



CHAPTER – IV
COMPLIANCE AUDIT

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Urban Development and Housing Department

4.1 Loss of revenue due to non-realisation of fines

Failure of the Patna Municipal Corporation (PMC) to realise fines for non-assessment of holdings, by the owners of the holdings, under the self-assessment scheme, resulted in loss of revenue, amounting to ₹ 0.60 crore.

Rule 14 of the 'Bihar Municipal Property Tax (Assessment, Collection and Recovery) Rules, 2013, provides that: (i) every owner of a holding, whose holding has not been previously assessed for Holding tax, shall self-assess the holding within three months from the notification (08 May 2013) of the Rules, for calculation and payment of Holding Tax, to the municipality (ii) upon failure to complete the self-assessment of the holding within the stipulated time and to inform the municipality, a fine of ₹ 2,000 on residential holdings and ₹ 5,000 on other holdings, shall be realised from the owner of the holdings. As per Rule 10 of the Bihar Municipal Empowered Standing Committee (ESC) Conduct of Business Rules, 2010, the executive powers of the municipality shall vest with the ESC. Further, Rule 10(4) (a) of the above mentioned rules, states that the ESC shall not discuss and pass a resolution in any matter/issue which is against the Rules, laws and directives of the State Government.

Audit scrutiny of the records (February to July 2021) of the Patna Municipal Corporation (PMC) revealed the following:

- Patliputra colony in Patna was being treated as a rural area till August 2017. The PMC notified (September 2017) the colony as an urban area under its jurisdiction and constituted three new Municipal Wards (22A, 22B and 22C). As per the survey done by the PMC, there were 11,729 holdings (including vacant land) in these newly constituted Wards, during the financial years 2018-19 to 2020-21.
- The owners of these 11,729 holdings failed to self-assess their holdings within the stipulated time of three months from the notification regarding the constitution of Wards. Accordingly, PMC had to collect a fine of at least ₹ 2.35 crore⁵⁴ from the owners of these holdings. The PMC authorised Sparrow Soft Tech Pvt. Ltd. for collection of Holding Tax and fine, if any. As per agreement executed between

⁵⁴ 11,729 holdings X ₹ 2,000 per holding = ₹ 2,34,58,000

PMC and Sparrow, 6.5 per cent to 9.4 per cent of the revenue collected was to be paid to Sparrow Soft Tech Pvt. Ltd. as collection charge (commission). As of April 2021, PMC collected Holding Tax from 6,663 out of 11,729 holdings. Out of these 6,663 holdings (which had made the payments of holding tax due), the fine for delay in self-assessment of holdings was collected from 3,654 holdings only. Thus, PMC failed to collect the minimum fine of ₹ 60.18⁵⁵ lakh from 3,009 holdings.

On this being pointed out in audit, the firm⁵⁶, which had been assigned the task for collection of fine with Holding tax by the PMC replied (April 2021) that, fines could not be collected, as the Ward Councillor and officers of the PMC had decided not to collect fines from the owners of the holdings who had not self-assessed the holdings within the stipulated time.

The reply was not acceptable, as the PMC had no power to discuss and pass a resolution in any matter/issue which was against the Rules, laws and directives of the State Government. Municipal Commissioner, PMC, however, replied (July 2021) that the matter would be verified and action would be taken accordingly, under intimation to Audit. But, no further response/intimation was furnished to audit as of November 2022 despite reminder.

Thus, PMC failed to follow the provisions of the Municipal Property Tax Rules, regarding assessment and collection of Holding tax within the stipulated time, leading to loss of revenue, amounting to at least ₹ 60.18 lakh.

The matter was reported to Government (December 2021) and reminder was issued on 11 October 2022; reply is awaited.

4.2 Loss of revenue due to non-realisation of user charges

Failure of the Patna Municipal Corporation (PMC) to realise user charges for providing door to door services for collection of garbage, resulted in loss of revenue, amounting to at least ₹ 8.92 crore.

Sections 128 of the Bihar Municipal Act (BMA), 2007, states that Municipalities shall levy user charges for providing various types⁵⁷ of services

⁵⁵ ₹ 2,000 X 3,009 = ₹ 60,18,000

⁵⁶ Sparrow Softech Private Limited, Patna- The PMC authorised Sparrow Soft Tech Pvt. Ltd. for collection of Holding Tax and fine, if any.

⁵⁷ (i) Provision of water supply, drainage, and sewerage. (ii) Solid waste management (iii) parking of different types of vehicles in different areas and for periods (iv) Stacking of materials or rubbish on public streets, for construction, alteration, repair or demolition work of any type and (v) other specific services rendered in pursuance of the provision of the Act, at such rates as may be determined, from time to time, by the Municipality.

to the citizens. Further, Government may direct Municipalities to levy user charges, if they are not levied or postponed by the Municipalities.

Audit scrutiny of the records (February to July 2021) of the Patna Municipal Corporation (PMC) revealed the following:

PMC had fixed (April 2019) user charges within range of ₹ 30 to ₹ 5,000/ per month for 14 different types of holdings⁵⁸, including a 'nil' amount for those who were Below Poverty Line (BPL), for door to door collection of garbage, under Solid Waste Management (SWM) with effect from January 2019. There were a total of 2,06,570 holdings (798 holdings were vacant) in the PMC area, during the financial year 2018-19, and a total of 2,27,231 holdings in the financial year 2019-20, from whom user charges were to be collected. However, PMC did not collect user charges from all these holdings, for the period from January 2019 to March 2020. Since PMC did not furnish details of the number of residential, commercial and other types of holdings separately, to Audit, the actual demand on account of user charges could not be worked out. The minimum fixed user charge, i.e. ₹ 30 per holding per month, was considered, while working out the demand of user charges and it was observed that PMC would have received minimum of ₹ 10.04 crore⁵⁹ as user charges, for providing services of door to door collection of garbage, for the period January 2019 to March 2020. However, against the minimum demand of user charges of ₹ 10.04 crore, it could collect only ₹ 1.12 crore from April 2019 to March 2020.

Thus, PMC failed to realise user charges, even though it had been providing the door to door service of garbage collection from October 2018 onwards and sustained loss of revenue at least of ₹ 8.92⁶⁰ crore.

On this being pointed out in audit, Municipal Commissioner, PMC accepted (July 2021) the audit findings and stated that user charges, for door to door collection of garbage, had been started, from the financial year 2020-21.

Thus, PMC violated the provisions of the BMA, 2007, for collection of user charges, for providing the services of door to door collection of garbage, leading to loss of own revenue, amounting to at least ₹ 8.92 crore.

The matter was reported to Government (December 2021) and reminder was issued on 13 October 2022; reply is awaited.

⁵⁸ ₹ 30 for residential buildings, ₹ 100 for shops, ₹ 500 for restaurants, ₹ 5,000 for star hotels etc.

⁵⁹ 2,06,570 holdings X ₹ 30 per month X 3 months (January 2019 to March 2019) = ₹ 1,85,91,300 & 2,27,231 holdings x ₹ 30 per month x 12 months (April 2019 to March 2020) = ₹ 8,18,03,160, Hence, total = ₹ 10,03,94,460.

⁶⁰ ₹ 10.04 crore - ₹ 1.12 crore = ₹ 8.92 crore

4.3 Excess payment due to deficient internal control

Patna Municipal Corporation failed to watch over the payment of consultancy charges made to the Project Management Unit (PMU), resulting in: (i) excess payment of ₹ 46.19 lakh and (ii) irregular payment of Service tax, amounting to ₹ 12.32 lakh, to the PMU.

Rule 12 of the Bihar Financial Rules (BFR) stipulates that every controlling officer must satisfy himself that not only adequate provisions exist within the departmental organisation, for systematic internal checks, calculated to prevent and detect errors and irregularities in the financial proceedings of his subordinate officer and to guard against waste and loss of public money and store, but also that the prescribed checks are effectively applied. Rule 12 of the Bihar Municipal Accounting Rules (BMAR), 2014 provides that a Cash Book shall be maintained by the Accountant, wherein transactions pertaining to cash receipts and disbursements of the Municipality shall be recorded and the Chief Municipal Officer shall examine the entries and the closing balance in the Cash Book and affix his signature in token of such an examination. Further, as per Rule 10 of the BMAR, every municipality shall maintain its books of accounts, in respect of each fund, separately, for each financial year. As per notification (June 2012) of the Department of Revenue, Ministry of Finance, Service tax on construction, erection, commissioning etc., of low-cost houses, up to a carpet area of 60 square meters per house, was exempted, in public interest.

The Ministry of Housing and Urban Poverty Alleviation launched (June 2011) the *Rajiv Awaas Yojana* (RAY), a centrally sponsored scheme, with the objective of improvement and provisioning of housing (dwelling units having an area of 32 square meters), basic civic infrastructure and social amenities, in intervened slums of urban areas with the vision of “Slum free India”. The Scheme was to be implemented in a mission mode and the mission was to be completed by March 2022.

Scrutiny of records (July 2021) of the Patna Municipal Corporation (PMC) showed that PMC had received (April 2015 to September 2018) ₹ 26.50 crore⁶¹, for Phases I and II of the Scheme, through the Urban Development & Housing Department, Government of Bihar, for implementation of the Scheme, for 1,820 beneficiaries, residing in slum areas of the PMC. PMC had engaged Saryu Babu Engineers Pvt. Ltd. (SBENG),

⁶¹ ₹ 23.37 crore was for providing housing and ₹ 3.13 crore for providing infrastructures.

as the Project Management Unit (PMU), for facilitating the implementation of RAY. It executed (March 2016) an agreement with SBENG, for provision of assistance, in completion and facilitation of works in the entire course of affordable housing projects (instituted in three phases), till March 2018. As per directions of the Department (February 2015), Phase-III of the project was to be implemented by the Bihar Urban Infrastructure Development Corporation (BUIDCO). However, PMC had executed an agreement with the PMU also, for this Phase of the project.

As per the agreement executed with the PMU, PMC had to make payment of consultancy charges to the PMU, as per the project base cost (Table 4.1).

Table 4.1: Payment of consultancy charges to be made to the PMU

(₹ in lakh)

Name of project	Project base cost	Total consultancy charge (4.14 per cent of project base cost)
(1)	(2)	(3)
Patna Phase-I	2,583.33	106.95
Patna Phase-II	3,539.10	146.52
Patna Phase-III	4,504.50	186.49
Total	10,626.93	439.96

(Source: Records provided by the PMC)

As per the agreement, PMC had to pay consultancy charges to the PMU in five parts⁶², depending upon the progress of the works.

The PMU initiated the work but could not complete the entire scope of work under Phases-I and II of the projects. It claimed (March 2016 to April 2017) ₹ 328.87 lakh (including Service Tax) i.e. 65 per cent⁶³ of the total consultancy charges, for all the three phases of the project. However,

⁶² (1) At the time of agreement: **20 per cent** (2) On verification of beneficiaries and opening of account in Bank and providing the design of DUs on prorata basis: **20 per cent** (3) On completion of physical survey and verification of the infrastructure component of the DPR: **25 per cent** (4) On preparation of Drawing, Estimate EoI and RFP for infrastructure work: **20 per cent** and (5) On submission of the final measurement book of the infrastructure component to the Municipal Corporation: **15 per cent (Total: 100 per cent).**

⁶³ (1) At the time of agreement: **20 per cent** (2) On verification of beneficiaries and opening of account in Bank and providing the design of DUs on prorata basis: **20 per cent** (3) On completion of physical survey and verification of the infrastructure component of the DPR: **25 per cent.**

PMC accepted claim of ₹ 139.41 lakh⁶⁴ only, as works related to Phase-III of the project was assigned to BUIDCO. Against the accepted claim of ₹ 139.41 lakh⁶⁵ (including Income tax and Service tax), PMC paid ₹ 100.31 lakh in April 2016 and ₹ 46.19 lakh in October 2016. Thus, against the accepted claims of ₹ 139.41 lakh, the PMC paid a total sum of ₹ 146.50 lakh to the PMU (including taxes) till October 2016 and thereby, made excess payment of ₹ 7.09 lakh.

Further, PMC could not watch over the payment of consultancy charges and made (July 2017) another payment of ₹ 39.10 lakh, to the PMU, overlooking the payment of ₹ 46.19 lakh made in October 2016, resulting in double payment. Thus, a total sum of ₹ 185.60 lakh⁶⁶ was paid to the PMU (including taxes⁶⁷), against the accepted claims of ₹ 139.41 lakh, which was ₹ 46.19 lakh more than the accepted claims. PMC relinquished (July 2018) the PMU from all the works assigned to it, as agreement was ended on March 2018.

It was further observed that the Accountant of the PMC had not maintained a Cash Book/Bank Book for the aforesaid transactions, although this was required under Rule 10 of the BMAR. Consequently, the municipal authorities had failed to verify the expenditure incurred. Further, as per notification of the Department of Revenue and also as per the opinion of the Legal Advisor of the PMC, Service Tax was not payable to the PMU, as the area of the dwelling units under the project was less than 60 square meters. However, PMC had paid (April 2016) Service Tax, amounting to ₹ 12.32 lakh, to the PMU, which was irregular.

On this being pointed out by Audit, the Municipal Commissioner replied (July 2021) that follow-up action would be taken and the progress in this regard would be intimated to Audit. Further reply from the Municipal Commissioner is, however, awaited (as of November 2022), despite reminder.

⁶⁴ 55 per cent of the total amount of consultancy charge of Patna phase-I and Patna phase-II, i.e. ₹ 253.47 lakh (₹ 106.95 lakh + ₹ 146.52 lakh). Accepted claim of 55 per cent was 20 per cent for executing agreement, 20 per cent for verification of beneficiaries and opening of accounts in bank and 15 per cent for completion of physical survey and verification of the infrastructure component of the DPR.

⁶⁵ PMU: ₹ 114.38 lakh, Service Tax: ₹ 12.32 lakh (to PMU) and Income Tax: ₹ 12.71 lakh

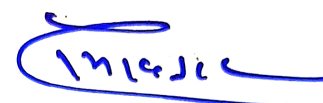
⁶⁶ ₹ 100.31 lakh in April 2016 (₹ 79.19 lakh to PMU + ₹ 12.32 lakh as Service Tax to PMU and ₹ 8.80 lakh to Income Tax), ₹ 46.19 lakh in October 2016 (₹ 41.79 lakh to PMU and ₹ 4.40 lakh to Income Tax) and ₹ 39.10 lakh in July 2017 (₹ 35.19 lakh to PMU and ₹ 3.91 lakh to Income Tax)

⁶⁷ PMU: ₹ 156.17 lakh, Service Tax: ₹ 12.32 lakh (to PMU) and Income Tax: ₹ 17.11 lakh

Thus, failure to watch over the payments made out of Scheme funds, non-maintenance of Cash Book/Bank Book and non-exercising of necessary checks before payment of consultancy charges to the PMU, by the municipal authorities, indicated serious lapses in internal control, as a result of which, PMC made an excess payment of ₹ 46.19 lakh to the PMU, as also irregular payment of ₹ 12.32 lakh, on account of Service Tax, from Scheme funds.

The matter was reported (December 2021) to the Department and reminder was issued on 11 October 2022; reply is awaited.

Patna
The 13 April 2023



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