

CHAPTER I: GENERAL SECTOR

1.1 Introduction

This Chapter of the Audit Report deals with the audit findings relating to various departments of the State Government under General Sector.

During 2017-18, against a total budget provision of ₹ 2590.31 crore, a total expenditure of ₹ 2439.74 crore was incurred by eight departments under the General Sector. The department-wise details are given in the table below:

Table 1.1.1: Budget provision and expenditure of major departments
(₹ in crore)

Sl. No.	Name of Department	Budget provision (Original and Supplementary)	Expenditure
1.	Finance	1370.72	1393.00
2.	Home/Police/Jail	797.71	715.62
3.	Election	72.63	61.89
4.	Transport	51.56	31.17
5.	Printing & Stationery	31.19	27.34
6.	Law	73.38	45.40
7.	Assembly Secretariat	91.40	79.33
8.	Chief Minister's Secretariat, Secretariat Administrative Department, Personnel, including Passport	101.72	85.99
	Total	2590.31	2439.74

Source: Budget Estimates, Appropriation Acts and Appropriation Accounts.

During the year, an expenditure of ₹ 2084.26 crore was test checked in audit (including funds pertaining to previous years audited during the year). Significant observations arising out of these are brought out in this Chapter through one performance audit of 'Management of Prisons in Meghalaya' and one compliance audit paragraph.

PERFORMANCE AUDIT PRISONS DEPARTMENT

1.2 Performance Audit of 'Management of Prisons in Meghalaya'

1.2.1 Introduction

Prisons are an important and integral part of criminal justice system. Their management and administration falls exclusively under the jurisdiction of the State Government as per the Seventh Schedule of the Constitution of India. At the inception of the State of Meghalaya in 1972, there were only two district jails - at Shillong and Tura. The district wise status of jails as of March 2018 is given below.

Map 1 – Status of district jails in Meghalaya



1.2.2 Organisational Structure

All the prisons in the State function under the Prisons Department, administered by the Commissioner & Secretary to the Government of Meghalaya (GoM). The Director General of Prisons (DGP) is the head of all the prisons and is assisted by one Assistant Inspector General, Prisons. Each of the prisons is headed by a Superintendent.

Audit Framework

1.2.3 Audit Objectives

Performance audit of 'Management of Prisons' was carried out with the objective of assessing the following:

- whether the living conditions of the prisoners are compatible with human dignity in all aspects such as accommodation, hygiene, sanitation, food, clothing, medical facilities, *etc.*,

- whether safe detention of prisoners is ensured, in terms of housing them in proper buildings, adequacy of security infrastructure, and availability of trained security staff, and
- whether appropriate measures were initiated for reform and rehabilitation of prisoners.

1.2.4 Audit Criteria

Prisons in India are governed by the Prisons Act, 1894. In Meghalaya, the State Government follows the Assam Jail Manual, 1894 as adopted by it in 1972. Audit findings were benchmarked against these sources of criteria.

1.2.5 Scope and Methodology of Audit

Performance audit was carried out during May-August 2018 and covered the functioning of prisons in the State during the five-year period 2013-14 to 2017-18. Audit methodology involved scrutiny of records in the offices of the Commissioner & Secretary and the DGP, Meghalaya at the State level; office of the Executive Engineer, PWD (Buildings), Shillong at the division level, and the three selected district jails at the local level. In addition to the scrutiny of records, a joint physical verification of prison facilities was carried out by the Audit Team along with the Superintendents of the concerned sampled jails. Photographic evidence was obtained to substantiate audit findings, where required.

Audit objectives, criteria, scope and methodology were discussed with the Commissioner & Secretary, Prisons in an Entry Conference in May 2018. After the conclusion of audit, findings were discussed with the State Government and departmental officers in an Exit Conference in November 2018. The responses of the State Government during the Exit Conference and their written replies received in December 2018 – January 2019 have been incorporated in the report at appropriate places.

1.2.6 Audit sample

Prisons are established at three levels – Central jail at the State level, District jail at the district level and Sub jail at the taluka level. There are generally various other types of prisons such as women’s jail, open jail, special jail, borstal (juvenile) jail, *etc.* There are only district jails and one juvenile jail in Meghalaya. Out of the five district jails, three (at Shillong, Jowai and Williamnagar) were selected for audit based on probability proportional to size without replacement method, with size being the number of inmates (both convicts and under trial persons).

1.2.7 Audit Findings

Significant findings are discussed in the succeeding paragraphs.

Audit objective-1 Living conditions of prisoners

1.2.7.1 Overcrowding in jails

The Supreme Court had, in February 2016, emphasised that Article 21 of the Constitution requires a life of dignity for all persons, and lamented that little appears to have changed on the ground as far as prisoners are concerned. It considered the issue of their health, hygiene, food, clothing, rehabilitation, *etc.* and ruled that, “prisoners, like all human beings, deserve to be treated with dignity.”

The five district prisons of Meghalaya can accommodate 595 male and 55 female inmates. While the space/cells earmarked for female inmates was adequate in view of fewer number of women, audit scrutiny revealed overcrowding of male inmates *vis-à-vis* the capacity of prison in all the district jails. The prison-wise capacity and occupancy of male inmates during the period covered by audit is given below:

Table 1.2.1: Prison capacity and number of male inmates housed in the prisons

Sl No	Name of jails	Prison Capacity for male inmates	Number of male inmates housed (as on 31 March of the year)				
			2014	2015	2016	2017	2018
1	District Jail, Shillong	155	401	369	374	375	347
2	District Jail, Williamnagar	40	33	72	54	49	33
3	District Jail, Jowai	120	222	148	166	184	175
4	District Jail, Tura	190	253	196	218	159	138
5	District Jail, Nongpoh	90	--	--	--	69	75
	Total	595	909	785	812	836	768

Source: Departmental Figures.

As can be seen above, all the district jails except Nongpoh jail, were overcrowded during the audit coverage period with inter year variations, with district jails Shillong and Jowai being overcrowded by over 140 - 220 *per cent* respectively, compared to the capacity of the prison. As of end of March 2018, the total number of inmates in all the district jails except Nongpoh, has reduced compared to the previous year. To ease the overcrowding of district jail, Shillong, construction of a new jail at West Khasi Hills, Nongstoin was sanctioned (March 2003) at an estimated cost of ₹ 6.26 crore and was targeted for completion by March 2007. It was yet to be completed (July 2018) despite the lapse of over 15 years¹, as the State Government has not sanctioned the revised estimates for its construction.

Similarly, to ease the overcrowding at district jails of Jowai and Tura, the DGP, Meghalaya proposed (March & September 2014) construction of new district jails at East Jaintia Hills, Khliehriat and South West Garo Hills, Ampati. State Government, however, was yet to accord approval to the proposals (August 2018). Thus, despite

¹ Mention was made in Paragraph 2.2 of the Report of the Comptroller & Auditor General of India, for the year ended 31 March 2013, Government of Meghalaya (Report No 2).

overcrowding in four out of five district jails, the State Government did not take any initiative either to complete the construction of Nongstoin jail or to construct any other district jail during the five year period 2013-18.

In response, the Department stated (January 2019) that the sanction and administrative approval for ₹ 27.60 crore for construction of district jail in West Khasi Hills, Nongstoin was accorded by the State Government in January 2019 and that, the process of tendering for the work has been initiated. It was further stated that action for acquisition of land for construction of a new district jail in East Jaintia Hills, Khliehriat was initiated. To a specific query during the exit conference as to why the prisoners have not been shifted from overcrowded prisons to less crowded prisons, the Department stated (January 2019) that it has initiated the transfer of convicts from Shillong jail to Nongpoh jail.

1.2.7.2 Insufficient space to accommodate inmates

Assam Jail Manual, as adopted by the Government of Meghalaya, specifies the requirement for accommodation of sleeping wards as a superficial area² of 36 sq ft per prisoner and lateral ventilation³ of 540 cu ft per prisoner. The actual average superficial area and lateral ventilation available per prisoner in the three sampled district jails is given below:

Table 1.2.2: Availability of space per prisoner as of March 2018

Name of Jail	Superficial area per prisoner			Lateral ventilation per prisoner		
	As per Assam Jail Manual	As per prison capacity	As per prison occupancy	As per Assam Jail Manual	As per prison capacity	As per prison occupancy
District Jail, Shillong	36 sq ft	36	17	540 cu ft	604	287
District Jail, Williamnagar		17	25		186	282
District Jail, Jowai		22	17		224	166

Source: Information furnished by the Department.

During the joint physical verification of the district jails by the Audit team along with the departmental representatives, it was observed that overcrowding has caused shortage of sleeping berths for the inmates of district jails at Shillong and Jowai, with several inmates being forced to sleep underneath the already occupied sleeping berths as can be seen from the photographs given below.

² Superficial area of a building is measured between inside faces of external walls with no deduction for partitions, stairwells, lift, etc.

³ Lateral ventilation is the cubic capacity per prisoner.



Sleeping area underneath the already occupied sleeping berths in district jail, Shillong

Sleeping area underneath the already occupied sleeping berths in district jail, Jowai

The Department accepted the audit observation and stated (December 2018 & January 2019) that the jails were constructed more than three decades ago and proper guidance and norms for ‘prisons buildings’ were not available in the Assam Jail Manual as adopted by Meghalaya. The reply is incorrect, as Clause 701 of the Assam Jail Manual, 1894 specifically provides for minimum space for accommodation during incarceration.

The shortage of space was further exacerbated by lodging under trial prisoners (UTPs) and young offenders (between the age of 18 and 21 years) along with the convicts for prolonged periods. The details of actual number of UTPs *vis-à-vis* convicts in the sampled district jails are given below:

Table 1.2.3: No. of UTPs and convicts as of March 2018

District jail	Male		Total No of inmates	Total no of UTPs
	No of convicts	No of UTPs		
Shillong	40	317	357	317 (89%)
Williamnagar	11	22	33	22 (67%)
Jowai	10	166	176	166 (94%)
Total	61	505	566	505 (89%)

The Prisons Act, 1894 specified in Chapter V relating to ‘discipline of prisoners’ that, ‘unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners’. However, as can be seen from the details tabulated above, the UTPs form about 89 *per cent* of the prisoners and far outnumber the convicts. Audit scrutiny revealed that the UTPs were detained for prolonged periods. For instance, the period of confinement of UTPs in district jail Shillong ranged from one month to almost six years. In Williamnagar jail, it was from one month and up to three years. The UTPs in Jowai jail were in prison for periods ranging from one month to about two years. Prolonged detention of UTPs has not only resulted in delayed justice, but has also led to overcrowding in the jails and deprived prisoners of basic minimum facilities, including toilets.

1.2.7.3 Young offenders housed with other inmates

Section 27 of the Prisons Act, 1894 mandates that male, female inmates, under-trial prisoners and young offenders should be housed in separate sections of the prison. MPM, 2016 also stipulates that young offenders (between the ages of 18 and 21 years) should not be confined in prisons meant for adult offenders and that, there should be separate institutions for them where, in view of their young and impressionable age, they shall be given treatment and training suited to their special needs of rehabilitation.

Scrutiny of records along with joint physical verification of sampled district jails revealed that although male and female inmates were housed separately, young offenders were lodged together with adult offenders and the under trial prisoners (UTPs) were also quartered with the convicts. Age profile of the inmates in the three district jails sampled is shown below:

Table 1.2.4: Category wise distribution of prisoners in the test checked district jails

Name of District Jail	Number of prisoners as of March 2018	Age ⁴ between 18 to 21 years			Age above 21 years		
		Convicts	UTPs	Total	Convicts	UTPs	Total
District Jail, Shillong	357	1	61	62	39	256	295
District Jail, Williamnagar	33	5	9	14	6	13	19
District Jail, Jowai	176	--	16	16	10	150	160

Source: Figures collected from the test checked district jails.

There was nothing on record to indicate that the district jails had a mechanism to segregate young offenders at the time of their admission. The State has not taken any action to set up separate cells/institutions to segregate the UTPs and young offenders.

The Department stated (December 2018) that the matter regarding segregation of young offenders would be looked into.

Recommendation: Construction of District Jail, Nongstoin should be expedited to ease overcrowding in the other jails and land acquisition for a new district jail at East Jaintia Hills, Khliehriat may be taken up in right earnest. State Government should consider setting up jails in all the districts and accelerate the trial of UTPs in a time bound manner. Efforts may be made to separately house the UTPs and young offenders from the convicts in the meanwhile, to avoid any undesirable adverse influence on their impressionable minds.

⁴ Age taken as on date of the inmates admission to prison.

Audit objective – 2 Safe detention of prisoners

1.2.7.4 Availability of security infrastructure

During the audit coverage period of 2013-18, two incidents of jail break took place in the State.

- One UTP escaped from district jail, Tura in August 2013. As per the Magisterial inquiry report (September 2013), the escape of the UTP was facilitated by insufficient height of the boundary wall, lack of security infrastructure like metal detectors, CCTV cameras, search lights and acute shortage of security staff. The report emphasised the need to increase the number of security personnel deployed and their training. As per the Action Taken Report submitted (August 2014) by the Assistant Inspector General of Prisons to the State Government, the height of the boundary wall has been increased and metal detectors and search lights have been issued.
- Five UTPs escaped from district jail, Williamnagar in May 2015 by overpowering the security personnel at the main gate. The Superintendent, Williamnagar jail stated that the incident could have been prevented, if adequate number of security staff was available for duty at the prison.

The State Government ordered a Magisterial inquiry in to the incidents of jail break in 2013. The Magisterial inquiry report (September 2013) attributed the escape of UTPs from district jail Tura, to insufficient height of the boundary wall, lack of security infrastructure like metal detectors, CCTVs, search lights and acute shortage of security staff. In its response to audit report, the Department stated (December 2018) that it had taken adequate action on the recommendations contained in the inquiry report.

Scrutiny of records in the three selected district jails (August 2018) revealed that the security infrastructure continued to be inadequate even after five years of the Magisterial inquiry report, as shown below:

Table 1.2.5: Status of security infrastructure in District Jails

Recommendations of Magisterial inquiry report	District Jail, Shillong	District Jail, Williamnagar	District Jail, Jowai
Search lights should be available	Not available	Not available	Not available
Door frame metal detectors should be made available	Metal detector is available but not utilised. Hand held detectors are available and are being used.	Metal detector is available but not functioning since July 2015. Hand held detectors are available and are being used.	Metal detector is available but not functioning since August 2015. Hand held detectors are available and are being used.
Walkie talkies should be made available	Available	Available	Available

Source: Information furnished by the test checked district jails.

The Department stated (December 2018) that metal detectors were not required since hand held detectors were available. The reply has to be seen in the light of the fact that metal detectors were procured due to the perceived requirement, but were either not functional or not utilised.

1.2.7.5 Deployment of security staff in the jails

In Meghalaya, the security personnel for the prisons consist of unarmed branch (Head Warders and Warders) and the armed branch (Havildars & Naiks). In addition, police personnel were also posted in all the district jails to augment their security.

The MPM, 2016 suggests a ratio of one guard for every six prisoners, to be followed in all three shifts. The actual position of security staff *vis-à-vis* the suggested number of staff by MPM is given below:

Table 1.2.6: Availability of security personnel *vis-a-vis* norms in test checked district jails

District Jail	Requirement ⁵ of security staff as per MPM	Sanctioned strength of security staff	Actual Men in position	No. of police personnel deployed (Battalion)	Total deployment	Shortage as per MPM norm (in per cent)
Shillong	179	65	52	29	81	98 (55%)
Williamnagar	17	33	29	36	65	--
Jowai	88	34	26	31	57	31 (35%)

Source: Information furnished by the test checked district jails.

As can be seen from the table above, the district jails at Shillong and Jowai were operating with a shortage of 55 and 35 *per cent* respectively. The shortage of security staff at district jails, Shillong and Jowai was further aggravated because of overcrowding. Shortage of staff was one of the reasons attributed to the jail break incidents in District Jail, Tura during August 2013.

The Department stated (January 2019) that the proposal to create more posts of guarding staff was turned down due to financial crunch in the State.

1.2.7.6 Training of security staff

Warders are primarily the guarding personnel within the jail premises. They are entrusted with responsibilities such as carrying out implementation of all rules relating to guarding of the jail, conducting searches, counting of prisoners, maintaining discipline *etc.* Assam Jail Manual⁶ mandates that the Warders should be put through a course of thorough training before they are sent out to an affiliated jail.

There were six Havildars, 17 Naiks, seven Head Warders and 77 Warders in the three sampled district jails as of March 2018. Scrutiny of records in these three district jails revealed the following:

- The Department does not have a dedicated training facility. Only 23 armed branch officials (Havildars & Naiks) received training at the 1st Meghalaya Police Battalion during their induction into the Department. No further training was imparted to them.

⁵ Number of security personnel required = (No of inmates÷6) X 3 shifts.

⁶ Rule 181 of the Assam Jail Manual, 1894 as adopted by Meghalaya.

- The remaining 84 Head Warders/Warders did not receive any training. Even induction training was not imparted to them.

Despite the Magisterial inquiry report attributing lack of training as one of the reasons that facilitated the escape of prisoners, the Department has not prepared any action plan for imparting training to prison officers and staff during the years 2013-18. While it did not have a dedicated training facility, the Department could have tied up with other training institutes or send their staff for training outside the State.

The Department stated (December 2018) that until reserve posts of Warders is created, it would be difficult to depute staff for training. The reply only reiterates the existing 'status quo' whereby prisons in the State will continue to be guarded by untrained staff. In view of the escape of an under-trial prisoner mentioned above, the Department should consider training of staff on a rotation basis.

1.2.7.7 Availability of closed circuit television cameras (CCTVs)

The Supreme Court directed (July 2015) the State Governments to install CCTV cameras in all the prisons within a period of two years *i.e.* by July 2017. Scrutiny of records revealed that CCTV cameras were installed in district jail, Shillong at a cost of ₹ 34.09 lakh in June 2014. During joint physical verification (May 2018) with Superintendent of Prison, it was seen that nine out of 25 CCTV cameras installed were not functioning. There was nothing on record to show the date on which these CCTV cameras stopped working and whether any action has been taken by Jail authorities to have these repaired.

As regards the other four district jails, the DGP, Meghalaya invited quotations for installation of CCTV cameras on three occasions (November 2014, June 2015, and September 2016), but these were subsequently cancelled due to procedural errors⁷. The DGP invited quotations once again in May 2017, but contract was not awarded as of date of audit (August 2018). Thus, delay in finalisation of the tendering process by the Department led to delay in installation of CCTV cameras in the remaining four district jails.

The Department stated in reply (December 2018 and January 2019), that the defective CCTVs have been repaired and installation of CCTVs in the remaining four district jails was under process.

Recommendation: Adequate number of trained security staff and infrastructure such as CCTVs, metal detectors, search lights etc., should be provided at all the prisons to ensure adequate security and prevent incidents of jail breaks.

⁷ (i) *November 2014*: Tender was cancelled as the Department did not have requisite fund; (ii) *June 2015*: The technical sub-committee also opened the price bid instead of opening the technical bid only; and (iii) *September 2016*: Government cancelled the bid as prior approval was not taken.

<i>Minimum standards of treatment of prisoners</i>

1.2.7.8 Prisoners' uniforms and oral hygiene

Assam Jail Manual states that every convict should wear prison uniform. During July 2016, the DGP, Meghalaya instructed the Superintendents of the three sampled district jails of Shillong, Jowai and Williamnagar to call for quotations for supply of uniforms for convicts, and toothpaste and toothbrush for all inmates. This was however, not done. During an interview of the prisoners lodged in district jails Shillong and Jowai in the presence of jail authorities, 91 (out of 100 inmates) complained about non-availability of toothpaste and toothbrush.

In district jail, Williamnagar, although uniforms were issued to the convicts, none of them was wearing them during the joint physical verification carried out by Audit team (May 2018) with the jail authorities. The Department stated (December 2018) that instructions would be issued to the Superintendents to call for tenders for supply of prisoners uniforms, toothpaste and toothbrush. Further status in this regard has not been intimated (April 2019).

1.2.7.9 Availability of Medical care personnel

The Supreme Court, while examining the inhuman conditions of prisons in India, directed (15 September 2017) the State Governments to appoint Counsellors and support persons for counselling purposes, particularly for first time offenders. As of March 2018, in the three sampled district jails, the Superintendents of Jails stated that 55 inmates⁸ were experiencing substance-related addictive disorders. However, only District Jail, Jowai had engaged a Psychiatrist from the nearby district hospital for providing counselling to the prisoners. The other two sampled district jails have not made similar arrangement.

While the female convicts (District Jail, Shillong-10, District Jail, Jowai-01, District Jail, Nongpoh-02) were lodged in separate barracks, female Medical Officer was not available in any of the district jails even on call. Of the three sampled district jails, only the District Jail at Williamnagar had a female attendant, while the remaining two district jails had only male attendants.

Recommendation: It is recommended that the Department should take up the matter with the respective district hospitals to ensure that female Medical officers and Psychiatrists visit the district jails periodically, or are made available on call to look after the medical needs of female inmates and substance addicts.

The Department stated in reply (December 2018), that request has been sent to the concerned District Medical & Health Officer to depute a Psychiatrist and one female doctor at least once a week.

⁸ District Jail, Shillong–50; District Jail, Jowai–5

1.2.7.10 Testing of food and water supplied to inmates

Rule 381 of the Assam Jail Manual, 1894 stipulates weekly inspection of food by the Superintendent and the Medical Officer to ensure that quality food in the right quantities reaches the prisoners. The results of such inspections were to be recorded in their minute books. Audit scrutiny revealed the following:

- Records of food inspections were not available in any of the three sampled district jails. In response (July 2018), the authorities in all three district jails stated that the Medical Officers inspected the food served to the inmates as and when the need arose. There were however no reports of inspections in any of these district jails.
- During the last five years, district jail, Jowai tested the drinking water only once in October 2017. No such test was conducted by the district jails at Shillong and Williamnagar. Out of 115 inmates interviewed in the three jails, 100 inmates (87 per cent) expressed their dissatisfaction with the quality of potable water.

In the light of the above facts, the Department should ensure that testing of food and water supplied are carried out at regular intervals, so that the inmates are not exposed to the risk of unhygienic food and contaminated water. In reply (December 2018), the Department assured that necessary instructions would be issued to the Superintendents to ensure inspection of the food as per the provisions of the Assam Jail Manual, 1894. Regarding the quality of drinking water, the Department stated that it was supplied by Public Health Engineering Department (PHED) and was fit for human consumption. It was however, assured that steps would be taken to ensure that PHED tests the quality of water supplied to the inmates.

Recommendation: Basic amenities should be made available to the inmates, to enable them to live with good health and dignity.

Audit objective – 3 Reform and rehabilitation of prisoners

1.2.7.11 Education of prisoners

The Parliamentary Standing Committee on Modernisation of Prisons recommended (2009) facilitating correspondence courses in the prisons and award of degrees/diplomas after successful completion of their course. The MPM, 2016 also specifies that the education policy for prisoners should aim at making every illiterate prisoner literate and developing educational qualification of prisoners by providing teachers for running and guiding the adult educational programmes in prisons. The services of NGOs could also be obtained in running the education programmes.

Audit scrutiny of the prisoners' records showed that a total of 8266 inmates entered into the prison system in the three sampled district jails during 2013-18. Out of these, 1887 (23 per cent) were illiterate, 4879 (59 per cent) had elementary education and 1500 (18 per cent) were matriculates and above.

The Department did not initiate any education programme in any of the prisons. There was no collaboration with NGOs for imparting education or providing vocational training to prisoners to help them rehabilitate after serving their sentences.

Audit however, noticed that despite the absence of educational support, during the period from 2013-18, one prisoner from District Jail, Williamnagar successfully cleared the Class X and XII examination in 2015 and 2017 respectively. During the prisoners' interview conducted by Audit team in the presence of the jail authorities, 16 inmates (14 *per cent*) out of 115 stated that they were interested in pursuing further studies.

The Department expressed (December 2018) difficulty in providing education since permission from the Court, Meghalaya Board of Secondary Education and district administration has to be obtained. The reply is not acceptable since there are several avenues to educate the prisoners and the Parliamentary Standing Committee on Modernisation of Prisons in its 142nd report submitted in 2009 has also recommended that there should be an effort to achieve total literacy among prisoners across the country.

1.2.7.12 Payment of Prisoners wages

Scrutiny of records revealed that the Department regularly revises the rates at which wages are to be paid to prisoners on the basis of minimum wages approved by Labour Department, Government of Meghalaya. From December 2017 onwards, the amounts to be paid to prisoners ranged between ₹ 132.30⁹ per day for unskilled labour to ₹ 164.50 per day for highly skilled labour. During 2013-18, in the three selected district jails, an amount of ₹ 23.58 lakh was sanctioned, of which, an amount of ₹ 11.42 lakh was disbursed. The remaining amount pertained to those prisoners who had not been released from jail.

During November 2017, the DGP instructed all the five district jails to open bank accounts for all the prisoners (convicts and UTPs) to enable transfer of wages earned by them. However, bank accounts have not been opened for prisoners in any of the three sampled district jails. The jail authorities stated that the reason for delay in opening the bank accounts was lack of documents as required by the banks and that record of prisoners' wages were being maintained in wage payment register.

The Department accepted the audit observation (December 2018) and stated that the district jails of Jowai and Tura have since opened accounts for convicted prisoners and that the process was on in the other districts.

⁹ The amount fixed was 70 *per cent* of the wages approved by Labour Department.

1.2.7.13 Consideration for premature release of prisoners

Assam Jail Manual¹⁰ requires the State Government to constitute a Permanent Advisory Board/State Level Committee to recommend premature release of life convicts in appropriate cases.

In the three district jails selected for audit, it was seen that there were 14 inmates who were sentenced to life imprisonment. It was, however observed during audit that Permanent Advisory Board/State Level Committee/Sentence Review Board had not been constituted in the State (June 2018). Further, as per records furnished by the Department, no life convict has been considered for premature release during 2013-18.

During the exit conference (December 2018), the Department admitted that the Permanent Advisory Board/State Level Committee and Sentence Review Board were yet to be constituted and assured that steps would be taken shortly to constitute the Sentence Review Board.

1.2.7.14 Constitution of State Advisory Board and Board of Visitors

MPM, 2016, suggests that the State should constitute a State Advisory Board, headed by the Minister-in-charge, to advise the Department on matters relating to correctional work in prisons, rehabilitation of inmates, redressal of grievances of prisoners and to review and suggest measures for the development of programmes for the treatment of prisoners, including education, vocational training and productive work. State Government had not constituted any State Advisory Board as of date of audit (June 2018).

As per the Supreme Court Judgement (September 2017), all State Governments were required to constitute a Board of Visitors (BoV) in each district. The task of the BoV included the following:

- Monitoring the correctional work in Prisons, with special attention to the degree and quality of training and the effectiveness of infrastructure/facilities in the Prisons.
- Suggesting new avenues leading to improvement in correctional work.
- Going into individual or collective grievances of prisoners and providing redressal in consultation with the prison authorities.

One of the main tasks of the members of the BoV was to attend to the quality and quantity of prison diet, condition of the kitchen and hospital, sanitary arrangements, aspects of vocational training and literacy programme. During audit, it was noticed that though the BoVs have been constituted in all the five district jails in the State, the BoV of district jails of Williamnagar and Jowai did not hold any meeting or visit the jails. In respect of district jail, Shillong, its BoV members visited the jail thrice during

¹⁰ Rule 826 to 936 of the Assam Jail Manual, 1894.

2017-18 but did not discuss the issues relating to the diet of the prisoners, or vocational training and literary programmes.

Recommendation: The Department needs to take advantage of having an institutional arrangement conducive to speedy decision making by setting up a high powered State Advisory Board. The BoVs should be pro-active in suggesting measures for overall development of the prisoners.

1.2.7.15 Amendment to Assam Jail Manual as adopted by Meghalaya

Prison administration in India has been subjected to intense review by the higher judiciary in the last few decades. In a number of judgements on various aspects of prison administration, the Supreme Court of India has laid down three broad principles:

- A person in prison does not become a non-person;
- A person in prison is entitled to all human rights within the limitations of imprisonment; and
- There is no justification in aggravating the suffering already inherent in the process of incarceration.

These principles have serious implications for prison administration. Keeping in view the directions given by the Supreme Court¹¹ and also taking into account the recommendations of various Committees¹² over the last sixty years regarding the need for bringing about uniformity in laws relating to prisons, the GoI formulated the MPM, 2003 (revised in 2016) and required all the State Governments to adopt it. Paragraph 28.29 of the Manual also envisages that each State Government should formulate its own State Prisons Manual on the lines indicated in the MPM so as to adequately cater to the indigenous conditions, without diluting the concept of basic uniformity in law and procedures. The Supreme Court, in its Ruling on Writ Petition (Civil) No.406/2013 on ‘inhuman conditions in 1382 Prisons’ in February 2016, tasked the Ministry of Home Affairs with conducting an annual review of the implementation of MPM 2016.

Meghalaya amended the Assam Jail Manual, 1894 (as adopted by it) once during May 2014 to incorporate provisions relating to ‘Care and development of children staying in jails along with their mothers who were either under-trial or convicts’ in accordance with the direction issued by the Supreme Court¹³. It has however, not amended its Manual to incorporate the provisions of the MPM, 2016. The Manual in the present form, does not reflect and address contemporary issues and needs to be updated on priority.

¹¹ Ramamurthy Vs State of Karnataka (1996).

¹² All India Jail Manual Committee (1957); Working Group on Prisons (1972); All India Prison Reforms Committee, 1982-83; All India Group on Prison Administration, Security and Discipline (1986) and National Expert Committee on Women Prisoners (1987).

¹³ R.D. Upadhyay Vs State of A.P. and Ors AIR 2006SC1946.

The Department stated in reply (December 2018), that the review of the Assam Jail Manual, 1894 would be taken up after finalisation of the Supreme Court's Prisons Reform Committee recommendations.

Recommendation: State Government should take steps to revise the Prison Manual of the State to bring in prison reforms.

1.2.8	Conclusion
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Performance Audit of Management of Prisons in Meghalaya revealed several deficiencies. There was more occupancy than capacity with overcrowding of inmates in four out of five district jails in the State due to lodging the convicts and under trial prisoners together and prolonged detention of people without trial, especially in Shillong and Jowai district jails. Construction of new jails was delayed, forcing the inmates of the existing jails to live in inhuman conditions without safe drinking water and adequate number of toilets. Young offenders were housed along with adult offenders. There was shortage of security staff and absence of proper security infrastructure such as CCTVs, search lights *etc.* and security staff were not adequately trained. Convicts were not issued uniforms and Counsellors and female doctors were not available in any of the district jails. Educational programmes were not made available for the inmates. State Advisory Board and Sentence Review Board, which are meant to improve the functioning of the Prisons have not been constituted in the State. The Board of Visitors, which was responsible to look after the welfare of the prisoners, neither made monthly visit to the district jails nor held any meetings to discuss the related issues. The Assam Jail Manual, 1894 as adopted by Meghalaya has not been updated and does not reflect and address contemporary issues.

State Government needs to bring about reforms in the prisons and ensure that prisoners are provided with the basic minimum amenities to live with dignity. Literacy programmes should be encouraged and correctional services should be put in place to ensure that the prisoners start a new life after serving out their sentence.

COMPLIANCE AUDIT PARAGRAPH

MEGHALAYA LEGISLATIVE ASSEMBLY SECRETARIAT

1.3 Irregular release of Discretionary Grants to MLAs

Members of Legislative Assembly did not submit utilisation certificates in respect of discretionary grants amounting to ₹ 10.73 crore in violation of the scheme guidelines.

Government of Meghalaya, Parliamentary Affairs Department issued (5 February 2010) guidelines for implementation of discretionary grants (DG) to all the 60 Members of Legislative Assembly (MLAs). As per the guidelines, the allocation of funds for DG would depend on the amount sanctioned by the Government and may vary from year to year depending on availability of funds. The DG were meant for meeting the immediate requirements of the beneficiaries depending on their economic conditions and needs. As such, the operation of the DG was at the discretion of the MLAs. The sanctioned amount of DG was to be placed at the disposal of the Meghalaya Legislative Assembly Secretariat for disbursement to all MLAs as per their entitlement. The Assembly Secretariat was also responsible for keeping accounts of expenditure incurred on DG.

The guidelines further provided the following.

- Release of DG for the subsequent year would depend on submission of the Utilisation Certificate (UC) by the MLAs.
- The amount to be distributed to each beneficiary was not to exceed ₹ 1500 in each case.
- Each MLA has to compile the list of beneficiaries and the amount distributed to each of them during the year and issue a certificate to that fact. The consolidated statement is to be submitted to the Secretary of the Legislative Assembly.
- On receipt of such utilisation certificates and the Applications/Actual Payee Receipt (APR), the Secretary of the Legislative Assembly has to ensure that the expenditure incurred complies with the requirement of these guidelines.

During the four year period 2014-15 to 2017-18, the Parliamentary Affairs Department sanctioned an amount of ₹ 11.40 crore as discretionary grant to the 60 MLAs.

Scrutiny of records (February 2018) of the Assembly Secretariat revealed that out of the 60 MLAs to whom DG were released, only six¹⁴ MLAs submitted UCs for ₹ 0.67 crore for the years 2014-18 against an amount of ₹ 11.40 crore released during the same period. UCs for the balance amount of ₹ 10.73 crore were not submitted by the MLAs even as of December 2018.

¹⁴ Between two and five MLAs in a given year.

The year-wise details of DG sanctioned to the MLAs, UCs received and outstanding is given below (details in **Appendix – 1.3.1**).

Table 1.3.1: Details of DG sanctioned to MLAs and UCs submitted

(₹ in lakh)

Year	DG per MLA	Number of MLAs	DG released	No. of MLAs who furnished UCs	Amount of UCs submitted	Outstanding amount of UC
2014-15	3.00	60	180.00	5	15.00	165.00
2015-16	4.00	60	240.00	5	20.00	220.00
2016-17	4.00	60	240.00	4	16.00	224.00
2017-18	8.00	60	480.00	2	16.00	464.00
Total			1140.00		67.00	1073.00

Despite the MLAs not submitting the UCs, the Secretary, Meghalaya Legislative Assembly continued to release the DG even during the subsequent years. No action was taken to withhold further release of DG and ensure submission of UCs as per the provisions of the prescribed guidelines.

Further, even the UCs/APRs submitted by the six MLAs for the years 2014-18 **Appendix – 1.3.1** revealed the following irregularities:

- None of the MLAs who submitted UCs adhered to the monetary limit of ₹ 1500 per beneficiary fixed as per guidelines.
- Out of six MLAs, four either did not submit APRs¹⁵ or submitted only partial APRs in support of the expenditure in violation of the guidelines.

No action was taken by the Secretary, Meghalaya Legislative Assembly either to enforce adherence to the monetary limit or for submission of APRs by the MLAs as required by the guidelines. There was also nothing on record to show that the Secretary, Meghalaya Legislative Assembly had taken action to seek enhancement of the monetary limit set by the guidelines.

On this being pointed out (November 2018), the Secretary, Meghalaya Legislative Assembly replied (December 2018) that the Assembly Secretariat had written to the MLAs to furnish the UCs as early as possible and that the matter of enhancing the monetary limit of ₹ 1500 per beneficiary has been taken up with the Government. The response does not address the issue as to why guidelines for implementation of discretionary grants were not complied with and why he continued to irregularly release the DG without obtaining UCs/APRs of previously released funds from the MLAs.

¹⁵ 1. Shri John Leslee K Sangma (2017-18); 2. Shri Michael T. Sangma (2014-15 and 2015-16); 3. Shri S.C. Marak (2014-15 and 2016-17); 4. Shri Sanbor Shullai (partially during 2015-16 and fully during 2016-17).