



Chapter-II



Subject Specific Compliance Audits

Chapter II: Subject Specific Compliance Audits

Forest, Ecology and Environment Department

2.1. Functioning of Karnataka State Pollution Control Board

2.1.1. Introduction

2.1.1.1 The Background: Government of Karnataka constituted (21 September 1974) the 'Karnataka State Board for the Prevention and Control of Water Pollution' under the Water (Prevention and Control of Pollution) Act 1974 (WPCP Act) which was later renamed as 'Karnataka State Pollution Control Board' (KSPCB or the Board) (Section 53 of WPCP Act as amended in 1988). The mandate for the Board is to enforce laws for Prevention & Control of pollution, monitor Environmental quality, advice the Government on environmental pollution control matters, etc. Further, KSPCB is responsible for planning a comprehensive program for the prevention, control or abatement of pollution of streams, wells, air and to secure the execution thereof, conducting Research, and educating all the stake holders⁵ including public on any matter concerning the prevention, control or abatement of water pollution and air pollution.

2.1.1.2 Organisational Set-up: The Board is headed by a Chairman and consists of a Member Secretary with 15 other members which include representatives from Government, Local Authorities, State Controlled Corporations and non-official members. The Board has 10 Zonal Offices headed by Senior Environmental Officers, 44 Regional Offices led by Environmental Officers, *one* Central Environmental Laboratory at Bengaluru and *eight* Regional Laboratories spread across the State (Regional Laboratory, Davanagere had been upgraded as Central Environmental Laboratory in March 2022). A detailed Organisational Chart is given in **Appendix-6**.

2.1.1.3 Audit Objective: The Audit was taken up to examine whether the Board is adequately discharging its role in environmental protection and has adequate financial, physical and human infrastructure capacities for discharging its activities. Special emphasis was given to KSPCB's regulatory role in discharging its duties under various Environmental Acts and Rules.

2.1.1.4 Audit Criteria: The Criteria for this Audit include the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Rules/Notifications framed under the Act with specific reference to the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016, the Bio-Medical Waste Management Rules, 2016, the Solid Waste Management Rules, 2016, the Construction and Demolition Waste Management

⁵ Government, Local Bodies, Business entities, Landowners, all the users of natural resources and public in general.

Rules, 2016, guidelines, norms, notifications, circulars issued by the CPCB/KSPCB, directions issued by Courts and National Green Tribunal (NGT) from time to time.

2.1.1.5 Scope of Audit: The Audit was conducted between March and October 2023 for the period from 2018-19 to 2022-23. Records maintained in the offices of the Additional Chief Secretary, Forest Environment and Ecology Department, Principal Secretary, Environment and Ecology Department, KSPCB Central Office, Central Environmental Laboratory, four⁶ out of 10 Zonal Offices, four⁷ out of eight Regional Laboratories and 13⁸ out of 44 Regional Offices spread across the State were scrutinized. Selection of Zonal Offices, Regional Laboratories and Regional Offices was based on ‘Simple Random Sampling Without Replacement (SRSWOR)’ method. Besides, a detailed review of files related to 30 industries/establishments under each selected RO was conducted.

2.1.1.6 Audit Methodology: An Entry conference was held (February 2023) with Member Secretary, KSPCB in which the Audit Objectives, Criteria, Scope including the samples selected and proposed methodology were discussed. The data/information collected during examination of records were cross verified during field visits conducted by Audit along with the jurisdictional Officers of the Board. Draft Report was issued to the Government (January 2024) and Exit conference was held in March 2024. Government endorsed (April 2024) the reply furnished by KSPCB and have been incorporated in the Report. Important Audit Observations, conclusion and recommendations are given in the following paragraphs.

2.1.2. Financial Management by the Board

Majority of the Board’s expenditure is incurred towards salaries, office expenses, advertisements, activities to create awareness among the public and on providing infrastructural facilities for its offices. Consent Fee⁹ collected from the industries/units forms the major source of the Board’s revenue. Water Cess being collected under WPCP Cess Act, was the other major source of revenue to the Board till it was subsumed under the Goods and Service Tax Act, 2017. Water and Air Analysis Charges and fines and penalties levied such as Environmental Compensation, etc., also constitute the other sources of Board’s income. The year-wise details of income and expenditure during the five years period from 2018-19 to 2022-23 are shown in the following Table-2.1.1.

⁶ Ballari (Vijayanagara), Bengaluru City, Mangaluru, and Mysuru.

⁷ Belagavi, Mangaluru, Mysuru, and Raichur.

⁸ Ballari, Belagavi, Chikkaballapura, Chikkamagalur, Kolar, Koppal, Mangaluru, Mysuru-1, Peenya, Raichur, Tumakuru, Vijayapura, and Yadagiri.

⁹ Consent fee is a fee for granting consent to establish or operate an industry, process, or system that may discharge pollutants into the air or water.

Table-2.1.1**Income and expenditure of the Board during 2018-19 to 2022-23****(₹ in crore)**

Particulars	2018-19*	2019-20	2020-21	2021-22	2022-23
Income	43.51	53.31	110.61	439.68	369.16
Expenditure	89.45	83.20	86.14	124.87	100.22
Surplus/deficit	(-) 45.94	(-) 29.89	24.47	303.90 ¹⁰	268.94

* KSPCB had accumulated surplus of ₹462.05 crore as on 31 March 2018.

The Board's increased income during 2020-21 to 2022-23 was due to revision of Consent Fee. The accumulated surplus increased from ₹ 462.05 crore as on 31 March 2018 to ₹ 983.54 crore as on 31 March 2023. Despite having a considerable amount of accumulated surplus over the years, KSPCB fell short of discharging its mandated activities which are discussed in paragraphs 2.1.3 to 2.1.10 of this Report. Further, the observations made on non/short realisation of revenue to the Board and on other financial management issues are given in paragraphs 2.1.2.1 to 2.1.2.3.

2.1.2.1 Failure to take the corrective actions suggested by the Statutory Auditor

Few persistent comments were issued by the Statutory Auditor (appointed by the State Government) on the Annual Accounts of the Board since 2016-17. However, Audit noticed that KSPCB had not taken any action on these observations. Important deficiencies pointed out by the Statutory Auditor were Non-maintenance of Subsidiary Ledgers, Non-maintenance of Fixed Asset Register, Internal controls were not commensurate with the size of the Board, Non-reconciliation of bank balances, non-provision towards alleged fraud by State Bank of India to the tune of ₹ 10 crore, etc. Non-reconciliation of bank balances despite the loss of investment (₹ 10 crore) shows clear negligence.

In reply, KSPCB stated (April 2024) that action has been initiated to address the issues.

2.1.2.2 Non/inadequate pursuance for arrears of revenue

The levy of Water Cess under the WPCP Cess Act was subsumed under Goods and Service Tax with effect from 1 July 2017. The Board received reimbursement of Cess collected from Government of India of ₹ 3.16 crore for the year 2017-18 and ₹ 34.17 lakh for the year 2018-19. Thereafter, no amount was received by the Board on this account.

- (i) As at the end of March 2017, cess amount of ₹ 137.07 crore (₹ 3.41 crore and ₹ 25.54 crore due from Industries and Local Bodies respectively and interest of ₹ 108.12 crore) was due to be received. However, this was neither realised during 2017-18 nor shown as outstanding in the Board accounts till 2022-23. There exists a distinct possibility of these arrears remaining unrealized.

¹⁰ Excess of income over expenditure reduced by ₹10.91 crore due to 'Prior Period Adjustments'.

In reply, KSPCB stated (April 2024) that circulars have been issued to ROs to collect due amounts from the industries and Local Bodies.

- (ii) As Water Cess was subsumed under the GST implemented with effect from 1 July 2017, KSPCB has a rightful share in the GST collection from that date. However, KSPCB has not taken any action to bring the issue to the notice of the Government. The amount assessed as due to KSPCB for the period from 1 July 2017 to 31 March 2023 worked out at ₹ 35.94¹¹ crore.

In reply, KSPCB stated (April 2024) that a letter has been addressed to CPCB seeking clarification in the matter.

2.1.2.3 Short collection of Consent Fees

The Consent Fees levied under WPCP Act and APCP Act were revised with effect from 11 November 2020 and 26 October 2021. Further, KSPCB issued guidelines on 14 December 2021 for levy of Consent Fee in respect of applications received between two revisions. It was however noticed that in 108 cases prescribed consent fee was not collected. The short collection amounted to ₹ 6.33 crore as detailed in **Appendix-7**.

In reply, KSPCB stated (April 2024) that out of ₹ 6.33 crore, an amount of ₹ 69.08 lakh has been collected and notices were issued to remaining industries.

2.1.2.4 Non/short collection of Sampling and Analysis Fees

KSPCB levies sampling and analysis charges as notified by MoEF from time to time. Audit observed that in five¹² Regional Offices, sampling and analysis charges amounting to ₹85.51 lakh were either not collected or short collected in respect of 3,418 cases between April 2018 and March 2023.

In reply, KSPCB stated (April 2024) that recovery in this regard has been initiated and only ₹ 54.12 lakh is pending for recovery.

2.1.3. Consent Management

Under Section 25 of the WPCP Act and under Section 21 of the APCP Act, no industry, operation, process involving discharge of sewage/trade effluent/emission, can be established or operated without consent of the Board. Thus, Consents are instruments to ensure compliance to environmental laws and adopt modern and cleaner technologies.

Consents are issued by the Board at two stages, 'Consent for Establishment' (CFE) followed by 'Consent for Operation' (CFO). While CFE is granted for establishment/expansion of industries, CFOs are issued for commencement and continuation of operations both of which are governed by set of conditions

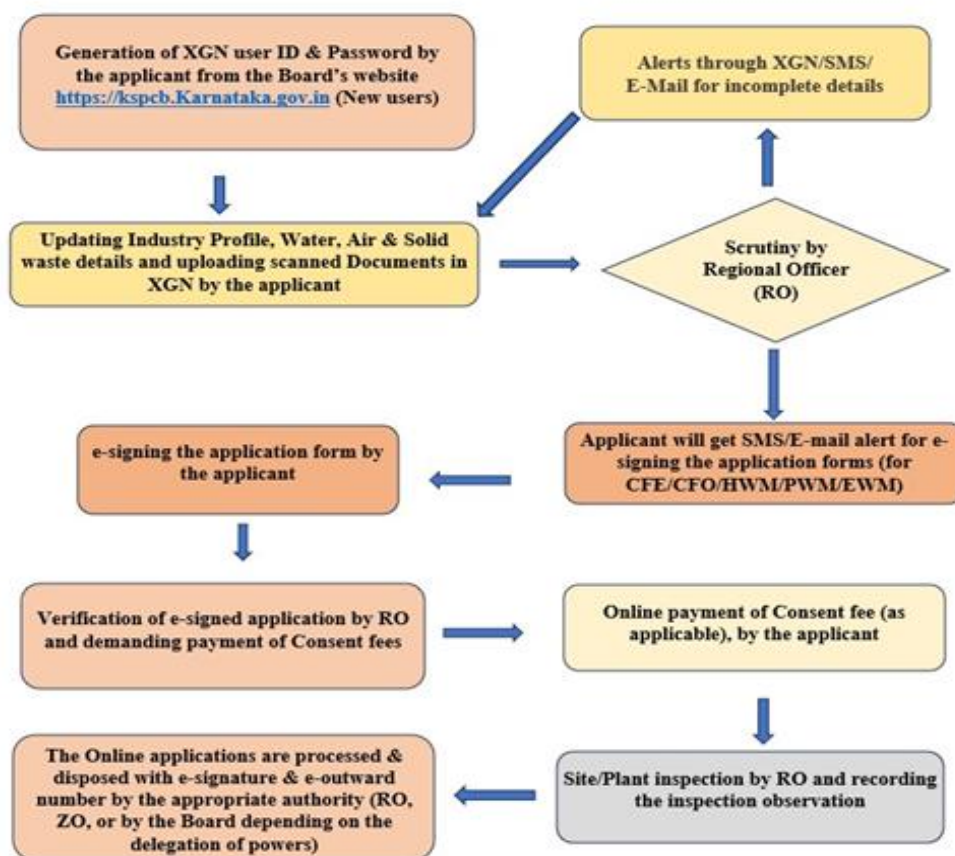
¹¹ During the year 2016-17 KSPCB realised revenue of ₹ 6.08 crore from the Water Cess. This was six *per cent* more than the revenue realised during 2015-16 which was ₹ 5.73 crore. Accordingly applying annual growth in the revenue at 6 *per cent* per annum, the total revenue from GST to KSPCB had been assessed. However, KSPCB needs to assess the actual amount due and demand the same from Government.

¹² Ballari, Chikkamagaluru, Koppal, Tumakuru and Yadagiri.

stipulated thereon. For issue of Consents, industries or organisations are classified as White, Green, Orange and Red¹³ categories by the CPCB based on their pollution loads. White category¹⁴ industries do not require consent but are required to submit information on their operations. For Green, Orange and Red category industries, applications for CFEs/CFOs are processed and issued by Regional Offices, Zonal Offices and by the Board respectively. In KSPCB, the process of issue of CFO and CFE is carried out through an application software called eXtended Green Node (XGN). The steps involved in Consent Administration from the initial stage of facilitating applicants till final disposal of applications are given in **Chart - 2**. In case of refusal by KSPCB, the applicant may either choose to reapply for the consent or abandon the project.

Chart 2

Process Flow Sheet for Consent for Establishment (CFE)/Consent for Operation (CFO)/Hazardous Waste Management (HWM)/ Plastic Waste Management (PWM)/E-Waste Management (EWM)/ Bio-Medical Waste Management (BMWM)/ Solid Waste Management (SWM)/ Construction & Demolition (C&D) Fresh & Renewal applications of Green/Orange/Red Category Organisation through eXtended Green Node (XGN).



¹³ As per CPCB instructions issued in March 2016, industrial sectors with pollution index of 60 and above are classified as Red, pollution index from 41 to 69 as Orange and 21 to 40 as Green category.

¹⁴ Industrial sectors which are practically non-polluting et: Cotton and woolen hosiers making (Dry process only without any dyeing/washing operations), Assembly of bicycles, baby carriages and other small not motorizing vehicles, Ground nut decorticating, etc.

During the period from 2018-19 to 2022-23, KSPCB received 11,033 applications for CFE, of which 10,554 were approved, 239 were under process and 479 applications were rejected by the Board. Similarly, out of 24,254 applications received for CFO, 23,441 were consented, 537 were under process and 813 were rejected as detailed in **Appendix-8**. Important observations noticed in the Consent Administration by KSPCB are given in the following paragraphs:

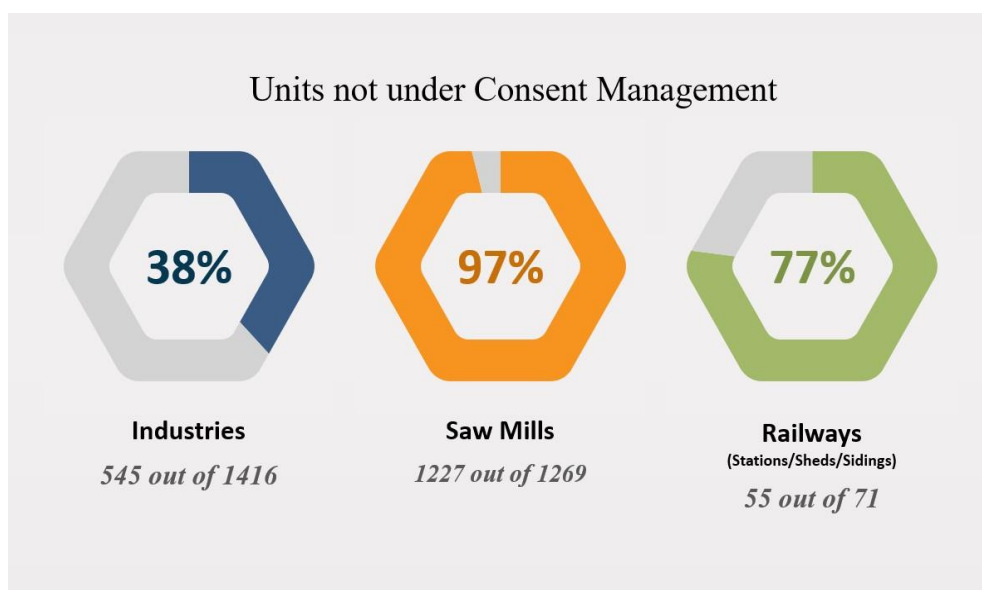
2.1.3.1 Absence of Database of Industries: As per WPCP and APCP Acts no industry shall be established and operated without obtaining Consent. Thus, it is the Board's primary responsibility to ensure that all industries in the State have a valid CFE/CFO. Therefore, it is imperative that KSPCB maintains a comprehensive database of industries to carry out its regulatory role. However, Audit observed that no such comprehensive database of industries was maintained and hence, an assurance that all the industries operating in the State complied with the environmental laws could not be obtained. Board had not coordinated with other Departments such as Industry and Commerce, Forests, Railways, Local Bodies, etc. to ensure that all the enrolled/registered entities are brought under consent net.

Audit gathered information from Departments of Industries and Commerce, Forests and Railways and cross-verified the same with Consent Register ('F Register') maintained at selected ROs of KSPCB. The exercise revealed that 1,827 out of these 2,756 industries or establishments (66 per cent of cases verified) were operating without CFE and CFO.

The selected RO wise number of industries/establishments functioning without valid Consent from KSPCB are given in **Appendix-9** and the summarised information is given in the following **Chart - 3**:

Chart - 3

Industries not found in the Consent Register of KSPCB



Source: Industries – Department of Industries and Commerce, Saw Mills – Forest Department, Railway – Official websites and Consent Registers of Regional Offices of KSPCB.

Thus, KSPCB did not proactively initiate action to ensure all industries were under its regulatory framework.

In reply, KSPCB stated (April 2024) that after being pointed out by Audit, 66 industries and 22 Railway Stations/Sheds/Sidings have been covered under the consent net and notices have been issued to 1,227 Sawmills to apply for consent.

Recommendation 1: Government may direct the Board to obtain periodical information on industries and other operations registered with Government Departments such as Industries and Commerce, Commercial Taxes, Health etc. Also, the Government may issue directives to Departments not to permit any industry under Red, Orange and Green categories unless CFE/CFO has been obtained.

2.1.3.2 Lack of follow-up on Consent for Establishments issued: The Board issues a CFE that is valid for five years¹⁵ period and the CFO has to be obtained by the applicant within that period. Otherwise, the CFE must be renewed for applying of CFO. On Scrutiny of F-Registers¹⁶ of sampled Regional Offices as on March 2023, Audit noticed that as many as 2,556 applicants which were issued CFE have neither obtained CFO nor renewed CFE even after the expiry of their validity period. Of these, 1,809 applications were for industries and the remaining 747 were for apartments (Further details are given in **Appendix-10**). Moreover, in these cases, the ROs concerned did not inspect the declared premises to verify the status of operations subsequent to expiry of CFE.

In reply, KSPCB stated (April 2024) that out of 1,851 industries, 436 industries are closed, 166 have valid CFO, 138 fall under white category, 13 CFE expired and project dropped (totaling to 753). For the balance 1,098 industries, KSPCB stated that action would be taken to bring them to under the consent net. However, the figures mentioned in the reply did not tally with the Audit Observation and as KSPCB did not furnish the list of industries along with their reply, the figures given in reply could not be reconciled with the Audit Observation. In addition, the issue of notices to the industries vindicates the audit observation that there was lack of follow-up by the Board.

2.1.3.3 Industries operating without renewing CFO: The Board issues CFO that is generally valid for five to 10 years¹⁷, depending on the category of industries¹⁸. The industries are to submit renewal applications 90 days before the date of expiry of CFO. On Scrutiny of F-Register of sampled ROs, Audit noticed that CFOs issued to 2,901 out of 10,890 industries/units had expired and no applications for renewal of CFO were received. Possible functioning of these industries without renewal of CFO cannot be ruled out. Further on cross-verification with GST data of 402¹⁹ of the above cases, Audit found that 123²⁰

¹⁵ OM No. PCB/68-COC/2011-12/994 dated 25 May 2011

¹⁶ Register of Consents Issued

¹⁷ KSPCB/798/COC/2016-17/1425 dated: 15 June 2016

¹⁸ Five years for Red category to 10 Years for Green category industries.

¹⁹ Though the efforts were made to cross-verify all the 2,904 cases, in the absence of GST number with the KSPCB, efforts were made to identify the industries with their registered name and address. In this process only 402 cases could be tracked by Audit.

²⁰ In the remaining 279 cases, no details were found in the GST portal. Since registration under GST is mandatory only for the industries having annual turnover of ₹ 20 lakh or more, the possibility of these industries also being operative cannot be ruled out

(30.60 per cent of industries verified) industries were still operating and filing regular GST. Evidently, KSPCB failed to verify their operational status.

The KSPCB stated (April 2024) that 123 industries were closed, 45 industries were under White category, 572 consents were issued, and 175 consents were under process. KSPCB also stated that for the balance 1,937 cases, notices had been issued. However, the figures mentioned in the reply was not tallying with the Audit Observation. Also, KSPCB did not furnish the list of industries along with their reply for reconciliation with the Audit Observation. Though the list of industries was not furnished, the fact that notices have been issued to 1937 cases implies that these were operating without renewal of consent, indicating lack of adequate monitoring by KSPCB.

Recommendation 2: Government may direct the Board to fix targets for periodical inspections and reporting on applicants who obtained CFE but had not applied for CFO and industries/units that have not applied for renewal, after lapse of previous CFO.

2.1.3.4 Deficiencies in Consent orders: Consent orders issued by KSPCB stipulate limits on water consumption and waste-water generation per day. The order also prescribes measures to be taken by the applicant for containing water and air pollution duly indicating the standards for discharge of treated effluents/sewage, and tolerable/permissible limits for emission. Audit review of Consent Orders of 390 units/industries in the selected ROs revealed that in 31 cases, KSPCB had not prescribed the applicable standards. The deficiencies noticed were:

- In six cases, emission/effluent standards were not prescribed. In reply, KSPCB stated (April 2024) that corrigendum/addendums have been issued in 4 cases (Ballari and Chikkamagalur). In the case relating to Hutti Gold Mines, Raichur, it was stated that out of 13 stacks²¹, eight are not existing, one relates to 1200 KVA DG Set and four are for primary and secondary crushers without chimney. The reply is not acceptable as standards for emission from 1200 KVA Genset were not prescribed.
- In 11 cases, standards prescribed were in deviation from industry specific norms. In reply, KSPCB accepted (April 2024) the audit observation and stated that corrigendum/letters have been issued incorporating the required standards.
- In five cases, permission from Karnataka Ground Water Authority was not obtained. In reply, KSPCB stated (April 2024) that notices are being issued to these units.
- In four cases, there were time gaps ranging from 20 to 775 days between two consecutive consent orders. On this being pointed, KSPCB replied (April 2024) that Amendment to CFO would be issued for 2 industries (Raichur 1 and Mysuru 1 and demand for Consent Fee would be raised for two industries (Tumakuru 2).
- In four cases, waste-water generation was incorrectly assessed. In reply, KSPCB stated (April 2024) that the industries would be inspected and

²¹ Stacks are industrial chimneys through which pollutants are emitted to the atmosphere.

necessary action would be taken.

- In one case, capital investment was wrongly reckoned resulting in short recovery of consent fees. In reply, KSPCB stated (April 2024) that notice had been issued to the industry in this regard.

Details are tabulated in **Appendix-11**.

These instances indicate inadequate internal control measures in preparation of Consent Orders and absence of review and monitoring mechanism for the Consent Orders issued by the ROs at the Zonal Office or the Board level.

Incorrect adoption of norms in the consent might lead to unregulated discharge of effluents/emissions which would in turn lead to adverse environmental, health and regulatory consequences.

2.1.3.5 Failure to take action against non-conforming units: Section 17 of the WPCP and APCP Acts require KSPCB to inspect any industry and to issue directions to take steps for the prevention, control or abatement of pollution. An Inspection Policy²² for this purpose was also issued by KSPCB on 31 March 2016. Review of records relating to 390 sampled cases of 13 ROs revealed that penal action was not taken against non-complying industries.

Brief of observations are as under:

- In four cases of 3 ROs, not a single sample was collected during the last five years.
- In 17 cases of 5 ROs, incorrect standards were adopted for testing sewage. Details are in **Appendix 12** and **Appendix 12 A**.
- In 124 industries of 12 Regional Offices, 1032 effluent (124 industries) and 106 emission samples (25 industries) were not complying with stipulated parameters. Details are in **Appendix 13**. In reply, KSPCB stated (April 2024) that out of 124 industries, eight are zero liquid discharge units, one is yet to commence its operation, two discharge to STP of sister concern, one is stone crusher, six are handing over effluent to CETP, one is granite polishing unit, one is a hospital which has a disinfection unit, one unit has a septic tank soak pit. Hence, samples were not to be collected from these 21 units. With reference to balance 103 industries, notices had been issued/ were being issued. However, industry-wise data and documents in support of the reply were not furnished.
- In 48 Depots of Road Transports Corporations and two other units of nine ROs, mandatory ETP/STPs were not installed (details are given in **Appendix 14**). In reply, KSPCB stated (April 2024) that 30 RTC depots (out of 52) have applied for CFO, of which 25 have been issued. 17 ETPs have been installed and 11 are under construction. However, Depot-wise data and documents in support of the reply were not furnished.
- In two Sponge Iron industries of Ballari RO, adequate air pollution control measures were not provided. In reply, KSPCB stated (April 2024) that lesser number of tests were due to shortage of manpower, and

²² KSPCB OM No. PCB/782/COC/2016/7158 dated 31/3/2016

- In Thermal Power Plants located at Ballari and Raichur, stipulated specific water consumption limits were not adhered to. In reply, KSPCB stated (April 2024) that show cause notice issued to RTPS and in response, it was stated that Water Audit was conducted and SWC had come down to 4.8 m³/MWH. A personal hearing would be held for preparation of action plan to achieve SWC of 3.5m³/MWH. Besides, notice issued to BTPS unit-II and industry would be called for a personal hearing to implement action plan and achieve specified SWC.

2.1.3.6 Ineffective follow-up on Online Continuous Emission/Effluent Monitoring System: The CFO issued to Red Category industries, inter alia, includes conditions to establish Online Continuous Emission/Effluent Monitoring System (OCEMS²³). The data transmitted by OCEMS are captured in the central server system maintained in KSPCB Head Office in Bengaluru. Audit reviewed the records and found that 49 industries repeatedly breached the norms. The details are given in **Appendix-15**. The exceedance of norms by an industry ranged from five instances in five days by M/s Balaji Sugars and Chemicals Vijayapura (in January 2021) to 3,082 instances²⁴ in a span of 21 days (in July 2019) by RTPS, Raichur. However, no action was taken by the Board against these exceedances. Audit also noticed that the data transmitted by OCEMS were not shared with jurisdictional ROs on real-time basis. As a result, ROs were not able to take timely action to regulate pollution levels.

In reply, KSPCB stated (April 2024) that notices have been issued to RTPS, Raichur for non-compliance. It was further stated that data transmitted by OCEMS is now being manually shared with industries, RSEO and ROs and possibility of real time sharing of data was being looked into.

2.1.3.7 Absence of ETP at industrial area: Industrial Areas in Karnataka are established/developed by Karnataka Industrial Areas Development Board (KIADB). It is the responsibility of KIADB to ensure the Industrial Areas are developed in accordance with the applicable laws in vogue, including pollution control laws. Establishment of Common Effluent Treatment Plant (CETP²⁵) is one of the conditions imposed for grant Environmental Clearance. The land for construction of CETP was allotted to KSPCB at Raichur (March 2015) and Ballari (November 2012). The Report No.8 of the Comptroller and Auditor General of India on Economic Sector, GoK, for the year ended 31 March 2017 (Para 3.3.3) stated that in two industrial areas, KSPCB accepted the land allotted by KIADB for establishing CETPs and had not established them as of June/August 2017. Further observations in this regard are as under:

- The KSCPB in its Board meeting (209th) (November 2016) decided not to establish a CETP in Raichur as it would amount to a conflict of

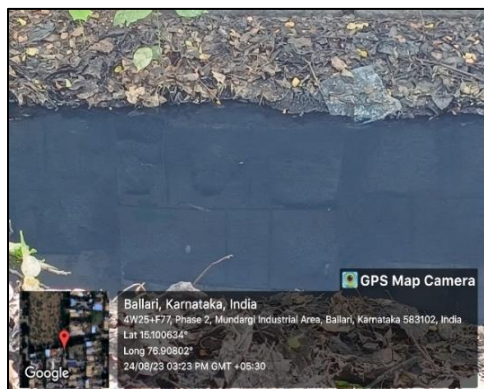
²³ The Continuous Emission/Effluent Monitoring (CEM) System comprises all the equipment necessary to determine the concentration of emission/effluents and pollutants rate using analytical measurements and a computer program to provide results in units of the applicable emission/effluent limits or standards. The data generated is gathered either through analog outputs to a recording system or sending directly to a DAS (Data Acquisition System) for storage and onward transmission.

²⁴ The average pollution levels recorded over a fifteen minute is considered as one instance.

²⁵ a centralized effluent treatment facility wherein effluent from all industries in the area are collected, conveyed, treated and disposed

interest being a regulatory body. KIADB cancelled (January 2020) the allotment and resumed the land in February 2020. However, CETP was yet to be established.

- The land leased for 10 years (November 2012) by KIADB at Ballari (Mundaragi) was continued to be in possession of the Board (March 2024). Since CETP is yet to be established, industrial effluents were still being discharged into the storm water drains.



Picture 1: Discharge of Effluents into storm water drains at Ballari

In reply, KSPCB stated (April 2024) that land that was allotted to KSPCB at Raichur was taken back and handed over to MEETPL (Mother Earth Enviro Tech Private Ltd) for establishment of CETP. For CETP at Ballari, it was stated that due to absence of suitable proposals from Jean Washing Units Association, establishment of CETP could not materialize. However, the CETPs have not come up in these two industrial areas even after 8/11 years of allotment of land. Further, there

was uncontrolled discharge of effluents by Jean washing units at Ballari.

Thus, there was inadequate monitoring of industries after issue of CFOs by the Board. Mandatory inspections were not conducted and non-complying industries/units were not pursued vigorously.

Further, the extent of compliance by the consented industries/units with reference to Hazardous, Hazardous, Construction and Demolition and Solid Wastes Rules and action taken by KSPCB are discussed in the following paragraphs 2.1.4. to 2.1.9.

2.1.4. Hazardous Waste Management

Under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (the HOWM Rules), 'Hazardous Waste' means any waste which by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances.

2.1.4.1 Industries operating without valid HW Authorisation: Rule 6 of HOWM Rules, 2016 mandates every occupier of the facility engaged in any activity relating to Hazardous and other wastes to apply and obtain Authorisation²⁶ from the SPCB. Further, applicants were to enclose CFE and CFO issued by the State PCB with their application for Authorisation. As such, KSPCB was aware of the industries requiring HW Authorisation. However, on review of the Consent register in 11 selected ROs revealed that out of 1,185

²⁶ "Authorisation" means permission for collection, transport, treatment, reception, storage and disposal of hazardous Wastes, granted by the competent authority in Form 2 of the HOWM Rules

industries handling HW, 377 (32 per cent) were operating without valid Authorisation²⁷. The RO wise number of industries operating without valid Authorisation are given in Table –2.1.2 below.

Table – 2.1.2

Industries operating without Hazardous Waste Authorisation

Sl. No.	Name of the Regional Office	No. of industries requiring HW Authorisation	No. of industries not renewing/ obtaining HW Authorisation	Percentage
1	Ballari	108	47	44
2	Belagavi	105	41	39
3	Chikkaballapura	43	13	30
4	Chikkamagaluru	18	12	67
5	Kolar	140	32	23
6	Koppal	23	3	13
7	Mangaluru	186	90	48
8	Mysuru 1	179	43	24
9	Peenya	225	48	21
10	Tumakuru	129	42	33
11	Vijayapura	29	6	21
	Total	1185	377	32

KSPCB replied (April 2024) that after being pointed out by Audit, 54 industries renewed the Authorisation and 52 industries applied for renewal. Government also stated that for the remaining 271 industries, notices had been issued.

2.1.4.2 Deficiencies noticed in Common Hazardous Waste Treatment, Storage, and Disposal Facility (TSDF): The HOWM Rules provide for establishment of common treatment, storage and disposal facility for HW. The Criteria for HW Landfills issued (February 2001) by CPCB provide that Hazardous Waste landfills shall not be located within a distance of 200 m for lakes or ponds, 500 m for habitation and water supply wells, etc. Further, as per MoEF directions²⁸, establishment of new Treatment, Storage and Disposal Facility (TSDF) within 400 km radius of the existing TSDFs is not permitted. The CPCB Criteria provide that if it is absolutely essential to site a landfill within the restricted zone, then appropriate design measures are to be taken and prior permission from the State PCB should be obtained.

There were three TSDFs in the State operating under the jurisdiction of three ROs. Of these, records related to two TSDF (Harohalli Industrial Area and Kadachur Industrial Area) were examined and observed that one TSDF was established in violation of CPCB siting conditions while the other was not complying to the consent conditions as detailed below:

- A. Establishment of Hazardous Waste landfill contrary to siting criteria:** A TSDF at Harohalli Industrial Area was established by a private limited company (M/s Mother Earth Enviro Tech Pvt Ltd (MEETPL)) and CFO was issued by KSPCB in April 2016 for handling

²⁷ Ballari-108(47), Belagavi-105(41), Chikkaballapura-43(13), Chikkamagaluru-18(12), Kolar-140(32), Koppal-23(3), Mangaluru-186(90), Mysuru-179(43), Peenya-225(48), Tumakuru-129(42) and Vijayapura-29(6).

²⁸ O.M No.12-30/2013-HSMD dated 20/06/2013

95,000 MT of HW over 10 years. Further, CFO for expansion was issued in June 2019 to handle 1,51,000 MT of HW for 10 years. M/s MEETPL was also provided with a total financial assistance of ₹7.95 crore for the establishment of TSDF. Of this, ₹3.97 crore was paid (March/April 2019) by KSPCB and the balance was paid by MOEF (December 2021) under a Central Sector Scheme²⁹ for setting up of Common TSDF under Public- Private Partnership model. Audit observed the following:

1. The location of the TSDF did not conform to the criteria conditions stipulated by CPCB. After site inspection, Environment Officer, KSPCB, Ramanagara reported that site did not meet the selection criteria with reference to lake/pond, habitation and the land was not advisable for the proposed activity.
2. Existence of another³⁰ TSDF facility within a vicinity of 80 KM in KIADB Industrial Area, Dabaspur (which was operational since 2008) was also not taken into consideration while granting CFE/CFO.

Besides, the TSDF was violating the terms and conditions specified in CFO and authorisation as given below:

1. The CFO approved in April 2016 indicated the permitted quantity of discharge of leachate as 2 KLD which was later enhanced to 3.5 KLD during March 2019. The annual quantity of leachate disposed exceeded the permitted quantity during the years 2018-19 and 2020-21 by 0.76 KLD and 0.22 KLD respectively.
2. The layout and design of the TSDF was approved by KSPCB only in October 2018. Thus, the facility's operations for two and half years, between April 2016 and October 2018 was a clear violation of Rule 16 (2) of HOWM Rules 2016.
3. The Authorisation issued (April 2016) under Rule 5 (3) of HOWM Rules 2008 was for 95,000 MT for 10 years. However, by March 2019, TSDF had handled 95,950.36 MT of HW, which was also violation of the CFO and Authorisation issued by KSPCB. Before issue of Authorisation for expansion in June 2019, the TSDF exceeded authorized limit by 10,417.96 MT.

Despite these violations by the operator, no action was taken by the Board to invoke penal provisions as per Rule 23 of HOWM Rules.

The KSPCB replied (March 2024) that the location of the facility was not complying with three out of 11 applicable criteria as per the report of RO, Ramanagar and one out of 13 criteria as per Joint committee constituted by NGT. With reference to distance between two TSDFs, KSPCB stated that EC was issued by State Environmental Impact Assessment Authority (SEIAA) and only issue of CFE/CFO was considered by KSPCB as per Rule 5 (1) of HOWM Rules. Reply also stated that MoEF&CC has issued EC to two TSDFs within five Kms

²⁹ D.O. No.20-3/2008-HSMD dated 26.4.2012

³⁰ M/s Karnataka Waste Management Project (M/s Ramky Enviro Engineer Ltd)

radius and hence, distance criteria was considered as advisory in nature.

However, the reply is not acceptable as the guidelines for siting was issued by CPCB reckoning the possible negative impacts of TSDF on the Environment and hence, compliance was to be ensured by KSPCB. The same was also not brought to the notice of SEIAA. With reference to other observations, no specific reply was furnished.

- B. Non-compliance with consent conditions and environmental regulations:** In the Kadachur Industrial Area of Yadgiri District, M/s MEETPL was operating a TSDF. Records maintained by the RO revealed that as per the CFO, the TSDF was required to treat trade effluents, leachate from the landfill site and waste water from vehicle washing in a primary treatment plant followed by Solar Evaporation Pond. However, in the TSDF, the effluents were reused directly in the landfill for dust control, violating consent conditions persistently over three years during 2019-20 to 2021-22³¹. However, RO had not examined this issue and did not ensure compliance to Consent condition till August 2023. Audit also noticed that based on the complaints received, an inspection was conducted by RO, Yadgiri in August 2023. The inspection report pointed out violations such as operating without a public liability insurance, absence of Volatile Organic Compounds (VOC) monitoring, non-construction of wastewater collection tanks for laboratory and vehicle wash water, incomplete construction of rainwater harvesting systems, not-treating leachate despite the Common Effluent Treatment Plant (CETP) being operational, insufficient green cover on specific sides of the facility, complaints about foul odors in and around the landfill site, etc.

However, no further action as prescribed in Section 33 A of WPCP Act was taken by the RO or by the KSPCB to ensure that the operator complies with consent conditions or environmental regulations.

In reply, the KSPCB stated (April 2024) that RO, Yadgiri has issued notices on non-compliances. It was further stated that the operator of the facility would be called for personal hearing before Chairman, KSPCB for taking further action.

- C. Absence of monitoring and control over waste generated by a mining company:** Hazardous Waste is defined under Rule 3(17) of the HOWM Rules and a list of processes generating hazardous wastes are given under Schedule 1 of the HOWM Rules. However, the note below the Schedule-1 states that the high-volume low effect wastes such as fly ash, phosphogypsum, red mud, jarosite, Slags from pyrometallurgical operations, mine tailings and ore beneficiation rejects are excluded from the category of hazardous wastes. Separate guidelines on the management of these wastes shall be issued by CPCB.

A Government of Karnataka Undertaking (M/s Hutti Gold Mines Ltd, Raichur (HGML)), engaged in exploration, development and exploitation of gold deposits occurring in Karnataka. Audit noticed that

³¹ as reported in the Environmental Statements filed (September 2020, September 2021 and September 2022) by the operator

stack emission and STP standards were not stipulated in the CFO issued for this company. Water samples collected from the surrounding area of the mine were not tested for Arsenic over the last five years by KSPCB. Leachate samples tested in April 2017 (CPCB) and in November 2020 (KSPCB Central Lab) from tailings showed higher levels of various heavy metals like Cadmium, Copper, Lead, Total Chromium, Arsenic and Nickel. No research or investigation was conducted by KSPCB in this regard. KSPCB also did not take any action to seek guidelines from CPCB or direct the HGML to implement appropriate pollution control measures.

In reply, KSPCB stated (April 2024) that CPCB had recommended³² for storing tailings in constructed landfill with single stage 1.5 mm thick HDPE liner to minimize chances of percolation of leachate. Accordingly, HGML is storing tailings in Dump 3 on HDPE liner of 1.5 mm thickness. However, the reply does not include action in respect of the two old dumps where the leachate is directly seeping into the ground. With reference to testing heavy metals, KSPCB stated that RO, Raichur has been instructed to collect samples of surrounding areas, including leachate samples from tailings and analyse the same for heavy metals.

2.1.5. Bio-medical Waste Management

Bio-medical Waste (BMW) is defined as any waste, which is generated during the diagnosis, treatment, or immunisation of human beings or animals or research activities. Bio-medical Waste Management Rules, 2016 (BMWM Rules) were notified to improve the collection, segregation, processing, treatment and disposal of Bio-medical wastes in an environmentally sound manner. Deficiencies noticed in implementation of these Rules have been brought out in the succeeding paragraphs:

2.1.5.1 Lack of regulatory control over BMW generation, treatment and disposal: Rule 6 and 9 (3) of BMWM Rules requires KSPCB to prepare inventory of occupiers and data on BMW generation, treatment and disposal, compilation of data and submission of the same in annual report to CPCB. Further, Rule 13(2) of BMWM Rules provides that the Board shall compile, review and analyse the information received from the occupiers for every calendar year and send this to CPCB on or before 31 July of the following year.

Audit noticed that KSPCB did not maintain a comprehensive inventory of occupiers/health care facilities including the data on generation, treatment and disposal Bio-medical waste (BMW) as of March 2023. In the absence of inventory, Audit could not assess how KSPCB ensured that the entire quantity of BMW generated in the State was scientifically disposed of by the treatment facilities.

Also, under Rule 13(2) of the BMWM Rules, the Board shall compile, review, and analyse the annual reports received from the occupiers and send this to CPCB. Audit scrutiny revealed that the gap between generation and treatment

³² vide letter dated 26/9/2017

of BMW reduced from 43,653 Kgs/Day³³ in 2020 to 8,423 Kgs/Day³⁴ in 2022. Though this was an improving trend, as considerable quantity of BMW is still not being treated by the Common Bio-medical Waste Treatment Facilities (CBWMTF), the possibility of unscientific disposal of BMW could not be ruled out. Besides, this report was compiled from the information furnished by the consented Health Care Facilities (HCFs) and as per the report, on average, 89 *per cent* of the HCFs did not furnish the requisite information yearly. For instance, 43,030 units out of 48,431 HCF units in the State did not submit the information for the year 2022. The year-wise details of number of consented HCFs furnished the information, generation, treatment and gap in disposal of BMW are given in **Appendix-16**.

In reply, KSPCB stated (April 2024) that all the Regional Officers have been directed to carry out gap analysis study in line with methodology instructed by CPCB. The non-submission of annual reports was mostly by non-bedded HCFs and clinical laboratories. Submission of annual reports would be made compulsory in online portal and XGN software. KSPCB also stated that it would also upgrade the BMW software to get information on generation, treatment and disposal from all the HCFs.

2.1.5.2 Non-levy of Environmental Compensation on non-compliant HCFs: Under BMW Rules, 2016 all the HCFs are required to obtain Authorisation³⁵ from KSPCB and BMW is to be scientifically disposed off through CBWMTF. For this purpose, HCFs are required to enter into an agreement or Memorandum of Understanding with the CBWMTF. Further detailed procedure for storage, transportation, treatment, and disposal of BMW by CBWMTF have been outlined in the Rules³⁶.

As per directions of National Green Tribunal,³⁷ CPCB prepared and issued Guidelines to levy EC on non-compliant HCFs/ CBWMTFs in July 2019 and the same was made applicable in the State by KSPCB through a Circular dated 29 July 2019. However, it was noticed that the Board did not follow these directions and failed to collect EC of ₹ 147.56 crore as of March 2023 as detailed below:

- A. As per the annual reports submitted by 13 selected ROs, 1,180 out of 15,802 HCFs were operating without valid Authorisation from KSPCB. However, no action was taken to ensure that all these facilities obtained Authorisation and EC of ₹ 51.68 crore³⁸ was not levied. The RO wise details of non-compliant HCFs and EC dues are given in **Appendix-17**.

In reply, KSPCB (April 2024) stated that 506 HCFs have renewed/applied for renewal and notices were being issued for the balance 674 HCFs. In addition, 875 HCFs have submitted annual

³³ Gap between generation and treatment = Total generation (82,604 kgs) – Captive treatment (1,146 kgs) – Treatment by CBWMTF (37,805 kgs) = 43,653 kgs

³⁴ Gap between generation and treatment = Total generation (78,441 kgs) – Captive treatment (3084 kgs) – Treatment by CBWMTF (66,934 kgs) = 8,423 kgs

³⁵ Rule 10 of BMW Rules, 2016

³⁶ Rule 5 and Rule 8 of BMW Rules, 2016

³⁷ Principal Bench in the matter of O.A. No. 710 of 2017 filed by Shailesh Singh vide its order dated 12.03.2019

³⁸ Total EC= Number of HCFs with authorization (1180) x Penalty/day (₹1200/day) x 365 days = ₹51.68 crore

reports. However, details of HCFs were not furnished.

- B.** Audit noticed that in six ROs, 2,189 HCFs had not entered into agreement with the local CBMWTFs. In these cases, EC of ₹ 95.88 crore was to be levied. The RO wise details of non-compliant HCFs and EC dues are given in **Appendix-18**.

In reply, KSPCB stated (April 2024) that notices would be issued to HCFs to execute agreements with CBMWTFs.



- C.** The CBMWTF at Yadgiri had not established Bar code and global positioning system as required and did not maintain a logbook for each of its treatment equipment according to weight of batch and account of categories of waste treated with time, date and duration of treatment cycle and total hours of operation. Also, during the inspection by the RO in April 2023, serious non-compliances like burning of incinerable BMW in

open, non-provision of platform for stack monitoring, non-functional equipment, non-disposal of incinerator ash, etc. were noticed. However, the status had not improved as the same issues were noted during the field visit. In August 2023, the operator had dumped the BMW in open without segregation. The EC leviable for non-compliance to BMW Rules worked out to ₹ 34.69 lakh³⁹.

In reply, KSPCB stated (April 2024) that notices have been issued with reference to CBMWTF, Yadgiri and personal hearing would be held with the operator shortly.

The instances discussed in paragraph 2.1.3 to 2.1.5 above indicate gaps in KSPCB's enforcement of stringent conditions imposed through consent orders.

Adequacy of regulatory control exercised by the Board over Municipalities and Local Bodies with respect to treatment and disposal of sewage, Solid Waste (SW), construction and demolition (C&D) waste and control over air pollution has been examined and important observations in this regard are mentioned in the following paragraphs.

2.1.6. Non/inadequate monitoring over Urban Local Bodies

As per Section 17 of the Water (Prevention and Control of Pollution) Act, 1974, one of the functions of the SPCBs is to plan a comprehensive program for prevention, control and abatement of pollution of water bodies and to secure the execution thereof. However, KSPCB had neither drafted any action plan to address the shortage nor taken any enforcement measures.

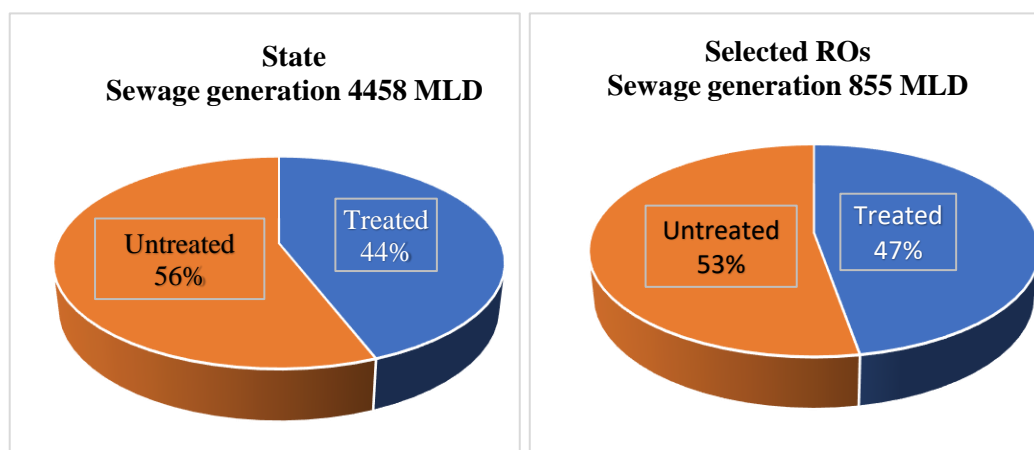
³⁹ Pollution index X Size of Operation X EC factor X days of violation = 100 (10 NCs*10 score) X 0.25 X ₹ 250/- X 555 days = ₹34.69 lakh.

2.1.6.1 Inadequate Sewage Treatment Capacity in the State: KSPCB has prescribed mandatory installation of Sewage Treatment Plant (STP) in residential layouts, housing apartments and commercial complexes of specified dimension/capacity. Ensuring treatment of sewage water discharged by other entities is the responsibility of the jurisdictional Local Bodies.

As per CPCB estimation (March 2023), the sewage generation was 4,458 MLD based on the projected population as of 2021 for the State⁴⁰. Against this, the installed capacity was only 2,787.47 MLD (63 *per cent*) and the capacity utilised was only 1,958.58 MLD (44 *per cent*) of sewage generation), leaving a gap of 2,499.42 MLD (56 *per cent*) of sewage untreated. Further, CPCB reported that about 29.73 per cent of the installed capacity (828.88 MLD) could not be utilised in the State. The underutilization of STPs was on account of non-operation due to damaged foundation⁴¹, lack of house service connection⁴², sewer network under construction⁴³, absence of sewer network⁴⁴, etc. Resultantly, untreated/partially treated sewage was being let out into water bodies like tanks and canals. Audit observed huge gap between generation and treatment of sewage in selected 12 Regional Offices as given in **Appendix-19** has been brought out in **Chart - 4** below:

Chart – 4

Status of generation and treatment of sewage



Source: CPCB estimation as per 2021 estimated population

As seen from the above, of the 855 MLD of sewage generation in these ROs, 452 MLD was untreated. Consequentially, this untreated sewage contaminated 45 waterbodies as noticed during field visits and as per the reports of Regional Officers as detailed in the **Appendix-20**.

In reply, KSPCB (April 2024) stated that NGT has already imposed EC on all Local Bodies in the State. Further, KSPCB had requested for information on the updated list of STPs under progress and STPs proposed from KUWSS&DB and KUIDFC, along with reasons and proposed action. In addition, KSPCB stated criminal cases had been filed against 86 Local Bodies. KSPCB also mentioned

⁴⁰ Based on population estimates

⁴¹ Sadalaga

⁴² Nargund, Turuvekere, Ramdurg, Hungund, Jewargi and Ullala

⁴³ Shikaripura, Haveri

⁴⁴ Sullia, Guledgudda

that discharge of sewage from unsewered areas and missing links in sewerage areas were reasons for pollution of water bodies.

CASE STUDY 1

Hebbal lake, Mysuru was rejuvenated as a part CSR activity of Infosys Foundation, at a total cost of ₹105 crore. Under this scheme, an eight MLD capacity STP was installed at a cost of ₹40.80 crore. STP was commissioned in the month of January 2021 and the entire capacity was being used. Despite the installation of this STP, the water quality of the lake continued to remain in category “D”.

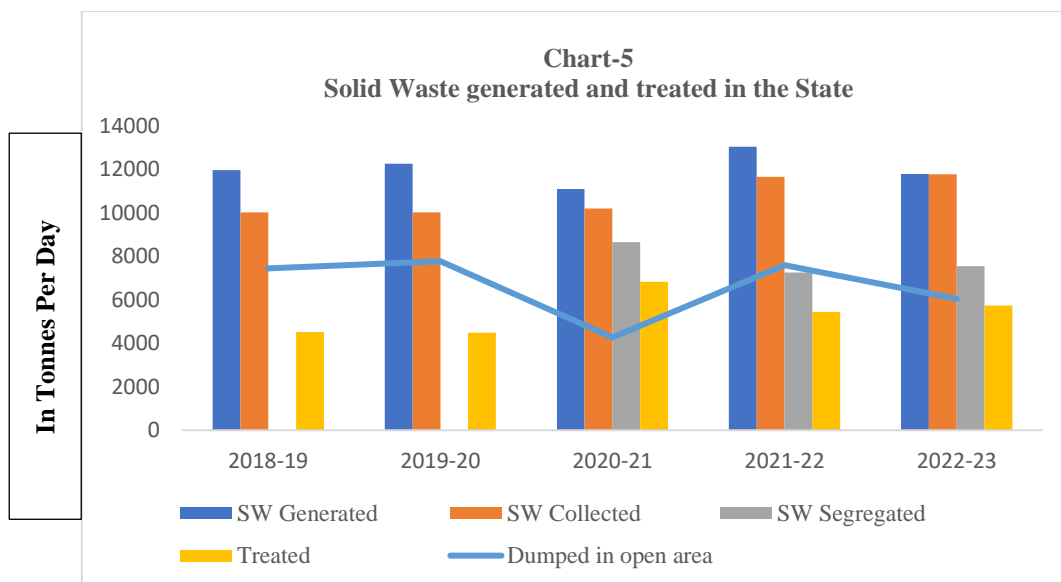
Audit visited the lake premises on 24 May 2023 and noticed that unabated inflow of untreated sewage/sullage through two storm water drains (SWD) at points SWD 1 & SWD 2 as illustrated below. This could be the reason for non-improvement of the water quality.

In reply, KSPCB (April 2024) stated that the entry of sewage from two drains would be addressed by providing floating barriers and necessary instructions have been issued to Mysuru City Corporation and CMC, Hootagalli.

Picture 3: Sewage flow into Hebbal lake, Mysuru



2.1.6.2 Deficiencies noticed in regulatory control over Solid Waste management by Local Bodies: The Solid Wastes Management (SWM), Rules 2016 laid down clear mechanisms relating to methods of collection, segregation, storage, transportation, processing/recycling, disposal, and proper land filling of municipal Solid Wastes generated within the town limits. The municipal Authorities are responsible for implementation of these Rules in their respective jurisdictions. KSPCB is required to ensure that Local Bodies comply with these rules. Year-wise details of Solid Waste generated, collected, segregated, treated/processed in the State are given in the following **Chart-5**.



**Details of segregation not available for the years 2018-19 and 2019-20*

During 2018-23, as against the total generated waste of 12,024 TPD, only 45 per cent of waste was treated and processed. The remaining 55 per cent (6,623 TPD per annum) of untreated waste was being dumped either in open areas, dumpsites or in already exhausted legacy waste sites.

In reply, KSPCB (April 2024) furnished the status of February 2024 which indicated that out of 12,140 TPD of Solid Waste generated, 6,639 TPD was treated and the gap in treatment was 5,501 TPD. Though the untreated Solid Waste has reduced from 7,443 TPD to 5,501 TPD, this quantity is substantially high.

Observations on management and disposal of Solid Waste by Local Bodies and its monitoring by KSPCB are brought out below:

A. ULBs without identified landfill sites and operating without valid Authorisation: Under Rule 15 (y) and 15 (z) of SWM Rules-2016, the Urban Local Bodies (ULBs) are required to obtain Authorisation for setting up waste processing, treatment or disposal facility from the Board. Rule 16 (4) and Rule 16(g) stipulates that KSPCB shall monitor the compliance of the standards prescribed in the Authorisation and incase of any non-compliance with the conditions of Authorisation, KSPCB may suspend or cancel the Authorisation. Audit observed the following:

- Out of 121 ULBs in 10 Districts, 43 ULBs (35.5 per cent) have not identified dumpsites for creating waste processing facilities.
- In 78 ULBs where SW dumpsites with processing facilities were available, only seven ULBs had valid Authorisation from KSPCB. Thus, there was no monitoring by KSPCB over the dumpsites and SW processing in case of the remaining 71 ULBs (**Appendix-21**).

In reply, KSPCB stated (April 2024) that notices had been issued to Local Bodies to apply for renewal of Authorisation and also stated that

a Notice of Proposed Directions⁴⁵ was issued to the Commissioner, BBMP to submit timebound action plan.

- B. Non- Remediation of Legacy Waste Sites:** Chronic negligence of sustainable and scientific treatment has resulted in an ever-growing mass of Municipal Solid Waste making its way into dumpsites in India. Many of the older dumpsites continue to stew a toxic leachate which contaminates water bodies and affects vegetation.

As per the data given by KSPCB, there were 196 legacy waste sites (Image of Legacy site at Mysuru in photo) in the State with 178.59 lakh MT of legacy waste yet to be remedied. Fresh untreated /unprocessed



Solid Waste quantity aggregating to 6,181 TPD continued to be dumped in already overfilled dumpsites. Operational guidelines of Swachh Bharat Mission (SBM) Phase-II which was approved in October 2021 made it mandatory for cities with a population of less than 1 million to clear legacy waste sites by March 31, 2023 and cities with a

population of more than 1 million to remediate their dumpsites by 31 March 2024. However, KSPCB, which was responsible for enforcing the SWM Rules in the state, could not enforce and achieve the timelines prescribed in the SBM guidelines.

In reply, KSPCB stated (April 2024) that directions were given to all ROs for monitoring legacy dumpsites (November 2022) and that Demi-official letters were written to Commissioners of City Corporation regarding Legacy waste dumpsites (March 2023).

A Case study - 2 on un-authorised dumpsite and non-remediation of legacy waste resulting in disaster for the local community is presented below:

⁴⁵ When a State Pollution Control Board (SPCB) or the Central Pollution Control Board (CPCB) intends to issue directions under Section 33A.

CASE STUDY 2

The Pachanady Landslide Accident in Mangaluru

The accident occurred due to heavy rainfall in August 2019, accelerating rainwater draining from the capped area and causing the landfill to collapse, sliding approximately a kilometer and swallowing up vast land areas, damaging houses, temples, and crops. The overflow of leachate from the landfill into nearby drainage contaminated surface water and the Phalguni River.

Expert reports and inspection findings highlighted multiple reasons for the landfill failure, including the construction of the landfill in a valley, inadequate water management systems, and the absence of proper containment structures, exacerbating the disaster. Leachate drainage system failure and overloading the landfill beyond its capacity with unsegregated waste were significant factors contributing to the tragic event.

Audit noticed that this dump site was inspected by KSPCB in May 2017 before issue of Authorisation. In the inspection note, KSPCB directed the municipal authorities to ensure completion of fence wall around the landfill and to provide garland drain with additional capacity for leachate collection, in addition to the existing 25 KLD tank. However, KSPCB issued authorisation without ensuring compliance to the directions issued.

In reply, KSPCB (April 2024) stated that criminal case has been filed against Commissioner of Mangaluru City Corporation (December 2020).

Picture: 5 & 6: Pachanady landfill site



The authorized facility failed to comply with conditions, such as providing monthly progress reports of waste collected, segregated and processed as per regulations, leading to an alarming increase in the waste pile.

2.1.6.3 Non-Installation of Leachate Management System: Leachate is a black color fluid which emanates from water percolating through solid waste disposal site which kills vegetation and pollute groundwater and surface water.

As per SWM rules, in no case, leachate shall be released into the open environment.

However, review of records in KSPCB revealed that out of the 213 waste sites under 210 ULBs in the State, 137 sites (64.31 *per cent*) did not have leachate treatment plant. The details are given in **Appendix-22**. Absence of leachate treatment facility, forms puddles in the surrounding area and allows leachate to seep into the ground, polluting both surface water and groundwater sources. Tests done by KSPCB near two landfill sites within BBMP and one each at Vijayapura and Chikkamagaluru revealed that groundwater was highly contaminated⁴⁶.

In reply, KSPCB stated (April 2024) that directions have been given to all Local Bodies to provide leachate treatment plants and directions were issued to Commissioner, BBMP (July 2021) to restart leachate treatment plant at Bellahalli MSW site.

Recommendation 3: Government may direct the Board to prepare a time bound action plan for sewage treatment facilities and SW management in the State including optimum utilisation of the existing facilities and bridging the gap between production and treatment of these wastes and issue necessary directives to the Local Bodies.

2.1.6.4 Non-monitoring of Construction and Demolition (C&D) wastes:

Any waste comprising building materials, debris, rubble resulting from construction, re-modelling, repair is classified as Construction and Demolition waste (C&D Waste). As per Schedule-III of C&D Waste Management Rules, identification of sites, creation of collection and processing facility, commissioning and implementation of the facility was to be done by all Local Bodies within three years⁴⁷, i.e., in any case, not later than March 2019.

As observed from the monthly progress report (December 2022) submitted by KSPCB to National Mission for Clean Ganga (NMCG), only 98 ULBs (31 *per cent*) out of 313 have identified land for C&D waste storage and processing. Further only one recycling facility viz, M/s Rock Crystals (Bengaluru) was operational in the State for collecting CDW from Bengaluru City.

Despite non-compliance with the Rules by Local Authorities, KSPCB had not initiated any concrete measures/penal actions against the erring Local Bodies and as a result entire C&D waste generated was being disposed unscientifically.

In reply, KSPCB stated (April 2024) that under SBM 2.0, funds had been allocated to five NCAP cities for setting up of processing facilities for C&D waste, of which three cities had submitted Detailed Project Reports which are under scrutiny. Further, KSPCB stated that state policy (under preparation), also provided for effective use of recycled products by ULBs and Civil contracts.

⁴⁶ Nitrate (NO₃) ranging up to 226 mg/L against the maximum permissible limit of 45mg/L was found by KSPCB around Mandur landfill site (BBMP). Also, Ground water samples collected from nine different Borewells nearby MSW sites across six ULBs in the districts of Vijayapura, and Chikkamagaluru are non-conforming to the stipulated standards.

⁴⁷ Notification was issued on 29 March 2016

2.1.7. Comprehensive Environment Pollution Index Monitoring of Critically Polluted Areas

CPCB in 2009 developed a Comprehensive Environmental Pollution Index (CEPI) to evaluate the quality of the environment. The industrial areas/clusters with a score of 70 and above were classified as Critically Polluted Areas (CPA) and with score between 60 and less than 70 as Severely Polluted Areas (SPA). While the first assessment (2009) classified 88 industrial areas/clusters, the latest assessment (2018) increased the list and classified 100 industrial areas/clusters as CPA/SPA.

As per the latest assessment in 2018, two industrial areas/clusters viz., Peenya (78.12) and Jigini (70.99) have been classified as CPAs while Bidar (65.64) has been classified as SPA. Bakikampady Industrial cluster/area in Mangaluru, which was classified as CPA in 2009 (73.68), scored 58.20 in 2018 CPCB assessment. The issues relating to Peenya and Mangaluru, which are the polluted areas coming under the purview of sampled ROs were examined. In these cases, implementation of actionable points in action plan prepared by KSPCB were to be monitored by the Local Area Committees (LAC) formed by KSPCB. A summary of number of actionable points and implemented is mentioned in the following **Table-2.1.3**. The detailed list of actionable points pertaining to these two industrial areas and actionable point wise compliance status is given in **Appendix-23**.

Table -2.1.3

Compliance to Actionable points given by KSPCB

Sl. No.	Name of the industrial area	Date of approval of Action Plan and No. of actionable points	Date of constitution of LAC	No. of actionable points implemented/ As of Month & year
1.	Peenya Industrial Area	July 2019/14	10 April 2019	5/April 2023
2.	Bakikampady Industrial Area, Mangaluru	NA/52	4 February 2011	19/June 2023

In respect of actionable points suggested for Peenya Industrial Area, two out of nine measures remained unimplemented, i.e., Preparation of feasibility study for eco-restoration of groundwater contamination and Establishment of CETP at Urban Eco-Park. Since these are the sole responsibilities of KSPCB, non-implementation of these measures (as of April 2023) shows lack of seriousness in implementation of its own recommendations.

In reply, KSPCB stated (April 2024) that feasibility study is to be conducted and as there was limited response to tender for establishment of CETP, retendering is under process. As such, these measures are yet to be implemented.

In the case of Bakikampady Industrial Cluster, out of 52 actionable points given by KSPCB, the LAC ensured compliance with 19 points which helped this area to improve its rating from CPA to Polluted Area.

In reply, further details were furnished by the Government (April 2024) which indicated that as many as 18 points were to still to be complied with. In addition,

five points were stated to have been complied which were to be verified by RO.

2.1.8. Inadequate monitoring and control over Air Pollution

Ministry of Environment, Forests and Climate Change launched (January 2019) the National Clean Air Programme (NCAP) as a time bound national level strategy to tackle air pollution comprehensively. Under the programme, among 102 cities in India four cities of Karnataka (Bengaluru, Hubballi-Dharwad, Kalaburagi⁴⁸ and Davanagere) were identified as Non-Attainment Cities (NACs) which failed to meet the prescribed standards for clean air.

Status of implementation of NCAP and extent of improvements in air quality achieved are discussed in the following paragraphs:

2.1.8.1 Deficiencies in implementation of NCAP: The NCAP aimed to bring down the particulate matter (PM₁₀) pollution by 20 *per cent* to 30 *per cent* in NACs in five years i.e., by January 2024. An action plan was approved by the Board in this regard in April⁴⁹/July 2019⁵⁰. For implementation of NCAP financial assistance of ₹ 25.02 crore was released by CPCB to KSPCB. Of this, an amount of ₹ 19.42 crore was released by KSPCB to Corporations⁵¹ (Local Bodies) to address issues relating to implementation of city action plans, creating green buffer zone, public awareness, etc. The details of the actionable points prescribed in the action plan and the extent of implementation are given in detail in **Appendix–24**. In this regard, the following observations emerged:

- KSPCB did not demand and collect Utilization Certificate (UC) from the Corporations (March 2023).
- Non-implementation/inadequate follow-up on actionable points such as uploading air quality index (AQI) data and enforcing actions against defaulting industries were noticed. As per the action plan, these points were to be implemented by KSPCB.
- Test results taken on Air Quality in the four NACs as of March 2023 revealed that the targeted reduction in PM₁₀ of 20 *per cent* over January 2019 readings was achieved by Bengaluru and Davanagere Districts. In Dharwad and Kalaburagi, PM₁₀ levels remained at the same level or increased. The trend in the PM₁₀ level is shown in the following **Chart - 6**.

⁴⁸ Previously known as Gulbarga

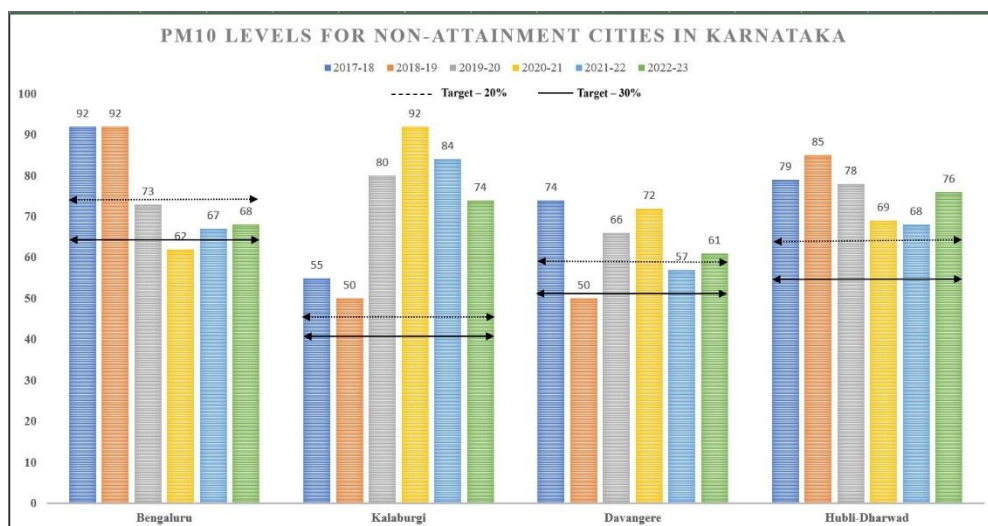
⁴⁹ For Davanagere, Kalaburagi and Hubballi-Dharwad

⁵⁰ For Bengaluru.

⁵¹ BBMP (₹2.22 crore), Hubballi Dharwad Municipal Corporation (₹8.72 crore), Kalaburagi Corporation (₹5.04 crore) and Davanagere Corporation (₹ 3.44 crore).

Chart – 6

Status of Particulate Matter pollution in Non-Attainment Cities



Though two NACs had achieved the targeted air pollution control with respect to PM₁₀, monitoring of overall air quality in NACs was found to be inadequate.

In reply, KSPCB stated (April 2024) that letters have been issued to the Commissioners of the Corporations to expedite the process of grant utilization. Further, it was stated that Davanagere has furnished Utilisation Certificate for ₹ 2.9 crore, Kalaburagi for ₹40 lakh and no grant was utilized by Hubballi Dharwad. It was further stated that air quality improvement was observed in Bengaluru, Davanagere and Hubballi Dhaward. However, fact remains that none of these cities could achieve National Ambient Air Quality Standards till 2022-23 and the improvement in air quality was yet to be achieved in Kalaburagi.

2.1.8.2 Inadequate assessment of air quality: As per the National Ambient Air Quality Standards (NAAQS) notified (November 2009) by CPCB, ambient air quality to be measured for presence of 12 pollutants⁵² and their concentration. The measurements are required to be carried out through Continuous Ambient Air Quality Monitoring Stations (CAAQMS) and Manual Stations. The records related to NAAQS reports submitted to NGT by the Board and the site visit by the Audit team revealed the following:

- The CAAQMS installed in State were not monitoring four⁵³ out of 12 air pollutants.
- The required number of CAAQMS and Manual Stations were not in place in three out of four NACs. The details are given in the following **Table – 2.1.4.**

⁵² Particulate Matter (PM₁₀ and PM_{2.5}), Sulphur Dioxide (SO₂), Nitrogen Dioxide (NO₂), Carbon Monoxide (CO), Ozone (O₃), Ammonia (NH₃), Benzene (C₆H₆), Benzo Pyrene, Arsenic (As), Lead (Pb) and Nickel (Ni)

⁵³ Lead (Pb), Benzo Pyrene, Arsenic (As) and Nickel (Ni)

Table -2.1.4
CAAQMS and Manual Stations in the State

City/ Town	CAAQMS			Manual Stations		
	Required	In place	Shortfall	Required	In place	Shortfall
Bengaluru*	12	14	-	4	13	-
Hubballi-Dharwad	3	1	2	3	2	1
Kalaburagi	3	1	2	3	2	1
Davanagere	1	1	0	3	2	1
Total	7	3	4	9	6	3

* Since Bengaluru had an adequate number of monitoring stations, the same was not considered for the total.

Siting manual for Air Quality Monitoring Stations stipulated that these stations

Picture 7: Civil Court Complex premises, Koppal



are located in such places where free flow of air is available, intake should not be in a confined place/ corner/ balcony, height of the inlet to be 3-10 m above ground level, Sampler to be more than 20 m away from trees, etc. Audit examined the siting of 12⁵⁴ CAAQMS and 11⁵⁵ Manual Stations installed in jurisdiction of 13 Regional Offices and observed that only two CAAQMS (NTTF premises, Peenya and Near DC office, Raichur) were compliant to

the siting conditions. The other non-complying stations were surrounded by trees/buildings, placed very close to Road, samplers placed above 10 m from ground level. As 91 *per cent* (21 out of 23) of the Monitoring Stations were not installed as per CPCB guidelines, the air quality assessed through these stations would not be reliable.

- In six ROs⁵⁶, both CAAQMS and AAQMS (Manual) have been installed at KSPCB's office premises. On a comparison of pollutant levels in respect of five⁵⁷ air pollutants recorded by CAAQM and AAQM Stations (during the years 2018 to 2023), the differences between the two instruments were in the range of 9.81 to 2,294 *per cent*.

The reason for installing two instruments at the same premises was not available on record. However, wide variation in the results from two different instruments at the same location raises doubts about the reliability of the air quality data recorded and reported/published by the Board. The details are given in **Appendix-25**.

⁵⁴ Located at Peenya, Mysuru, Mangaluru, Chikkamagaluru, Tumakuru, Belagavi, Raichur, Koppal, Vijayapura, Yadagiri, Chikkaballapura and Kolar

⁵⁵ Located at Peenya (2), Mangaluru, Mysuru (2), Tumakuru, Belagavi, Raichur, Ballari, Vijayapura, Kolar

⁵⁶ Belagavi, Bidar, Hassan, Kolar, Mysuru and Vijayapura

⁵⁷ SO₂, NO₂, PM₁₀, PM_{2.5}, and NH₃

In reply, KSPCB (April 2024) stated that:

- There are no provisions to monitor metal parameters and Benzo (a) Pyrene in absence of analysers and these can be analysed through Manual Stations. However, Audit observed that these parameters are currently not being monitored through manual stations by KSPCB.
- With reference to generation of data from manual and CAAQM Stations, it was stated that the CAAQMS analyzers are more sensitive in capturing air pollutants and hence, data generated is varied.
- Steps were being taken to address other issues.

2.1.9. Inadequate testing and follow-up by the Board

KSPCB had established Central Environmental Laboratories (CEL) at Bengaluru and Davanagere and seven⁵⁸ Regional Laboratories (RL) in the State as of March 2023. However, review of records in the two selected laboratories and 13 selected ROs revealed that the laboratories were not adequately equipped to conduct all the mandatory tests⁵⁹. Of the 307 pollutants to be analysed on water, sewage, industrial effluent, HW, air ambient and stack emissions, one CEL in Bengaluru was equipped to analyse only 79 *per cent* of the parameters. The CEL in Davanagere and seven RLs were capable on conducting only 40 to 48 *per cent* of the mandatory tests. Besides, none of the laboratories were equipped to test for 56 out of 307 pollutants. The details are given in **Appendix-26**.

Few instances of deviation are detailed below:

(i) 236 groundwater samples (for drinking water purpose) from nine Regional Offices were tested at two Regional Laboratories (Belagavi and Raichur) between February 2020 and March 2023. Of these, 35 samples were certified as complying with the prescribed standards, 160 were not found fit for drinking water and in 18⁶⁰ cases, no inferences were drawn. In the 35 samples that were found fit for drinking, Audit noticed that as against the 64 parameters required to be tested as per IS 10500:2012, only 11⁶¹/13⁶² parameters were tested. The parameters that were not tested included bacteriological (3/3), pesticides (18/18) radioactive (1/1) toxic substances (12/11), general (16/15) and organoleptic and physical (3/3).

In reply, KSPCB stated (April 2024) that as it was not practically feasible to analyse all parameters and inferences were drawn pertaining to the tests performed. It was also stated that KSPCB has initiated development of other

⁵⁸ Belagavi, Dharwad, Hassan, Kalaburagi, Mangaluru, Mysuru, and Raichur

⁵⁹ Notifications issued under Environment (Protection) Act and Bureau of Indian Standards (IS10500:2012) prescribe effluent standards for analysis of Water (Ground and Surface water), Domestic sewage and industrial effluent, Hazardous Waste (Waste/Soil/solid), Air-Ambient and Stack/source emissions.

⁶⁰ Raichur

⁶¹ In Raichur

⁶² In Belagavi

facilities to provide the results based on all parameters of drinking water.

(ii) In 34 samples of Treated trade effluent (TTE)/ Treated sewage effluent (TSE)/Leachate tested by RO, Mangaluru between April 2022 and March 2023, four⁶³ mandatory parameters were not analysed though the required facilities were available in RL, Mangaluru.

In reply, KSPCB stated (April 2024) that due to shortage of manpower and infrastructure that the mandatory parameters could not be analysed.

The Board is mandated with the responsibility of undertaking Water Quality Monitoring of Aquatic Resources and publication of information. Therefore, the Board should ensure adequate capacity of its laboratories to meet the demand and fulfil the mandate devolved on it. Considering that sufficient financial resources were available with the Board in terms of accumulated surplus, the Board could have prioritized upgradation of its laboratories. Further, the Board could also play a proactive role in bringing evading industries/operations under its consent administration jurisdiction and increase the enforcement activities as per the mandate.

Under-equipped laboratories would result in non-fulfilment of the responsibility envisaged under the WPCP Act and APCP Act. Apart from increasing the capabilities of its laboratories, the Board requires adequate technical and scientific personnel to discharge its mandated activities such as conducting inspections, drawing samples, testing, and analysing in laboratories, etc. Adequacy of manpower with the Board was analysed and important findings are given in the following paragraphs.

2.1.10. Adequacy of Human Resources

The sanctioned strength for different cadres in the KSPCB was approved in the year 2017 under three different groups viz., Technical, Scientific and Ministerial. The position of working strength as of 31 March 2023 is given in the following **Table – 2.1.5**.

Table – 2.1.5
Manpower position

Sl No.	Cadre	Sanctioned	Working				Vacancy (Percentage)
			Regular	Contract	Outsourced	Total	
1	Technical	278	148	1	0	149	129 (46.4)
2	Scientific	142	38	21	70	129	13 (9.15)
3	Non-technical/ministerial	303	113	41	254	408	105 (35 excess)

(Source: Information obtained from KSPCB)

The cadre-wise details of sanctioned and working strength of various posts and cadres have been detailed in **Appendix-27**.

⁶³ Nitrate, Fluoride, Cyanide and Fecal Coliform.

2.1.10.1 Out of sanctioned strength of 142 under Scientific Cadres, 70 are related to the posts of Assistant Scientific Officer (ASO) to Chief Scientific Officer (CSO) and the remaining 72 are related to support staff. Against the total 44 vacancies of Scientific officers, the working strength was found to be only 26, including one ASO on contract basis. The 20 personnel under contract and 70 outsourced personnel were only support staff to the Scientific Officers. Thus, KSPCB's laboratories had a deficit of about 63 *per cent* SOs.

2.1.10.2 The Officers in the Technical Cadres are responsible for overall technical matters from the RO to the Board level including planning for pollution abatement in their respective jurisdiction, supervise laboratories, ensure effective enforcement of all the Acts and Rules, etc. With 46 *per cent* vacancies in the Technical Cadres, mandatory activities of the KSPCB against non-complying Local Bodies/ industries were not being carried out as pointed out in paragraphs 2.1.3 to 2.1.9 of this Report.

KSPCB replied (March 2024) that the matter had been taken up with Government for filling up the vacancies.

Thus, the Board is not utilizing its financial resources to mobilise adequate human resources and laboratory infrastructure to discharge its mandated functions. Though the Board had ministerial/ non-technical staff, about 35 *per cent* in excess of the sanctioned strength, all these were in the non-critical support staff cadres such as data entry operators, drivers and peons. There were vacancies in the posts of Assistant Executive Engineer, Assistant Statistical Advisor, Assistant Administrative Officer, Superintendents and Law Assistants, which were essential for administrative purposes.

Recommendation 4: The Government may permit the Board to take immediate action to fill all the vacancies in the technical and scientific cadres and upgrade the laboratories to enable them to conduct the required tests on different kinds of wastes, pollutants, etc. in accordance with the governing Acts, Rules and Regulations.

2.1.11. Non-submission of Environmental Statements

Rule 14 of the Environment (Protection) Rules, 1986 requires that every industry, shall submit Environmental Audit Report⁶⁴ (EAR) for the year to the SPCB on or before 30 September of the following year. However, Audit noticed that during the period from 2018-19 to 2022-23, as against 45,961 statements required to be submitted only 2,554 (5 *per cent*) statements were submitted. The RO wise details of non-submission of EARs are given in **Appendix-28**. The ROs concerned failed to follow-up with notices or to invoke penal provisions to ensure EARs are filed by the industries/units.

In reply, KSPCB stated (April 2024) that during the last five years, 13,492 Environmental Statements have been received by Regional Offices. This data pertains to the State as a whole and cannot be compared with the data pertaining to sampled Regional offices. It was also stated that from April 2023 onwards,

⁶⁴ Both the terms 'ES' and 'EAR' are used interchangeably in the EP Rules.

filing Environmental Statements has been made online.

The observations in paragraphs 2.1.3 to 2.1.10 indicate the lack of internal controls and inadequacy in enforcement of applicable environmental laws by the Board. The provisions of the environmental laws that empower the Board regarding enforcement activities and omission to frame guidelines or Standard Operating Procedure (SOP) by the KSPCB to invoke the penal provisions are discussed in the following paragraph.

2.1.12. Non invoking penal provisions on defaulting industries/ Authorities/ organisations

Section 33A of the WPCP Act and Section 31A of the APCP Act empowers the KSPCB to issue directions for the closure, prohibition or regulation of any industry, operations, or process, or the stoppage or regulation of supply of electricity, water, or any other service. The provisions available under the Rules framed under WPCP Act, APCP Act and EP Act are detailed in **Appendix-29**. Besides, the NGT's direction dated 12 March 2019 discussed in paragraph 2.1.5.2 also empowers the KSPCB to levy EC on all violations and establish pollution control measures.

Audit noticed that KSPCB has not issued any SOP outlining the specific steps, criteria and measures to be taken while addressing instances of non-compliance and violation by the industries/units.

In reply, KSPCB stated (April 2024) that steps would be taken to bring out an enforcement policy. In addition, it was stated that KSPCB would take steps to bring out uniform procedure for obtaining bank guarantee and various actions for non-compliances.

Non-framing of Enforcement Policy or SOPs for exercising the powers vested in the Board under Section 33A of the WPCP Act has led to inadequate follow-up by ROs in the cases of industries/units operating without obtaining or without renewing CFE/CFO, generation of waste exceeding the norms, un-scientific disposal of waste, etc.

Recommendation 5: Government may direct the Board to prepare necessary Guidelines and SOPs for invoking the applicable penal provisions under the governing Acts, Rules and Regulations.

2.1.13 Conclusion

The duties and responsibilities of prevention, control and abatement of water and air pollution devolved on the Board by WPCP Act and APCP Act are managed through issue of CFE/CFO and frequent inspection of the industries/units during the consent period. However, issue of deficient Consent Orders without stipulating or specifying higher than the applicable norms of the pollutants, failure to follow-up on CFEs/CFOs issued with regular inspections and testing of samples, etc. revealed that KSPCB did not adequately discharge its mandated functions.

Cross-verification with the Industries and Commerce Department, Commercial Taxes Department (GST) and Forest Department revealed that several industries/units were operating without obtaining/renewing consent from the Board. This points to lack of enforcement initiatives and co-ordination with other Government departments by the Board.

Instances of HCFs without Authorisation and facility for disposal of BMW, industries operating without HW Authorisation, permitting HW landfill violating siting conditions stipulated, etc. establish that the Board and its ROs were not efficiently functioning to fulfill responsibilities mandated as per the WPCP Act, APCP Act, EP Act and Rules made thereunder. Besides, the Local Bodies, Government Corporations and companies were found to be major polluters and over these sectors, KSPCB did not have control to ensure SW, Sewage and, C&D Waste were properly managed and disposed off.

While huge vacancies in technical and scientific officers could be the major reason for KSPCB's failure to attend to its mandatory duties, the Board also did not proactively initiate steps to fill up of the vacant posts. Though all the governing Acts, Rules and judicial orders issued by NGT empowered the Board to penalise violators, the Board failed to frame adequate Guidelines and SOPs, which resulted in consequent inaction.

Public Works Department (PWD)

2.2 Management of Leases of Land and Non-residential Buildings by PWD

2.2.1 Introduction

The Public Works Department (PWD) leases out its properties such as vacant or unused land/ non-residential buildings to various public and private users for a fixed term. The leases may be renewed for a further period and lease rent enhanced as per the terms and conditions of the lease agreement or at the time of renewal. The Department is required to ensure compliance with the conditions laid down in the lease agreement regarding usage, payment of lease rent, prohibition from sub-letting, etc. Maintenance of relevant records in respect of such leases and periodical inspections, duly recorded, are key for effective management of leased Government properties. Any omission or failure may result in loss of substantial revenue to the Government.

2.2.1.1 Organisational Structure

The Department, at field level, has Five Zones namely Communication and Buildings (C&B) South Zone, (C&B) North Zone, (C&B) Northeast Zone, (C&B) Central Zone and National Highways. Each Zone is headed by a Chief Engineer. The Zones consist of Circles, Divisions and Sub-Divisions. Leasing of lands and buildings are to be managed at the Divisional Offices headed by the Executive Engineers.

2.2.1.2 Audit Objective

The objective of this audit was to ascertain whether the '*Leases of lands and Non-residential buildings were effectively managed by the Department*'. Usage of the properties for the intended purposes and adhering to the conditions of lease by the lessees, accurate assessment and collection of lease rentals, timely renewal of leases wherever necessary, etc. were some of the important aspects examined under this Compliance Audit.

2.2.1.3 Audit Criteria

The sources of Audit criteria were drawn from Karnataka Financial Code (KFC), Karnataka Public Works Department Accounts Code (KPWAC) and Karnataka Public Works Departmental Code (KPWDC), Karnataka Budget Manual, Karnataka Transparency in Public Procurement Act, PWD Standard Bidding Document (2008) and Government orders/circulars issued from time to time.

2.2.1.4 Scope of Audit

Audit was conducted for the period from 2018-19 to 2022-23. As ascertained from the Department, there were 156 active leases in the State. These cases fall

under 12 Districts⁶⁵. In nine Districts⁶⁶ there were no lease of properties by PWD. In respect of the remaining 10 Districts⁶⁷ no information was furnished by the Department, though called for in May 2023. Audit of 149 leases in six Public Works Divisions in four districts was taken up between June and November 2023.

2.2.1.5 Audit Methodology:

An Entry Conference was conducted on 27 June 2023 in which the Audit Objectives, Scope and proposed Methodology were discussed with the Principal Secretary to GoK, PWD. Records maintained in the selected PWD offices were reviewed. Comparative analysis of the lease rent fixed by the Department at the time leasing/renewal with respect to market value⁶⁸ of the leased properties was done. Lease rent collection particulars were verified and Joint physical verification of 63 properties was also conducted to ascertain the compliance by the lessees with the conditions stipulated in the respective lease agreements and monitoring by the jurisdictional PWD Divisions thereon. The Exit Conference was held on 24 January 2024 and Audit Findings, Conclusions and Recommendations were discussed with the Principal Secretary to GoK, PWD. Important observations made during the audit are detailed in the following paragraphs.

2.2.2. Non-compliance with the prescribed internal control measures

Internal control is an integral process that is effected by an entity's management and is designed to provide reasonable assurance of fulfilling accountability obligations, complying with applicable laws and regulations, executing orderly, ethical, economical, efficient and effective operations as also safeguarding resources against loss.

However, in the PWD Divisions selected for audit, Audit noticed that important control registers and information systems such as a Buildings Information System (BIS), Demand Collection and Balance (DCB) Register, etc., were not maintained and updated. As a result, the Divisions failed to ensure compliance with applicable laws and regulations and to safeguard the assets from unauthorized occupation, continued occupation beyond the agreement period. The Divisions also did not ensure timely collection of lease rents due, and in two cases, even lost track of properties leased. Major omissions noticed are discussed below:

2.2.2.1 Lack of information on lands and buildings of the Department:

Paragraph 55 of the KPWD Code stipulates that the Department shall prepare a BIS. This system shall have the information about the asset such as ownership,

⁶⁵ Bengaluru (Rural), Bengaluru (Urban), Bagalkote, Belagavi, Dakshina Kannada, Dharwad, Hassana, Haveri, Kalaburagi, Mysuru, Shivamogga and Vijayanagara.

⁶⁶ Chikkaballapura, Chikkamagaluru, Chitradurga, Davanagere, Gadag, Mandya, Tumakuru, Udupi and Uttara Kannada.

⁶⁷ Ballari, Bidar, Vijayapura, Chamarajanagara, Kodagu, Kolar, Koppal, Raichur, Ramanagara and Yadgiri.

⁶⁸ As per the Guidance Market Value published by the Central Valuation Committee constituted from time to time by the Department of Stamps and Registration.

land, floor area, condition of building, rental provisions, lease details, lessee if leased out and such other information as will be useful for the top management. Paragraph 311 requires that survey number, area, date of lease agreement and period of lease, etc. for the land leased shall be recorded in a register. Further, the EE shall submit on the 30th of April every year, a certificate to the Chief Engineer (CE) for having verified the leased land and lease agreement. However, in the test checked Divisions, Audit noticed that BIS was not updated/monitored by the Department and lease register was not maintained in the prescribed form. Also, certificates of verification of leased lands were not submitted to CE by any of the selected Divisions.

After this was pointed out, Government replied (May 2024) that some of the Divisions were updating the details in the existing module of BIS, which has been developed based on KPWD code format. It was also stated that a new software is being developed to integrate BIS with other application software in the Department with GIS module in KRAMS (Karnataka Road Asset Management System) by PRAMC. Government assured that action would be taken to upload all building information and land information as soon as the software was developed.

2.2.2.2 Non-constitution of valuation committees: Paragraph 312 of the KPWD Code requires that the Chief Engineers at the zonal level shall constitute a committee comprising Engineers, representative(s) from the Institution of Valuers to work out details of cost of buildings normally constructed, arrive at the plinth area rates for different areas of the State, which will ensure greater uniformity in preparing the valuation of buildings for fixing fair rent. However, Audit noticed that none of the Chief Engineers constituted such committees till March 2023. The three Chief Engineers constituted (July/August 2023) committees, only after Audit pointed it out. In the absence of such committees, Audit could not verify the correctness of valuation of buildings for fixing fair rent for the buildings leased out during the period under audit. The consequence of non-constitution of valuation committee were commented in subsequent paras. At the instance of the Audit, Government agreed (May 2024) to take necessary action in this regard.

2.2.2.3 Leasing of land without consulting Finance Department: Paragraph 289 of KPWD code provides that if Government land is leased to some other Government Agency, the Government can fix the rent in consultation with the Finance Department. It was noticed in 20 out of 28 lands leased in six⁶⁹ test-checked Divisions (**Appendix-30**), the Finance Department was not consulted for fixing rent.

Government replied (May 2024), in four⁷⁰ out of the 20 cases pointed out by Audit, lease rents have been fixed after obtaining concurrence of the Finance Department and Cabinet. However, no documentary evidence was furnished in support of the Government reply.

⁶⁹ Bengaluru Division, No.1 Buildings Division, No.2 Buildings Division, Mysuru, Belagavi and Kalaburagi

⁷⁰ Bangalore Golf Club, Bambarga taluk, Belagavi, Mysore Race Club, and Sri Anjaneya Temple, Mysuru

2.2.2.4 Non-maintenance of Demand, Collection and Balance (DCB) Register to ensure proper and timely collection of lease rent:

Article 33 (a) of KFC stipulates that every demand shall be made at once as payments become due, effective steps are taken for realisation of all amounts due and that proper records are kept to show the progress of recoveries and the outstanding amounts due to Government (DCB). In line with this, Paragraph 194 of the KPWA Code stipulates maintenance of the register of rents. Further, as per Article 34 of KFC, subordinate officers are required to verify the credits included in the Divisional accounts/returns with those in the treasury accounts (reconciliation). However, none of the test checked Divisions has maintained the DCB register and carried out reconciliation with treasury accounts with respect to collection of rent from leased properties. In the absence of DCB register, Audit could not verify the correctness of total assessment, realization and arrears of lease rent in the Divisions.

On this being pointed out, Government replied (May 2024) that Register of rents were being maintained in the Divisions. Despite the reply, the rent register were not furnished to audit. Further, Government stated that necessary instructions were issued once again to all the Divisions to maintain the DCB registers.

2.2.2.5 Non-execution/registration of lease deeds: Section 17(1)(d) of the Registration Act requires that leases of immovable property for any term exceeding one year shall be registered. However, it was noticed that 64 out of 149 leases in the test-checked Divisions (**Appendix-31**) were not registered with the Stamps and Registration Department. This had not only caused loss of revenue by way of Stamp Duty and Registration Fee to Government but also amounted to unauthorised occupation by the lessees which was facilitated by the PWD Divisions.

Government replied (May 2024) that seven properties have already been registered, five leases have been closed and action would be taken to register the lease agreements in the remaining 52 cases. Although the other five cases were stated to have been closed, it is pertinent to note that those leases were operated and closed without registering lease deeds and caused loss of revenue by way of Stamp Duty and Registration Fees.

2.2.2.6 Non-conducting of prescribed inspections by the Divisional Officers:

As per Para 297 of KPWD code, during the month of February of each year or earlier, it is mandatory for the officers of the Department at the section, sub-Division and Division level to inspect the buildings in their jurisdiction, record their findings in the registers prescribed. A certificate to that effect has to be furnished by them in the month of March to the higher officers. A register for inspection of public building shall be maintained in form PWF 20. However, except Belagavi Division none of the other selected Divisions ensured inspection of leased properties at least once in each year. Also, in none of the Divisions, Register of Inspection was maintained. As a result, Divisions failed to recognise encroachment of properties beyond the leased area, unauthorised constructions/modifications, violation of conditions of lease including sub-letting of whole or portion of the leased properties, etc., by the lessees. The

impact of non-inspection of leased properties was commented on in subsequent paras.

After this was pointed out, Government replied (May 2024) that instructions have been issued to all Executive Engineers to submit the certificate to the Chief Engineers for having verified leased land and lease agreement every year.

Failure to follow the prescribed procedures in grant of lease and non-maintenance or updating of prescribed control registers and other documents have led to inadequate monitoring of leases for compliance with terms and conditions of lease.

The Divisions also failed to ensure timely revision of lease rents and collection of lease rents and other amounts as and when they were due from the lessees. Important observations noticed are detailed in the following paragraphs.

Recommendation 6: Government may direct the Department to ensure updating the BIS, rental registers, conducting periodical inspections and to comply with respect to provisions of KPWD Code and KFC with regard to leasing of properties and collection of rents.

2.2.3. Non-renewal of expired lease agreements and Un-authorised Khatha⁷¹ transfer obtained by the lessees in their favour

In the six test checked Divisions, out of 149 leases examined, Audit noticed that though 41 leases expired, the lessees continued to occupy the property paying the rent fixed at the time of the original lease. In respect of 17 leases, the Divisions did not have any information regarding grant of original lease, renewal if any, thereafter, etc. Also, in five cases, it was noticed that the lessees/occupants have obtained Khatha in their favour unauthorisedly without the knowledge the PWD. The details of the properties, occupants, Guidance Market Value (GMV) as of the properties as of March 2023 are given in the **Appendix-32 A to 32 C**.

Allowing the lessees for continued occupation led to foregoing opportunities to earn higher lease rent from new lessees or by renewal of the lease agreement with the existing lessees. Besides, there was a threat of losing the property due to unauthorised Khatha transfer made by the lessees/occupants.

After this was pointed out, Government replied (May 2024) that in respect of KSCARD and KLE, Belagavi action has been initiated to transfer the Khatha in the name of PWD. Additionally, in respect of KSCC Bengaluru, KSCA Bengaluru, and MRC Mysuru, the Government clarified that these institutions are only paying property tax, and the properties are in the name of PWD. However, this reply is not acceptable as the Government did not provide copies of the Khatha for these cases, and the property tax receipts also did not list PWD

⁷¹ Khatha of a property is when that property is recorded in the property register maintained in a Municipality or Corporation. When a property is registered with the Municipality or Corporation, it is assessed to tax, assigned a municipal number and records the person primarily responsible to pay the property tax.

as the owner.

Recommendation 7: Government may direct Department to take action to get back Khatha in favour of the Department in all cases of unauthorised Khatha Transfer by the lessees.

2.2.4. Leasing at concessional rent to private parties and institutions for Commercial purposes in violation of codal provisions.

Paragraph 206 of the KPWA code envisages procedures for leasing out of Government lands and buildings to private bodies, associations, companies and individuals. Accordingly, lease rent should be fixed based on the rates secured in open auction. In cases where auctions are not held, the rate should be fixed in consultation with the jurisdictional Deputy Commissioner with reference to those obtainable in similar localities. The lease in each case should not be more than 5 years at a time. Further, Paragraph 314 of the code stipulates that lease rent shall not be less than seven *per cent* of the capital cost⁷² of the building.

Further, as per Paragraph 311(2) of KPWA code, if any request is received from private party/non-Government Organisation (NGOs/Non-Governmental Institution(NGI)) in the first instance, such request shall be rejected. The GoK vide circular dated 19th March 2009 also reiterated that no government land within the limits of a City or Town shall be granted to any individual or private institution and all such lands will be reserved for public or government purposes.

However, in the test-checked Divisions, it was noticed that in 24 Cases, (**Appendix-33**) lands were leased to NGOs/NGIs or private parties. Important observations noticed in these cases are detailed below:

2.2.4.1 Grant of lease at a concessional lease rent, non-revision of lease rent and encroachment of surrounding properties by the lessee.

Government of Karnataka(GoK) vide their Order dated 25 February 2004 leased two Nishan sheds and one RCC room measuring 193.28 Sqmt, which was constructed between two Official bungalows in Raceview premises of the Racecourse Road, Bengaluru to a private firm (M/s Bhoomika Interior and Exterior Decorators (BIED)). The two Official bungalows are generally allotted to Ministers of GoK. This property was under the jurisdiction of EE, PWD Building Division-1. A lease agreement was entered on 17 March 2008 and the lease was for a period of 25 years, commencing on 26 February 2004 with monthly rent of ₹1,500 only. The Government Order (G.O.) provided for revision of lease rent once in every three years and as per the agreement the lessee was liable to pay interest at the rate of 12 *per cent per annum* for delayed payment of rent.

⁷² Capital cost includes the cost of land and the cost of building thereon after allowing depreciation.

Scrutiny of records revealed the following:

1. In the Report of the CAG for the year 2008-09, Revenue Receipts, GoK (Paragraph No. 7.2.8.2), it was pointed out that an amount of ₹20 lakh as revenue foregone between February 2004 and March 2008 in this lease due to fixation of concessional rent. However, no action was taken by the Department till the November 2018 to fix the correct lease rent despite the GO and the agreement which included a clause for revision of rent once in three years. In November 2018, the Division calculated the rent at the rate of seven *per cent* of GMV, with effect from March 2016 to October 2018 and the total due for 32 months amounting to ₹ 63.29 lakh was demanded. Against this demand, the lessee preferred an appeal before the Hon'ble High Court of Karnataka. The lessee was granted (14 May 2019) an interim conditional stay subject to depositing ₹40.00 lakh in the Court within six weeks. The lessee failed to deposit the said amount in the Court⁷³. However, Division neither proceeded with levy and collection of lease rent nor for termination of lease and eviction of the lessee.
2. The reasons for leasing the property situated in high security premises to a private commercial firm were not forthcoming from the records. The rent fixed at ₹1,500 per month was lower than that worked out by Audit. The rationale for fixing lower rent for the lease given to a private commercial firm was also not available in the records maintained by the Division.
3. A notice issued by the Sub-Division in November 2018, showed that the lessee had encroached adjacent lands measuring 1,825.28 Sqmt. The lessee was directed to vacate the encroached property in the four notices issued between May 2014 and November 2018. But for issue of these notices, no effective action for eviction of encroached land was taken by the Division till date (January 2024). As noticed during JPV conducted in September 2023, the lessee continues to occupy the encroached land valued at ₹ 41.82 crore⁷⁴ at the GMV applicable up to March 2023.
4. Clause 5 of the agreement states that the lessor (PWD Division) reserves the right to revoke the lease (tenancy) even before the expiry of the term of lease and the lessee will have no right to claim any compensation for the termination of the lease. The Department failed to invoke this provision of the agreement even after the lessee refused to comply with the terms of the lease and encroached the adjacent land.

Even if the revenue dues are calculated on a conservative basis at seven *per cent* of GMV, published by Central Valuation Committee⁷⁵, constituted by the

⁷³ In the proceedings held in Hon'ble High Court of Karnataka on 07 March 2023 it was recorded that the learned Counsel for the Government sought a week's time to ascertain whether a sum of ₹40 lakh has been deposited by the lessee. Subsequently, in a letter addressed to Government Advocate by the EE, PWD, No.1 Building Division, it was informed that the lessee had not deposited the said amount.

⁷⁴ The GMV of the property was ₹2,29,100/- per sq. mtr

⁷⁵ A Committee constituted under Section 45-B Karnataka Stamps Act, 1957 for estimation, publication and revision of market value guidelines of properties in any area in the State. The Deputy Inspector General of Registration (Intelligence), shall be the Member Secretary. The Inspector General of Registration and Commissioner of Stamps is the Chairman and the members include representatives from Directorate of Town planning, Directorate of Survey and

Stamps & Registration Department of GoK, the short recovery of rent in respect of leased property for the period from April 2008 to December 2023, worked out to ₹ 4.63 crore. The details of calculations are given in **Appendix-34**.

After this was pointed out, in reply (May 2024) Government reiterated the fact mentioned in the Audit observation that the lessee challenged the notice issued by the Department in the Hon'ble High Court of Karnataka. It was also stated that non-compliance with the Hon'ble High Court Order to deposit ₹40 lakh with the Department by the lessee was brought to the notice of the Government Advocate. There was no mention in the reply on whether or not the matter of non-depositing of ₹40 lakh was brought to the notice of the Hon'ble High Court, though as per the reply the last hearing on the matter was on 7 February 2024. The reply was also silent on the reasons for leasing the property situated in the high security zone to a private commercial firm.

Recommendation 8: Government may direct the Department to

- (i) **deal with leases as per codal provisions where lessees are found to have violated the terms and conditions of the G.O sanctioning the lease or lease agreement.**
- (ii) **to Constitute a Committee for valuation of the properties for fixing lease rent and revise the lease rent in respect of all the leases in force and to ensure compliance with all the statutory obligations including registration of lease agreements and renewals.**

2.2.5 Failure to manage commercial shopping complexes by the Department

PWD owns two commercial shopping complexes, one in Bengaluru and the other in Belagavi. Of these, shopping complex at Jeevanbheema Nagar, Bengaluru (JB Nagar Complex) consisting of two Office spaces and 13 shops, was under the jurisdiction of EE, PWD Building Division, Bengaluru. In Belagavi, there were 54 shops located at Atal Bihari Vajpayee Road, Belagavi town known as 'Tinisu Katte'. Examination of records related to these leases revealed the following:

2.2.5.1 JB Nagar Shopping Complex

The office spaces measuring 87.82 Sqmt and 435.44 Sqmt were leased to City Central Library (since January 1991) and State Bank of India (since January 2012), respectively. Of the 13 shops in the complex measuring 7.42 Sqmt to 13.2 Sqmt, 11 were leased to individuals between January 2005 and March 2013, one shop measuring 7.4 Sqmt was under lease with HOPCOMS since

settlement, BBMP, Bangalore Development Authority, Income Tax Department, Karnataka Public Works Department, Karnataka Irrigation Department, Institute of Chartered Valuers, Federation of Karnataka Chamber of Commerce and Industries and any other person having expertise in the subject. Total members not exceeding 20.

October 1994 and one shop measuring 9.29 Sqmt to Karnataka State Cooperative Fisher's Ltd. from May 2019. The following observations were made in respect of these properties:

1. Records related to title of the property were not maintained and reasons for construction of shopping complex by the Department was not on record.
2. Standard terms and conditions such as penalties for delayed payment, collection of security deposit to safeguard the interest of the Government against any damage/misuse or default in payment of rents were not included in the agreements.
3. Registration of the lease/rental agreements was not ensured by the Divisions though the initial term of the lease was from two to 10 years.
4. Basis of allotment to individuals was not available on record. The lessees were allowed to occupy the properties beyond the agreed period without renewal of lease agreement. Consequently, this deprived the Government the opportunity of revising the lease rent from time to time based on the market value of the property.
5. The lessees were also found to have defaulted in payment of monthly rentals for 5 to 94 months. While the Division issued demand notices to the lessees for lease rent of ₹ 24.24 lakh as per original lease agreements, the lease rent was yet to be recovered (October 2023). All the occupants of 11 shops were evicted on 21 January 2023. Against this Audit worked out the actual lease rent due at ₹2.92 crore at seven *per cent* of the market value of the properties after expiry of the lease agreement till the date of eviction. However, no action was taken to recover the outstanding dues before or after their eviction.
6. With effect from 1 July 2017, GST was leviable on the lease rent collected and the same was to be recovered from the lessees.

The series of omissions and non-compliance with the provisions of KPWD Code and other legal obligations by the Divisions had led to unauthorised occupation of the Government properties. Due to lack of timely action by the Divisions and the Department as a whole, the chances of realisation of outstanding lease rent amounting to ₹ 2.92 crore are bleak. The details are given in **Appendix-35**.

After these cases were brought to notice, Government replied (May 2024) that all shops were already evicted on 21.01.2023. Action has been initiated to recover the balance rent from the defaulters as early as possible. However, details of action taken to recover the dues from the defaulters have not been furnished to Audit (June 2024).

2.2.5.2 Tinisu Katte, Belagavi

Unlike in Bengaluru Division, Belagavi Division leased all the 54 shops in a transparent manner, through tender, in three phases between February and October 2021 for a lease period of five years. The lease was awarded to individuals who quoted highest bids as rentals. It was also noticed that the

Division also collected security deposit from the tenants/lessees. The lease period was, however, extended to 30 years vide GO⁷⁶ dated 22 July 2022 on the request made by the lessees that they have obtained loans for purchase of furniture and other ornamental decorations and also suffered loss due to Covid-19.

The lease extension period to compensate for the loss due to Covid-19 impact should have been in proportion to the loss suffered by the lessees. Extending the leases from five years tenure to 30 years was irregular and was providing unintended benefit to the lessees. Had the intention to grant lease for 30 years mentioned in the notice inviting tenders, fetching better rental bids by the Department cannot be ruled out. In addition the following observations were also made:



Picture 8: Lessees using open area in front of the leased shop premises

1. As per Para 314 (5) of KPWD code, if the open area around the structure which has facility of parking or can be utilized for other purpose is proposed to be taken over along with the building, the percentage of return on the said open area shall be taken as 9 in case of corporation cities and 8 in case of mofussil towns both for non-residential and residential use of the property. During JPV of these shops, it was found that the lessees are

utilizing the open space (PWD land) situated in front of these 54 shops for the purpose of customer sitting area, which forms part of their business. As the lessees were allowed to use space, charging of additional rent as per para 314(5) of the KPWD Code needs to be considered by the Department.

2. With effect from 1 July 2017, GST was leviable on the lease rent collected and the same was to be recovered from the lessees. In these cases, the lease agreement was effective from February 2021 and the annual lease rent revenue from 54 shops was ₹ 21.31 lakh and accordingly, the annual GST at 18 *per cent* works out to ₹ 3.84 lakh. The details are given in **Appendix-36**.

After these cases were pointed out by Audit, Government replied (May 2024) that the lessees are not allowed to use the space in front of the shops, since it is a part of the road. However, the shop keepers are using this area as any footpath vendors do but it might not be on a permanent basis. Hence, it is of the opinion that the percentage of return on the said open area shall be seven *per cent* only. As could be seen from the Picture 8 above, the lessees were using the open area in front of their shops within the shopping complex area and not in the public road/footpath as stated by the Government and hence, the reply is not acceptable. Further, Government agreed to recover GST on the rents collected.

⁷⁶Government Order No.PWD 202 BMS 2019 Bengaluru dated: 22 July 2022

Recommendation 9: Government may direct the Department to

- (i) to ensure compliance with all the statutory obligations including registration of lease agreements and renewals.
- (ii) ensure transparency in sanction of lease of lands and buildings.

2.2.6. Violations of conditions of lease and construction of Commercial/Office Complexes by the lessees

Every lease of land by Government to private persons and Non-Government Organizations for longer periods of time is for a specific purpose. In the three cases discussed below, the objective of the lease was to serve a defined public purpose. Therefore, it was essential to monitor such leases and ensure that lands were not diverted for other purposes to earn revenue by encashing the goodwill of the property. However, it was noticed that in the following cases that the Department, due to lack of timely action and active pursuance of the same, failed to ensure compliance with the terms of lease, failed to terminate the lease and takeover the lands even after noticing misuse by the lessees. This resulted in non-realisation of Government revenue of ₹ 137.15 crore. The details are as under:

2.2.6.1 Misuse of land leased for creating facilities for farmers**A. Lease to Karnataka Pradesh Krishik Samaj (KPKS):**

In April 1966, the then Government of Mysore leased 60,258 sq. ft. of land to KPKS for 99 years at ₹1,000 per annum for setting up of cold storage and agricultural activities. In December 1967, the leased area was reduced to 53,328 sqft. The lessee paid lease rent of ₹1,000 per annum for the years 1984-85 to 1986-87. Surprisingly, the rent of ₹ 5,000 paid by the lessee for the years 2013-14 to 2017-18 was returned by the Division stating that no connected records were available in the Division.

The Departmental officers inspected the premises between July and October 2017 and reported that KPKS had neither established the intended cold storage, nor carrying out agricultural activities, instead, constructed an office complex and sub-let to nine tenants. Owing to this, the Division assessed and demanded ₹129.02 crore as the rent due for the period from January 1997 to February 2023. However, KPKS didn't pay any. During JPV (August 2023), it was found that KPKS apart from sub-letting to nine tenants, also constructed an additional five-floor building (excluding basement and ground floor) in the leased land and let for commercial purposes. Thus, the KPKS continued to violate lease conditions and diverted intended purpose of leasing Government land. Lack of timely action by the Department despite repeated violations and failure to adhere to the lease conditions raises concerns about the possibility of potential collusion between officials and the lessee, warranting further investigation.

In reply, the Government confirmed (May 2024) that KPKS had violated the lease terms by subletting the property for commercial purposes. Also, an

eviction order was issued on May 6, 2024, with the notice served on May 14, 2024.

B Lease to an individual:

The Government of Mysore sanctioned⁷⁷ lease of a land measuring 34.24 Guntas (37,287 Sqft) in Belagavi town opposite to NWKRTC Bus Stand, for 99 years in favour of Sri N. A. Hanamannavar, to build a cold storage unit, soil testing laboratory and farmers rest house. The lease agreement was executed on 11 June 1967 and lease rent was fixed at ₹ 86 per annum. The lease agreement, inter alia, stipulated that the land should not be used for purposes other than the purpose for which it was sanctioned and the Lessee shall not sub-lease the land to any individual or society or institution, without the prior permission of Government. Scrutiny of the records related to this lease in the PWD, Division, Belagavi revealed the following:

1. The lessee had constructed a shopping complex on the ground floor which was sub-let to 11 tenants and the first floor was sub-let to a tenant for running a lodge.
2. After the violations were noticed (December 2013) by the Department, the lessee preferred arbitration before Deputy Commissioner. The arbitration award fixed the rent for 10 years from 5 June 2007 to 4 June 2017. The initial rent was fixed ₹ 2.14 lakh per annum for 2007-08 at 1/300th of the GMV of ₹ 6.41 crore⁷⁸ of the property. The arbitration also ordered for 10 *per cent* increase in rent per annum and accordingly rent for the year 2016-17 was ₹ 5.04 lakh. The Arbitration Award was not in accordance with the provisions of the KPWD Code which stipulates that annual lease rent shall be seven *per cent* of the market value of the property which works out to ₹44.89 lakh for the year 2007-08. However, the Department failed to appeal before higher courts against this Order. Thus, the revenue realised was short by ₹ 4.15 crore for the 10 years period ending 4 June 2017 (calculated on a conservative basis of keeping rent uniformly at ₹ 44.89 lakh for all the 10 years).
3. Audit also noticed that the lessee continued to pay the lease rent of ₹ 5.04 lakh per annum till date (October 2023). No action was taken by the Department to fix the rent at seven *per cent* of GMV of the property even after the expiry of the arbitration award as on 4 June 2017 and to provide for annual increase. Short realisation of revenue to Government by way of lease rent works out to ₹ 2.29 crore calculated at the rate of 7 *per cent* on a conservative basis, adopting the same GMV used by the adjudicating authority in the arbitration award for the years from 2007 to 2017 and without providing for annual increase in the rent from June 2017 to Mar 2023.

Thus, inaction by Divisional Officers concerned had not only resulted in non-realisation of intended benefit to the society, for the farmer community of the State in particular, but also led to loss of revenue to Government and unintended financial benefit to the lessees due to misuse of properties for commercial

⁷⁷ GO No: AFD-8-FGL-66 dated 11 March 1966 and AFD 31 FGL 66 dated 08 January 1967

⁷⁸ GMV=₹6,41,33,640/-; 10 *per cent* of GMV=₹64,13,364/-; lease rent for 2007-08 = ₹ 64,13,364 / 30 = ₹ 2,13,779/-

purposes.

After this was brought to notice, Government replied (May 2024) that action was initiated to evict the lessee from the property under the Karnataka Public Premises (Evection of Unauthorized Occupants) Act, 1974. The same was stayed by Hon'ble High Court of Karnataka. However, no reply was furnished with regard to inaction on the part of the Department to challenge the concessional rent fixed in arbitration award and non-revision of lease rent after termination of the arbitration award period in 2016-17 to till date. Since the matter of eviction of the lessee was only sub-judice and there was no stay order on revision of lease rents by any Court, reasons for not demanding applicable lease rent at seven *per cent* of the market value of the property requires explanation by the Authorities concerned.

2.2.6.2 Breach of agreement by misuse of factory premises leased for revival.

The Chief Engineer, C&B Bengaluru issued orders on 26 September 2005 to lease out 'Brick Factory' on land measuring nine acres five guntas to an individual (Shri Dhanaraj) to revive the defunct Brick Factory in Medahalli, Hosakote Taluk, Bengaluru. The period of lease was 25 years at an annual rent of ₹ 2.10 lakh with the condition to increase the rent by 10 *per cent* once in three years. The Order also provided for revision of the rent once in five years at the discretion of the Government. The lease agreement was executed on 5 October 2005 between the Executive Engineer, PWD Division, Bengaluru and the lessee. Scrutiny of the relevant records and joint physical inspection of the premises revealed that the lessee had not taken any actions to rejuvenate the brick factory, instead the land was being used as a dump yard for construction debris. A portion was also used for storing pavement tiles and other construction materials. Thus, a property which had a potential to earn good revenue to Government, was being allowed to be used by the individual for his own benefit at the cost of concessional lease rent fixed by the Government.

A notice for eviction was issued in March 2019 for breaching agreement conditions. The lessee challenged the eviction in a Writ Petition (No. 52736/2019), pending in the High Court of Karnataka as of the last hearing on 14 December 2019, with the next scheduled for 28 February 2024. No action was taken by the Department and the Government Pleader to seek early hearing on the matter and bring the breach of lease conditions by the lessee to the notice of Hon'ble High Court and to get the property vacated. The GMV of the property as on 31 March 2019 was ₹ 47.08⁷⁹ crore and even the bare land had the potential to earn annual lease rent of ₹ 5.11⁸⁰ crore.

After this was brought to the notice, Government replied (May 2024) that in a letter addressed by the jurisdictional Division on 10 April 2024, Advocate

⁷⁹ Guidance Market Value was ₹5.16 crore per acre. For 9 acres and 5 Guntas it was ₹ 47.08 crore. For industrial use as per the Guidance Market Value guidelines the value to be further appreciated by 55 per cent (Note 2 table sl.no.2 of the GMV Notification) which takes the Guidance Market Value to ₹ 72.98 crore.

⁸⁰ As per the PWD norms the expected Annual Rent is seven per cent of the market value of the property which is ₹ 72.98 crore X 7 *per cent*= ₹5.11 crore.

General of High Court has been requested to seek early hearing on the matter.

Recommendation 10: Government may direct the legal counsels of the Department to take necessary steps to get the advanced hearings in Courts to get the stay orders vacated and ensure that early settlement of the cases pending in Courts.

2.2.7 Violation of conditions of lease by Public Sector Undertakings of Government of Karnataka

The Government lands and buildings were also leased to the State Government Corporations. As these corporations are managed by the Officers appointed by the Government, ensuring compliance with lease conditions, utilisation of properties for the intended purposes, timely collection of lease rents, etc. are expected to be ensured from both ends i.e., by the PWD Divisions concerned as well as by the lessees. However, it was noticed that the lessee Companies failed to adhere to the terms of the leases and the Department also failed in monitoring the same. As a result, encroachment of properties, sub-letting of the Government properties at a concessional lease rent to private individuals/organizations and other irregularities leading to financial loss to Government were found on records as well as during joint physical verification of the properties. The details are given in the following Table No.2.2.1:

Table 2.2.1: Violations of conditions of lease by Government Corporations

Sl. No.	Name of the Corporation, details of the property leased and terms of lease	Details of violations noticed and its impact
1.	<p>M/s Karnataka State Construction Corporation (KSCC)</p> <p>Land measuring 4,180 Sqmt, with 332.81 Sqmt. PWD Office building in Rajajinagar, Bengaluru at the lease rent of ₹ 5,000 per annum. The lease was for 30 years from August 1984 initially and renewed for 10 years with effect from August 2014 at nominal rent of ₹ 5,000 per month.</p> <p>The terms and conditions of lease stipulated that the lessee should not sub-let the property.</p>	<p>(i) The Corporation obtained Khatha (title to property) in its favour (Chairman, KSCC - BBMP PID No.14-1-2-1-1) which was illegal.</p> <p>(ii) The Corporation constructed an Annex Building without prior permission of the PWD and the building plan was not got approved by the Chief Architect.</p> <p>(iii) The Corporation sub-let the property to five tenants including three State Government Offices, one Joint Sector Company and one private firm⁸¹. The Corporation was earning rental revenue of ₹ 2.28 crore per annum as of March 2023. The total rent collected by the Corporation between October 2014 to September 2023 was ₹ 13.19 crore. This was a clear violation of the conditions of lease. As the land and building belonged to Government, the rent collected from sub-letting the property was due to Government.</p>

⁸¹ For motor vehicle garage

Sl. No.	Name of the Corporation, details of the property leased and terms of lease	Details of violations noticed and its impact
		After this was brought to the notice, Government stated (May 2024) that the ownership as per khatha certificate and khatha extract is with the Department. Regarding breach of contract by KSCC by sub leasing to 5 tenants and obtaining rent of ₹ 13.19 crore during October 2014 to September 2023 matter has been referred to CE, C&B (S), Bengaluru and Secretary, Government of Karnataka, PWD for necessary action. However, copies of Khatha certificate and Khatha extract were not furnished to Audit for verification.
2.	<p>M/s Karnataka Road Development Corporation Limited (KRDCL)</p> <p>Land measuring 2,955 Sqmt. in Rajajinagar, Bengaluru for 30 years from April 2013 for the construction of administrative block. The lease rent of ₹ 14.78 lakh per annum was fixed along with the condition that 30 <i>per cent</i> of the built up area should be kept reserved for PWD use.</p> <p>Other terms and condition of the lease were as under:</p> <p>a) The building shall be of five floors only, not exceeding 24 metre height and Floor Area Ratio (FAR) of 2.25 to be maintained.</p> <p>b) The lessee should not sell/sub-let/Mortgage the land so leased. In case, beyond lease condition, if KRDCL lets out any portion of the building without prior approval from PWD, the income accrued will be forfeited to PWD. However, in March 2018, Government accorded approval for sub-letting the portion of building, which was in excess of the requirement of the KRDCL.</p>	<p>(i) During JPV it was noticed that KRDCL constructed Seven floors against five floors stipulated by the Government Order.</p> <p>KRDCL sought permission from Government to use the 30 <i>per cent</i> of the constructed property to PWD for its own purposes and to sub-let the property. Accordingly, permission was accorded by the Government vide their Order dated 5 March 2018 for sub-letting the property.</p> <p>(ii) It was noticed in May 2023 that KRDCL failed to pay the lease amount for the period from December 2014 to December 2022. After this being pointed out, KRDCL remitted entire lease rent amount ₹ 1.18 crore on 22 May 2023. However, the interest for belated payment of rent had not been demanded by Division.</p> <p>After this was pointed out, Government replied (May 2024) that KRDCL had constructed office building with two basements and five floors and it is within the prescribed FAR norm 2.25. The reply is not tenable as KRDCL had constructed a seven floor building with two basements. Possibility of violation of FAR norm of 2.25 prescribed for this building cannot be ruled out.</p>

2.2.8 Lack of monitoring of land and buildings leased to organisations in Co-operative Sector

Land and buildings of PWD have been leased to two major Co-operative institutions in Bengaluru. However, due to absence of adequate monitoring, failure to ensure timely renewal of lease agreements, non-revision of lease rents and failure in collection of lease rent have led to accumulation of arrears of lease rent, unauthorised construction, and unauthorised occupation of property beyond the lease period by these institutions. The details are given in the following paragraphs:

2.2.8.1 Un-authorised khatha transfer by the lessee not noticed by the Department.

The Government of Karnataka leased (22.11.1968) 1,775 sq. yards (15,795 sq. ft.) in Chamarajapete, Bengaluru, to M/s Karnataka State Co-operative Agriculture and Rural Development Bank Limited (KSCARD) at ₹5325/- per annum for 30 years for the purpose of extending a bank building and raising a garden. The agreement expired in 1998 without renewal. The lessee continued occupying the property without renewing the lease, eventually requested for renewal in November 2016, 18 years after expiration, in contradiction to lease condition of renewal request to be made six months before the expiry.

Thereafter, the Division worked out the lease rent due from 1997-98 to 2016-17 at the rate of 6 per cent of the GMV of the property and demanded ₹ 5.42 crore from the lessee. However, the lessee did not pay the rent demanded by the Division and continued to occupy the property. The rent due till March 2023 calculated by the Division amounted to ₹ 8.60 crore

During JPV, it was noticed that the lessee had unauthorisedly obtained the Khatha of the leased property from Bruhat Bengaluru Mahanagara Palike (BBMP) in their name. Thus, non-maintenance of the control registers and other records as stipulated in the KPWD Code and KFC as discussed in paragraphs 2.2.2.1 to 2.2.2.6 had led to absence monitoring over the leased property, besides accumulation of huge arrears of lease rent of ₹8.60 crore. More alarmingly, such laxity had resulted in the Department altogether losing track of its property. Thus, but for the correspondence made by the lessee in November 2016, Department would have lost its property valued at ₹ 10.36 crore as per the GMV of 2016-17.

Government replied (May 2024) that action has been initiated to recover the rent as well as change of the name of the lessee in the Khatha and a legal notice was issued to evict the lessee under the Karnataka Public Premises (Eviction of unauthorized Occupants) Act, 1974 on 22.12.2023.

2.2.8.2 Un-authorised occupation and lack of maintenance of property leased to a Co-operative institution.

The Government purchased the Asiatic Building situated in 1 acre 20 guntas at Kempe Gowda Road, Bengaluru, in December 1951. Out of which building comprising of 32,893 Sqft was leased to Karnataka Co-operative Consumer Federation Ltd (KCCF) to run Janata Bazar for 30 years starting from March 1967. Although the lease ended in 1997, the lessee continued to occupy the

property without a valid lease and was paying ₹37,508 per month until December 2014. Thereafter, the lease was regularised from back dates and extended up to 2033 (21.03.2023).

During JPV, it was noticed that the property was liable to pay property tax of ₹ 8.78 lakh per annum between 2008-11 and ₹ 9.25 lakh from 2011-23. The terms and conditions of the lease agreement did not provide for payment of property tax by the lessee. The Division failed to include a property tax payment clause in the agreement, resulting in unpaid taxes to BBMP and now onus lies in the Department to clear the liability with applicable interest thereon. Besides, the building was poorly maintained. The Division also failed to include maintenance clause in the renewed lease agreement, as a result, it is obligatory on the part of the Department to bear building repair cost. Recovery of rent at a rate which is less than the property tax liability to the Government amounts to undue benefit granted to lessee.

In reply, the Government acknowledged the tax liability but did not explain why the lessee was not made responsible.

2.2.9 Short collection of lease rents due to error in computing gross income of the lessees

A land measuring 153.39 acres in Kurubarahalli Village, Mysuru City was being used for conducting horse races since 1891. The Maharaja of Mysore sold this land to M/s Mysore Race Club Limited (MRC) in September 1971. Government of Mysore acquired this land during January/March 1976 under the provisions of Land Acquisition Act 1894 for the purpose of promoting Sports and Allied activities and paid compensation of ₹ 20.70 lakh to MRC. With effect from 1 April 1976, the lease was granted in favour of the MRC for the purpose of conducting horse races.

Loss of revenue to Government of ₹ 96.36 crore due to collection of concessional lease rent for the period from 1 April 2006 to 31 March 2009 was pointed out in the Audit Report 2008-09. After this was brought to the notice, Government renewed the lease on 10 February 2014 with retrospective effect from 1 April 2006 to 31 March 2016 and fixed the lease rent at two *per cent* of the Gross Income of the company with effect from 1 April 2006. The lease was extended for a further period of 30 years from 1 July 2016 to 31 July 2046 and lease rent fixed was continued two *per cent* of the Gross Income of the company.

Further, on a representation made by M/s Jayachamarajendra Wodeyar Golf Club (JWGC) that it is also using the same premises for its golf activities, it was decided that lease rent at the rate of two *per cent* of the gross income of JWGC would be collected by MRC and the same would be remitted to Government, in addition to the lease rent payable by the MRC. Scrutiny of the files related to assessment and collection of lease rent on the Gross Income of the MRC and JWGC revealed the following:

- (i) The MRC, instead of paying lease rent on Gross Annual Income, deducted the totalizator tax, entertainment tax, Corporation tax, Licence Fee paid to conduct horse races and interest received on deposits. Claiming such

deductions from the Gross Annual Income was irregular as the lease rent was payable at two *per cent* on the Gross Annual Income only. The erroneous deductions made by MRC, had resulted in short payment of ₹ 1.92 crore for the years from 2006-07 to 2022-23. However, no action was taken by the Division to ensure the correctness of the lease rent paid by MRC and to demand the differential amount.

(ii) The JWGC, had not prepared Profit and Loss Account or Income and Expenditure Account. The Gross Income was computed by considering the Income of the club from different Sections (business segments). However, JWGC did not consider the interest earned on its Fixed Deposit Investments. The interest earned on such investments and the lease rent due on the same at two *per cent* for the years 2016-17 to 2022-23 was worked out by Audit at ₹ 0.12 crore (details in **Appendix-37**). The Division failed to notice omission of interest accrued on investments and failed to demand the lease rent at two *per cent* thereon.

After these cases were brought to notice, Government replied (May 2024) that the differential amount of rent as pointed out by Audit would be recovered from the lessees.

2.2.10. In-adequate follow-up on lands leased for educational purposes

Government sanctioned lands on lease basis at a concessional or nominal lease rent to educational institutions for the specified purposes such as construction schools and colleges, cultural and other activities connected with education, etc. Therefore, it is the responsibility of the Divisional Officers to bring to notice of the Government, after due verification as stipulated under paragraph 311 of the KPWD Code, whether the land has been used by the lessee for the specified purposes. Also, on expiry of the lease period, further action such as either renewal or taking back the possession of the property has to be initiated by the Division.

However, during scrutiny of the records Audit noticed two leased cases of land for educational purposes where Divisions had not taken action to regulate the leases as per codal provisions. The details are given in the following **Table 2.2.2:**

Table 2.2.2: Lack of regulatory control over lands leased for educational purposes

Sl. No.	Name of the lessee, details of the land leased including extent of land in acres-guntas	Purpose of lease and Lease Rent stipulated	Issues noticed
1.	Karnataka Lingayat Educational Society, 6 acres – 21 guntas in Sy. No.100/B of Bambaragi Village, Belagavi Taluk. Period for 10 years from 28 May 2007 to 27 May 2017	Educational purposes. ₹20,228 per annum	The land leased had not been put to intended use till date of JPV (18 July 2023) conducted by Audit. However, this was not verified and brought to the notice of the

Sl. No.	Name of the lessee, details of the land leased including extent of land in acres-guntas	Purpose of lease and Lease Rent stipulated	Issues noticed
	Further, GO was issued on 28 March 2023 for extending further period of 30 years.		<p>CE by the Division/SE. As a result, the Government renewed the lease by a G.O. dated 28 March 2023.</p> <p>It was also noticed that the lessee made unauthorised revenue Khatha in his name vide MR-53/2006-07 dated 31 July 2007. Later, the Division preferred an appeal before Revenue Department and got back the Khatha.</p> <p>After this was pointed out, Government replied (May 2024) that the lessee had been directed in December 2023 to use the land for the purpose for which it was leased to them.</p>
2.	Hyderabad Karnataka Educational (HKE) Society, 14 acres 27 Guntas, in Sy No. 127 of Badepur Village, Kalaburagi, Lease of land for 50 years from 16 May 1968 to 15 May 2018.	<p>Educational purposes.</p> <p>₹ 1/- per annum</p>	<p>The lessee has established and has been running the Mahadevappa Rampure Medical College (MRMC) in the said land.</p> <p>As the lease period expired in 2018, action needs to be taken to renew the lease and fix appropriate lease rent.</p> <p>Audit noticed that the lessee had obtained unauthorised Khatha in the year 1976.</p> <p>After this was brought to notice, Government replied (May 2024) that action had been initiated to get back the Khatha in favour of the Department and to revise the rent at ₹3.46 lakh per month.</p>

2.2.11 Conclusion

The Public Works Department did not give due importance to the valuable lands and buildings in its possession. Adequate monitoring was not being carried out in respect of its properties leased to institutions. The monitoring and other controls measures prescribed under the codal provisions governing the Department such as maintenance and updating of BIS, rent register, periodic inspections, submission of verification reports to higher Authorities, etc. were not being followed. As a result, Department was not in a position to ensure that the lessees were using the properties for the intended purpose and adhering to the terms and conditions of lease. Also, the outstanding rental revenue due to non-recovery of rent in a timely manner was ₹ 155.26 crore in the test-checked cases. The Government lands and buildings were not being protected from unauthorised occupation or misuse of leased properties by the lessees. Periodical payment of lease rents by the lessees, timely renewal of the expired lease and revision of lease rents were not watched by the Divisional officers and as a result, Government was deprived of its revenue due in the form of lease rents. There was no transparent policy in the Department with respect to tenant selection and fixing of lease rents.