whether it meets the Company's role, to abolish unnecessary posts, and to devise and operate a leaner and more effective organisation.**
- **The Company should exercise due diligence in management of its funds.**
- **The Company should adhere to the timelines for various planning activities.**
- **The Company should commence the execution of works only after getting administrative approval of the user departments.**
- **The Company may consider establishing a dedicated cell within the Technical Wing for scrutiny of estimates prepared by consultants.**
- **The Company should invite open tenders for all works valued above ₹ 10 lakh as per BFR.**
- **Tenders should be finalised on the basis of terms and conditions of the SBD and directions of Government.**

- **The Company should obtain NOCs from concerned authorities before inviting tenders for execution.**
- **The Company should strengthen monitoring and supervision of performance of contractors and ensure completion of all delayed projects on priority by removing hindrances, if any.**
- **The Company should ensure timely handing over of completed works.**
- **The Company should assess shortest possible distance for payment of carriage charges in the estimate itself to avoid extra payment.**

## **2.2 Audit on Development of Educational Infrastructure by Bihar State Educational Infrastructure Development Corporation Limited**

Bihar State Educational Infrastructure Development Corporation Limited (Company) constructs and maintains all types of government educational infrastructures in Bihar. During 2012-17, the Company undertook 60 projects/schemes including 5,082 works at a sanctioned cost of ₹ 6,196.61 crore and as of March 2017, an expenditure of ₹ 3,617.06 crore (58.37 percent) was incurred.

Audit findings on the performance of the Company during 2012-17 are as under:

### ***Financial Management***

The total profit of the Company during 2012-13 to 2015-16 increased significantly from ₹ 5.24 crore to ₹ 70.51 crore. However, the profitability of the Company declined in the year 2016-17 to ₹ 22.96 crore which was mainly attributable to slow execution of works and reduction in centage rates by the State Government with effect from January 2016.

The Company failed to safeguard its financial interests by keeping its large surplus funds ranging from ₹ 293.84 crore to ₹ 866.32 crore in savings accounts without opting for available auto sweep facility. This resulted in loss of interest income of ₹ 62.30 crore to the project fund during 2012-17.

The Company belatedly paid service tax for the period April 2015 to September 2016 resulting in creation of undue liability of ₹ one crore as interest.

**(Paragraphs 2.2.5 and 2.2.6)**

### ***Planning***

Due to delay in securing dispute free land from various state authorities/user departments, the Company could not initiate construction of 240 works under seven different schemes even after a delay of 16 to 73 months from the date of administrative approval.

The Company failed to include furniture and other essential amenities, in the estimates of 297 model schools. In the case of 71 model schools, construction could not be initiated due to non-availability of land. Consequently, the Model School Scheme failed in its entirety, depriving educational benefits under the scheme even after incurring an expenditure of ₹ 555.69 crore.

**(Paragraphs 2.2.10 to 2.2.11)**

### ***Project Execution***

Selection of a contractor with fictitious bid capacity resulted in extension of undue benefit to the contractor and unfruitful expenditure of ₹ 36.82 crore.

**(Paragraph 2.2.16)**

Though the Company rescinded six works valued at ₹ 9.08 crore due to slow progress of work, Performance Bank Guarantees (PBGs) worth ₹ 59.68 lakh could not be encashed due to failure of the Company to ensure their timely renewal. Further, in 36 works, PBGs valued at ₹ 2.91 crore, the Company failed to renew PBGs on time despite non-completion of these works.

**(Paragraph 2.2.17)**

The Company failed to monitor the progress of six works and rescinded the contracts due to slow progress after a lapse of four years. Besides, two works were abandoned midway after the authorities stopped construction on non-encumbrance free sites. As a result, expenditure of ₹ 3.10 crore incurred on these eight works became unfruitful.

**(Paragraph 2.2.18)**

The Company failed to consider the available individual rate component of pile work of 500 mm dia in Building Construction Department Schedule of Rates (SoR), resulting in avoidable excess payment of ₹ 3.72 crore to the contractor.

**(Paragraph 2.2.19)**

The Company failed to adhere to Codal Provisions (Bihar Public Works Department Code, Contractors Registration Rules, 2012 and Standard Bidding Document) in 59 works resulting in irregular payment/release of ₹ 5.93 crore.

**(Paragraph 2.2.20)**

### **Summary of recommendations**

- **The Company should exercise due diligence in management of its funds by faster execution of works, use of auto sweep facilities (instead of depositing in saving bank accounts), and paying taxes in time.**
- **The State Government and the Company should ensure that designs and work estimates are finalized only after obtaining NOC from the local administration.**
- **The State Government may frame measures to cross verify all submissions by bidders and to blacklist and criminally prosecute bidders and their associates who furnish fraudulent documents.**
- **The Company should ensure timely renewal of PBGs.**
- **The Company should ensure availability of encumbrance free site before commencing the work and should take timely action against errant contractors.**
- **The Company should ensure adoption of appropriate rate for labour and material as per Bihar SoR.**
- **The Company should ensure compliance with codal provisions and applicable laws.**

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### 3. Compliance audit observations

Gist of some of the important compliance audit paragraphs are given below:

**Bihar State Food and Civil Supplies Corporation Limited** irregularly awarded contracts valued at ₹ 128.45 crore and ₹ 157.36 crore to supplier, accepted the consignments without prescribed quality checks, short collected ₹ 10.72 crore as security deposits from the supplier, irregularly released ₹ 15.75 crore against supply of inferior quality of gunny bags despite clear orders to withhold payment, awarded contract for the second year to the same supplier despite being aware that the goods supplied in the first year were under investigation for poor quality, and disobeyed orders to blacklist the supplier.

(Paragraph 3.1)

Failure of **Bihar State Medical Services and Infrastructure Corporation Limited** to monitor its bank deposits resulted in loss of opportunity to earn interest of ₹ 5.43 crore.

(Paragraph 3.2)

**Bihar State Text Book Publishing Corporation Limited** unnecessarily renewed the services of a consultant for three years paying ₹ 1.08 crore, even though the consultant had already given its report, which the Company failed to act on, rendering infructuous the entire expenditure of ₹ 1.44 crore over the four years. Failure to act on the recommendations of the consultant also resulted in avoidable payment of penalty of ₹ 50.27 crore.

(Paragraph 3.3)

Inappropriate action of **Bihar State Power (Holding) Company Limited** in revision of Power Purchase Agreement resulted in loss of ₹ 61.70 crore.

(Paragraph 3.6)

Incorrect categorisation of consumers and billing thereof at a lower rate by **North Bihar Power Distribution Company Limited** resulted in loss of revenue of ₹ 5.24 crore.

(Paragraph 3.7)

