

Chapter V

General Sector

CHAPTER V GENERAL SECTOR

5.1 Introduction

This Chapter of the Audit Report for the year ended 31 March 2019 deals with the observations on audit of the State Government units under General Sector.

The names of the State Government departments and the total budget allocation and expenditure of the State Government under General Sector during the year 2018-19 are given in the table below:

Table 5.1: Details of budget allocation and expenditure

(₹ in crore)

Sl. No.	Name of the Department	Total Budget Allocation	Expenditure
1	Planning & Development Department	63.51	50.13
2	Election Department	20.62	20.62
3	Governor	9.06	9.26
4	Finance Department	1,853.44	1,654.80
5	Home Department	75.34	67.84
6	Information and Public Relation Department	16.20	16.08
7	Information Technology Department	7.62	7.34
8	Judiciary	43.08	39.26
9	Land Revenue and Disaster Management Department	284.65	246.37
10	Law Department	2.62	2.49
11	Sikkim Legislature Assembly	22.26	21.87
12	Parliamentary Affairs Department	11.67	11.29
13	Department of Personnel	15.84	13.04
14	Sikkim Police	400.81	375.38
15	Printing and Stationery Department	14.40	14.40
16	Sikkim Public Service Commission	5.41	5.41
17	Skill Development Department	56.77	16.60
18	State Excise(Abkari) Department	9.91	9.85
19	Vigilance Department	8.25	8.24
20	Culture Department	58.66	46.91
21	Ecclesiastical Department	37.45	28.76
22	Labour Department	4.78	4.55
23	Science and Technology Department	4.36	4.19
Total		3,026.71	2,674.68

Source: Appropriation Accounts 2018-19

Besides the above, the Central Government had transferred a sizeable amount of funds directly to the State's implementing agencies under the General Sector. The State's implementing agencies received total fund of ₹ 13.86 crore during 2018-19 for implementation of flagship programmes of the Central Government, the major transfers above ₹ five lakh are detailed below:

Table 5.2: Details of funds directly transferred to the implementing agencies

(₹ in lakh)

Sl. No.	Name of the Department	Name of the Scheme/Programme	Implementing Agency	Funds transferred during the year
1	High Court of Sikkim	e-Court Phase - II	Registrar General, High Court of Sikkim	80.40
2	Land Revenue and Disaster Management Department	MPs Local Area Development Schemes (MPLADS)	District Collector, East	1,000.00
3	Culture Department	Kala Sanskriti Vikas Yojana	Sivik Samdup Maney Lhakhang Managing Committee	12.50
4			Thubten Gatsal Ling Sumin Gumpa Managing Committee	10.00
5			Denzong Culture & Heritage Foundation	7.00
6	Science and Technology Department	Space Science Promotion	Sikkim Manipal Institute of Technology	14.22
7	Science and Technology Department	Atal Innovation Mission (AIM) including Self Employment and Talent Utilization (SETU)	AIC SMU Technology Business Incubation Foundation	240.00
8	Science and Technology Department	Bio Technology Research and Development	Sikkim Manipal Institute of Medical Sciences – (SMIMS)	15.51
Total				1,379.63

Source: Finance Accounts 2018-19

5.2 Planning and conduct of audit

Audit process starts with the assessment of risks faced by various departments of the Government based on expenditure incurred, criticality/complexity of activities, level of delegated financial powers, assessment of overall internal controls, etc.

After completion of audit of each unit on a test-check basis, Inspection Reports (IRs) containing audit observations are issued to the heads of the departments. The departments are required to furnish replies to the audit findings within one month of receipt of the IRs. Whenever replies are received, audit findings are either settled based on reply/action taken or the audited entities requires to take further action for compliance. Some of the important audit observations arising out of these IRs are processed for inclusion in the Audit Reports of the Comptroller and Auditor General of India. These Audit Reports are submitted to the Governor of the State under Article 151 of the Constitution of India for laying on the table of the Legislature for taking further appropriate action.

Test audits were conducted involving expenditure of ₹ 601.80 crore (including expenditure of ₹ 159 crore of previous years) of the State Government under General Sector.

This Chapter contains two Compliance Audit Paragraphs as given below:

**LABOUR DEPARTMENT
(SIKKIM BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE
BOARD)**

5.3 Irregular expenditure out of Labour Cess Funds

Sikkim Building and Other Construction Workers' Welfare Board irregularly incurred an expenditure of ₹ 53.88 lakh towards celebration of May Day event

As per provisions of Section 18 (1) of Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act), the State Government constituted (February 2010) Sikkim Building and Other Construction Workers' Welfare Board (SBOCWWB) to carry out welfare schemes for building and other construction workers. The Government imposed cess at the rate of one *per cent* on construction works as assigned under Section 3 (1) of the Building and Other Construction Workers Welfare Cess Act 1996. The cess is meant for the welfare of the workers.

As per Section 22 read with Section 24 (2) of the BOCW Act, the cess so collected was required to be spent for the welfare of construction workers (beneficiary) on schemes like maternity benefits, pension, advances for purchase and construction of houses, disability pension, payments of funeral assistance, medical assistance, financial assistance for education and marriage of children. Further, in pursuance of the Hon'ble Supreme Court order (4 September 2015) on improper utilisation of the cess, Ministry of Labour and Employment issued (7 June 2016) an order prohibiting expenditure of cess for any purpose other than the welfare of building and construction workers and their families.

As per Financial Statements of the Board for year 2017-18, out of the Board's total income amounting to ₹ 24.17 crore, the cess received was ₹ 18.41 crore and interest on bank deposits was ₹ 5.76 crore. Thus, it is evident that the revenue of the Board consists of cess and interest earned from the cess fund. Therefore, the expenditure of this fund was required to be restricted to the purposes defined in the Act. It was observed during audit of Labour Department (March –April 2019) that the Board incurred an expenditure of ₹ 53.88 lakh for May Day' 2017 celebrations (event) which was in contravention of provisions of BOCW Act.

The event, which was organised at the Mining Grounds, Rangpo, was funded entirely by the Board. The flags and banners of a political party were also displayed prominently at the venue of the event. The entire expenditure of ₹ 63.87 lakh shown for organising the event was not supported by vouchers/ records and vouchers were produced for ₹ 55.33 lakh only and for balance amount of ₹ 8.54 lakh⁸⁵, no records/ vouchers in support were produced to audit. The vouchers for ₹1.45 lakh paid to the Chairman of the

⁸⁵ ₹63.87 lakh - ₹55.33 lakh = ₹8.54 lakh

Organising Committee, for meeting miscellaneous expenses were also not made available to Audit.

An analysis of the expenditure of ₹ 53.88 lakh⁸⁶ which was incurred for the event, showed that it was mainly for organizing the event ,comprising of food expenses , provision of water, conveyance expenses of organizers/ hiring of vehicles for the attendees namely labourers/workers and publicity expenditure for the event. Thus the entire expenditure could not be said to have been incurred as welfare measure for the labourers or their families.

In reply, the Management stated (June 2019) that the proposal for celebration of May Day 2017 was approved by the Chief Minister. The programme was organised to create mass awareness amongst the workers about their rights, duties and the facilities provided by the Board.

The reply is not tenable because though the Chief Minister approved the event, the Board had incurred expenditure out of Cess fund on inadmissible items which were not for the welfare of the labour class. The Board is otherwise supposed to register the workers and create awareness of various schemes meant for their welfare, but this event was more of a publicity event. The Cess fund meant for welfare of construction workers were thus irregularly utilized by the Board for organising the May day event.

Recommendation: The Board may place a robust internal control mechanism to ensure that Cess funds are utilized for the intended purpose and there is no inadmissible expenditure.

Sikkim Police, Government of Sikkim

5.4 Non-recovery of Government revenue

The Department did not execute a legally binding Memorandum of Understanding (MoU) with private hydel power companies resulting in non-recovery of charges of ₹ 1.70 crore on account of deployment of Sikkim Armed Police Force.

In terms of Rule 50(1) of Sikkim Financial Rules (SFR) 1979, the head of every department/ office shall be responsible to ensure that all revenue, receipt or other sums due to Government are regularly and promptly assessed, realized and credited to Government account. Further Rule 27 (1) of SFR provides that no contract shall be entered into by an authority which has not been empowered to so by the Government and Rule 27 (10) lays down that every contract should contain suitable penal provisions against any breach or non-fulfilment of the contract or any of its terms by the contractors.

⁸⁶ ₹ 55.33 lakh - ₹ 1.45 lakh = ₹ 53.88 lakh

Scrutiny of records of office of the Director General of Police (DGP) revealed (November 2019) that three Memorandum of Understandings (MoUs) were signed between Sikkim Armed Police Force (Commandant of the Sikkim Armed Police) and three private firms⁸⁷ (Hydel Power Generation Companies) for deployment of police personnel on request of these firms. The terms and conditions of all MoUs were identical. As per MoUs, the firms were required to bear the actual expenditure for the deployed personnel. The expenditure statement on account of deployment was to be presented to the firms on quarterly basis and the reimbursement made within shortest possible time preferably within 30 days. In case of delay, the interest was to be levied as per government rules.

It was noticed in audit that Department could not recover part of the deployment charges amounting to ₹ 1.70 crore (November 2019) from these three firms for the period 2009-18, as detailed below:

Table 5.3: Details of deployment charges

Sl. No.	Name of Private Firms	Date of signing of MoUs	Period of deployment of police personnel	Total deployment charges recoverable (in ₹)	Deployment charges recovered (in ₹)	Outstanding deployment charges as on 31 March 2019 (in ₹)
1.	M/s Shiga Energy Pvt. Ltd. West Sikkim	1 February 2012	February 2012 to May 2013	1,11,45,367	79,80,000	31,65,367
2.	M/s Dans Energy Pvt. Ltd. South Sikkim	1 February 2012	February 2012 to May 2013	1,12,34,597	71,80,295	40,54,302
3.	M/s Himagiri Hydro Energy Pvt. Ltd. North Sikkim	26 March 2009	April 2009 to June 2018	1,99,94,986	1,01,73,727	98,21,259
Total				4,23,74,950	2,53,34,022	1,70,40,928

Source: Police Departmental records

As the firms were not reimbursing the deployment charges within specified time and substantial recoverable dues had fallen in arrears, the Director General of Police (DGP) proposed (October 2015) to Chief Secretary (CS) for initiating legal action against the firms mentioned at Sl. No. 1 and 2 in above table. The CS in turn directed the Secretary (Home) to initiate Certificate Proceedings through Deputy Collector (East). The Secretary (Home) referred (November 2015) the matter to Law Department (LD) for advice. The LD noted (December 2015) that MoUs had not been referred to LD for vetting before execution and observed that MoUs were defective as due procedure had not been followed while executing the same and the authorised person not even signed the MoU. Further, there was no clause on mechanism to recover dues, in case, the firms failed to reimburse the dues.

⁸⁷ 1. M/s Shiga Energy Pvt. Ltd. West Sikkim 2. M/s Dans Energy Pvt. Ltd. South Sikkim 3. M/s Himagiri Hydro Energy Pvt. Ltd. North Sikkim

Thus, due to non-observance of provisions of the SFR and the laid down procedure for execution of the MOUs by the Department resulted in non-recovery of Government revenue of ₹ 1.70 crore from private firms.

The Department, in reply, accepted (November 2020) that the recovery had not been effected and added that it would be difficult to recover the dues from the firms as they are no more in existence. The reply, as regards non-existence of the firms, is factually incorrect as two⁸⁸ (out of three) firms have already been commissioned and were functional and generating energy as of November 2020. As regards third firm (M/s Himagiri Hydro Energy Pvt. Ltd. North Sikkim), the construction work was in progress as of November 2020.

Recommendations:

- *The Department may serve notices to the firms and take all steps for recovering the dues based on the existing MOUs.*
- *In future, the Department may ensure that they execute legally sustainable MoUs with penal provisions, before deploying precious manpower for private security.*

⁸⁸ (i) M/s Shiga Energy Pvt. Ltd. West Sikkim (Commissioned in September 2015); (ii) M/s Dans Energy Pvt. Ltd. South Sikkim (Commissioned in October 2017).