

Chapter 6

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CHAPTER 6

ROAD CONSTRUCTION DEPARTMENT

6.1 Non-recovery of dues and penalty

The Executive Engineer did not adhere to the conditions of contracts in effecting adjustments and recoveries while making interim payments to the contractor. Security deposit of ₹ 3.95 crore was prematurely refunded and recovery/ adjustment of ₹ 11.17 crore could not be made even after a lapse of more than five years of completion of work.

According to Section 175 of Jharkhand Public Works Department (JPWD) Code, engineers and their subordinates are responsible to ensure that the terms of contracts are strictly enforced, and that no act is done tending to nullify or vitiate a contract.

Widening and strengthening of four roads¹ were technically sanctioned (between March 2013 and July 2014) and administratively approved (between September 2013 and December 2014) for ₹ 116.11 crore and ₹ 127.24 crore respectively by the Road Construction Department (RCD). All the works were awarded (between September 2013 and April 2015) to the same contractor through four different contracts. Agreements were executed (between November 2013 and April 2015) by the Executive Engineer (EE), Road Division, Ranchi at an agreed cost of ₹ 105.51 crore with the stipulated dates of completion between January 2015 and May 2016. The works were completed between February 2016 and June 2016 at a cost of ₹ 88.37 crore as detailed in *Appendix 6.1.1*. The final bills were measured between May 2016 and March 2017 while the last paid bills were measured between February and April 2016. The excess works certified previously were mainly related to earthwork, sub-base, bituminous and concrete works.

Scrutiny of records (between January 2018 and March 2021) of the EE, Road Division, Ranchi and further information collected (July 2021 and January 2022) revealed that the division could not recover ₹ 11.17 crore which included overpayment (₹ 88.60 lakh), price adjustment (₹ 3.40 crore), royalty (₹ 1.15 crore) and liquidated damages (₹ 5.74 crore) even after a lapse of more than five years after completion of works. Further, security deposit of ₹ 3.95 crore was prematurely refunded to the contractor as discussed below:

(A) Overpayment due to allowing excess measurements

As per clause 42 of the contract (Standard Bidding Document), the contractor shall submit to the engineer monthly statements of the estimated value of the work completed less the cumulative amount certified previously. The engineer

¹ Birsa Chowk to Tupudana Chowk Road (BT Road), Birsa Rajpath (New Market Chowk to HEC Gate Chowk) Road (BR Road), Justice LPN Shahdeo Chowk to Booty More Road (LB Road) and Namkum to Doranda Road (ND Road).

shall check the contractor's monthly statement within 14 days and certify the amount to be paid to the contractor.

As per final bills, the work values of three out of four roads were less by ₹ 88.60 lakh from the last paid bills. Though the overpayments were shown adjusted (June 2017) in the final bills through passing Transfer Entry Orders (TEOs), the adjustments were not reflected in the divisional accounts as of December 2021.

(B) Non-recovery of royalty from interim bills

As per clause 43 of the contract (Standard Bidding Document), payment should be adjusted for deduction of advance payments, retention, and other recoveries in terms of contract and taxes at sources, as applicable under the law.

As per the final bills of three out of four roads, royalty of ₹ 115.45 lakh was recoverable from the contractor including an amount of ₹ 61.66 lakh lying in the divisional suspense. The division passed TEOs for only ₹ 53.80 lakh debiting the security deposits lying in suspense. No action was taken to adjust the amount of royalty lying in suspense. Moreover, the adjustments were also not reflected in the divisional accounts as of December 2021.

(C) Price adjustment not done

As per clause 47 of the contract, the contract price shall be adjusted for increase or decrease in rates and price of materials and cost difference of bitumen. The price adjustment shall be determined during each month.

As per the final bills of two out of four roads, the cost difference of bitumen amounting to ₹ 1.32 crore was recoverable from the contractor for which TEOs were passed but the adjustment was not reflected in the divisional accounts as of December 2021.

Further, on being pointed out (between January 2018 and March 2019) by audit regarding less adjustment of the price of bitumen and other materials in two other roads, the Division raised (July 2019) the demand by ₹ 2.08 crore. As of December 2021, the amount of ₹ 3.40 crore was yet to be adjusted.

(D) Non-imposition of liquidated damages

As per clause 49 of the SBD, the contractor shall pay liquidated damages (LD) to the employer at the rate per day stated in the contract data for each day that the completion date is later than the intended completion date. The total amount of LD shall not exceed 10 *per cent* of the contract value and the employer may deduct LD from payments due to the contractor.

Audit observed that the original intended dates of completion of three² out of four roads were between January and June 2015. Final measurements of these works were recorded between June 2016 and March 2017. However, the

² BT Road: February 2015, BR Road: June 2015 and ND Road: January 2015.

division deducted LD of only ₹ 2.56 crore³ through particular RA bills being 10 *per cent* of the bill value against the admissible LD of ₹ 8.30 crore being 10 *per cent* of the contract value.

(E) Irregular refund of security deposits

As per clause 48 of the contract, the employer shall retain (SD) from each payment due to the contractor as per the contract. Half the amount retained is repaid to the contractor on completion of the whole work and the other half is repaid when the defect liability period has passed.

Audit noticed that the division retained SD of ₹ 7.57 crore⁴ from interim payments of four roads but refunded (December 2015) ₹ 3.95 crore⁵ in respect of two roads before completion of the work and settlement of final bills. Thus the contradictory completion certificates being issued (October and December 2015) to facilitate premature refund of SD could also not be ruled out.

Premature refund of SD also prevented the division from adjusting recoveries from SD at the time of settlement of the final bill as in one road (BT Road), incorrect TEO was passed (June 2017) for ₹ 33.56 lakh⁶ debiting SD though the whole SD of ₹ 3.03 crore had already been refunded in December 2015.

(F) EoT granted on basis of two completion certificates

Further, as per paragraphs 291 and 292 of the Jharkhand Public Works Department (JPWD) Code, if a contract is approved by the Departmental Tender Committee (DTC), the Engineer-in-Chief (EIC) is empowered to grant Extension of Time (EoT) up to 50 *per cent* of the time period defined in the contract and if EoT required is more than 50 *per cent*, the matter shall be referred to a Committee headed by the Departmental Secretary whose other members would be EIC, Internal Financial Advisor and the concerned Chief Engineer (CE). Further, if the contract is approved by the CE, the CE is empowered to grant EoT up to 25 *per cent* and EIC up to 50 *per cent* of the time period. Extension beyond 50 *per cent* of the time period defined in the contract shall be referred to the Committee.

Again clauses 55 and 56 of the SBD stipulate that the contractor shall request the engineer to issue a certificate of completion of the work and the engineer will do so upon deciding that the work is completed. The employer shall take over the site and the works within seven days of the engineer issuing a certificate of completion.

³ BT Road: ₹ 86.22 lakh against ₹ 3.79 crore, BR Road: ₹ 23.89 lakh against ₹ 2.04 crore and ND Road: ₹ 1.46 crore against ₹ 2.47 crore.

⁴ BT Road: ₹ 3.03 crore, BR Road: ₹ 1.56 crore, LB Road: ₹ 1.13 crore and ND Road: ₹ 1.85 crore.

⁵ BT Road: ₹ 3.03 crore and ND Road: ₹ 92.44 lakh.

⁶ For recovery of royalty of ₹ 16.53 lakh excluding royalty of ₹ 37.28 lakh lying in suspense and overpayment of ₹ 17.03 lakh.

Audit noticed that EoT was granted on the basis of two contradictory completion certificates issued twice by EE after more than five years of the date of reported completion of work beyond the provisions of the contracts. Further, EoT was granted by authorities beyond the powers delegated to them under JPWD Code as discussed below:

- **BT Road**

The original intended period of completion of BT Road was 15 months i.e., by 26 February 2015. A completion certificate was issued (October 2015) by the EE showing the completion date as 14 September 2015 for which EoT was granted (July 2016) by the EIC. The contractor again requested (September 2020) for EoT up to 26 February 2016 which was recommended by field engineers and was lying with the EIC as of December 2021. In support of the new completion date (26 February 2016), another completion certificate was issued by the EE on 24 August 2021 i.e., after more than four years of submission of the final bill.

- **BR Road**

The original intended period of completion of BR Road was 10 months i.e., by 29 June 2015. A completion certificate was issued by the EE on 23 October 2015 showing the completion date as 30 September 2015 for which EoT was granted (April 2021) by the CE on request (September 2020) of the contractor that was made after five years of completion of the work. Moreover, this EoT should have been granted by DTC as per JPWD Code as the contract was finalised (August 2014) by DTC. However, the work was completed on 18 June 2016 as intimated (July 2019) by the EE to the contractor.

- **ND Road**

The original intended period of completion of ND Road was 12 months i.e., by 14 January 2015. A completion certificate was issued by the EE on 7 December 2015 showing the completion date as 30 November 2015. Further, the contractor requested (September 2020) for EoT up to 30 November 2015 i.e., after five years of completion of the work which was lying with the Superintending Engineer since February 2021. However, the work was completed on 22 February 2016 as intimated (July 2019) by the EE to the contractor.

Thus, undue financial benefit to the contractor through entertaining requests for EoT after four years of the final bill, issue of contradictory completion certificates and grant of EoT beyond delegation of power cannot be ruled out. This resulted in non-recovery of LD amounting to ₹ 5.74 crore even after a lapse of more than five years.

As such, the division could not recover/adjust ₹ 11.17 crore which included overpayment (₹ 88.60 lakh), price adjustment (₹ 3.40 crore), royalty (₹ 1.15 crore), and liquidated damages (₹ 5.74 crore) even after a lapse of more than

five years. Against this, the division had retained SD of only ₹ 3.62 crore. Further, the division had not transferred ₹ 3.18 crore⁷ which was lying in suspense for more than five years.

On these being pointed out, the Executive Engineer did not furnish specific replies and stated (January 2022) that decisions on grant of EoT were under process and action would be taken in respect of retained amounts after getting instructions from the Department.

The fact, however, remains that the Department could not recover its dues even after a lapse of more than five years because the field engineers did not adhere to the terms of the contract.

The matter was reported to the Government/Department (April 2022); reply is awaited (June 2022).

6.2 Unfruitful expenditure on construction of idle bridge

Commencement of bridge work without acquisition of land for approach roads resulted in the constructed bridge lying idle for more than six years rendering expenditure of ₹ 1.24 crore unfruitful.

According to Rule 132 of the Jharkhand Public Works Department (JPWD) Code 2012, except in case of emergent work such as repair of breaches *etc.*, no work should be started on land which has not been duly made over by a responsible Civil Officer.

Construction of a high-level RCC bridge over Bhorongdih Nala on Bundu-Rahe Road along with approach roads was administratively approved (December 2012) and technically sanctioned (January 2013) by the Road Construction Department (RCD), for ₹ 2.02 crore. The estimate included a lump-sum provision of ₹ 14 lakh for acquisition of land required for the approach roads.

Audit scrutiny (March 2020, January 2021 and April 2021) of records of the Executive Engineer (EE), Road Construction Division (Division), Ranchi (*Gramin*) revealed that the work of construction of bridge and approach roads were awarded (March 2013) to a contractor for ₹ 1.73 crore to be completed by December 2013 without completing the process of land acquisition for the approach roads. The contractor completed (March 2015) the bridge work and was paid ₹ 1.24 crore (March 2015) but could not initiate the work of approach roads as the land was not acquired. The contractor also requested (July 2014 and June 2017) the EE to close the agreement as further execution of work was not feasible at quoted rates due to time overrun.

Audit further observed that the EE submitted (May 2014) proposal of land acquisition to the District Land Acquisition Officer (DLAO), Ranchi with a delay of more than one year from the date of commencement (March 2013) of

⁷ Retained LD: ₹ 2.56 crore and royalty: ₹ 61.65 lakh.

bridge work. However, DLAO asked (May 2016) EE to submit the proposal in the prescribed format. EE submitted (May 2016) the proposal in the prescribed format against which DLAO, Ranchi initiated the process of land acquisition and published (September 2017) the initial notification for land acquisition. DLAO demanded (November 2017) ₹ 31.01 lakh from EE as the land acquisition cost. As there was a provision of only ₹ 14 lakh for land acquisition in the original estimate, the EE prepared and submitted (December 2017) a revised estimate (RE) for ₹ 2.37 crore including a provision of ₹ 31.01 lakh for land acquisition and balance work of approach roads (from ₹ 74.05 lakh to ₹ 99.96 lakh) at the current schedule of rates (SoR) to the Superintending Engineer (SE), Road Circle, Ranchi. However, RE was submitted to the Chief Engineer (CE), Central Design Organisation (CDO), RCD in March 2018 but was not approved on the plea that the agreement was in force. The proposal for closure of the work was submitted (August 2018) to the Engineer-in-Chief (EIC), RCD by CE (Communication), RCD but the decision was awaited (July 2021).

Though the DLAO requested (July 2018 and November 2018) the EE to deposit the land acquisition cost, the same could not be done as the revised sanction was awaited. The acquisition process lapsed as it was not completed within one year after the issue of the notification in September 2017. The EE re-submitted (August 2019) the proposal for land acquisition against which DLAO, Ranchi again published (August 2020) initial notification and demanded (December 2020) ₹ 28.24 lakh as land acquisition cost.

The CE, CDO accorded (March 2021) revised technical sanction for ₹ 2.16 crore including the land acquisition cost of ₹ 28.24 lakh after it was pointed out in audit (January 2021). Though the EE deposited (July 2021) ₹ 28.24 lakh with the DLAO, Ranchi for land acquisition, the required land was not acquired (July 2021).

Thus, due to the commencement of bridge work by the EE without acquisition of land required for approach roads beyond the provisions of JPWD code *ibid* and delay of more than three years in approval of revised estimate by the CE, CDO, the bridge constructed at the cost of ₹ 1.24 crore could not be put to use for more than six years since its completion in March 2015. Photographs of the idle bridge are shown below:



Photograph of the idle bridge (January 2021)

On being pointed out (January 2021 and April 2021), no specific reply was furnished by EE regarding delay in submission of initial land acquisition proposal to DLAO, delay of three years in approval of the revised estimate and failure to close the work. Further, the reply (July 2021) of the EE was silent as to why the work order to commence the work was given without acquiring the land for the approach roads. The fact also remains that the required land has not been acquired and the work of the approach roads not taken up as of March 2022.

The matter was reported to the Government (April 2022); reply is awaited (May 2022).

6.3 Unfruitful expenditure

The Chief Engineer (CE), Central Design Organisation (CDO), Road Construction Department (RCD) did not sanction the provision for land acquisition initially though it was included in the original estimate. Later on, the departmental engineers delayed submission and approval of revised estimate which led to non-completion of a High-level bridge over Baxa river for more than eight years rendering the expenditure of ₹ 97.04 lakh unfruitful.

As per orders (August 2012) of Road Construction Department (RCD), Government of Jharkhand, if land acquisition is required for construction of a bridge work, tender should be invited only after obtaining clearance of required land from the concerned District Land Acquisition Officer (DLAO).

Construction of a High Level (HL) bridge over Baxa river with approach roads at Chauparan-Chatra road were technically sanctioned (October 2012) and administratively approved (October 2012) for ₹ 1.88 crore by RCD. An agreement for ₹ 1.81 crore was executed (February 2013) by the Executive Engineer (EE), Road Division (RD), Chatra for completion of work by June 2014. The contractor executed the works⁸ partially and was paid (up to September 2016) ₹ 97.04 lakh.

Scrutiny (December 2017 and September 2021) of records of the Road Division, Chatra revealed that there was a provision of ₹ 9.24 lakh for land acquisition in the Detailed Project Report (DPR) of the bridge which was required for constructing the approach roads. However, while granting TS, the Chief Engineer (CE), Central Design Organisation (CDO), RCD, Ranchi did not approve the provision of land acquisition without recording any reason.

While the bridge work was in progress, a requirement of 0.54 acres of land was assessed by the Division for construction of the approach roads. The EE submitted (July 2013) the proposal for land acquisition to the District Land

⁸ Earth work, filling of annular space, PCC and RCC, providing and laying of filter media, back filling in abutment, supplying, fitting and fixing of elastomeric bearing and placing of HYSD bar etc.

Acquisition Officer (DLAO), Chatra against which the DLAO demanded⁹ (January 2015) ₹ 46 lakh from the EE. The contractor also intimated (between May 2015 and November 2017) the EE regarding hindrances by the *raiya*s in execution of foundation work of the abutment (Itkhor side) as no compensation was paid to them.

Though the arrangement of funds for land acquisition required revision of estimates and demand for the same was placed (January 2015) by the DLAO, EE submitted (June 2018) the revised estimate (RE) to CE (CDO) for ₹ 2.35 crore¹⁰ after a delay of three and half years, for reasons not available on record. The CE (CDO) asked (November 2018) EE to submit the RE through proper channel but TS of the RE was pending as concurrence of CE (Communication) was awaited (March 2021).

Meanwhile, the main partner of the construction agency died (February 2020) and the other partners expressed (March 2020) their inability to complete the work. The CE (Communication) instructed (January 2021) EE to take the final measurement and prepare a revised estimate for the remaining work. The EE took the final measurement (May 2021) for work valued at ₹ 1.18 crore and submitted (September 2021) another revised estimate for ₹ 3.28 crore¹¹ to the Superintending Engineer (SE) with a request to grant permission for the closure of the agreement and issue NIT for the remaining work. The RE is yet to be approved (April 2022).

Thus, due to the non-sanction of the provision for land acquisition initially by CE (CDO) though included in the original estimate and abnormal delay of more than five years in submission and sanction of RE by departmental engineers, the bridge remained incomplete (as shown in photographs below) even after a lapse of more than eight years of commencement (February 2013) of work rendering the expenditure of ₹ 97.04 lakh unfruitful.



Photographs (taken on 18 September 2021) of incomplete bridge on Chouparan-Chatra Road over Baxa river

On being pointed out by Audit, CE (CDO) stated (March 2021) that there was exigency for technical sanction of the scheme and it was granted excluding the

⁹ Revised in May 2018 and demanded ₹ 45 lakh only.

¹⁰ Including land acquisition (₹ 45 lakh) and electrical utility shifting (₹ 2.07 lakh) and again revised to ₹ 2.59 crore (October 2018) after including the increase in cost of substructure (₹ 24 lakh)


¹¹ Work done by the contractor ₹ 1.18 crore, cost of remaining work ₹ 1.63 crore, Land acquisition ₹ 45 lakh and Electrical utility shifting ₹ 2.07 lakh.

cost of land acquisition. He further stated that RE submitted in June 2018 was not sanctioned as concurrence of CE (Communication) was not received.

Reply of CE (CDO) is not acceptable as the land acquisition was necessary for construction of approach roads and grant of technical sanction excluding provision for land acquisition was not in order. Further, the delay in approval of RE indicated that field level officers i.e., EE, SE, and CE (Communication) did not initiate timely action for obtaining the appropriate sanctions needed for acquisition of land and completion of the bridge.

The matter was reported to the Government (April 2022); reply is awaited (May 2022)


Ranchi
The 06 May 2023



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