



# *Chapter-III*



## *Other Compliance Audit Paragraphs*



## Chapter III: Other Compliance Audit Paragraphs

### Forest, Ecology and Environment Department

#### **3.1 Excess payment to contractors due to incorrect measurement of RCC quantity for barbed wire fence with Cement Pillar Fence Posts - ₹1.48 crore**

*Incorrect measurements of works executed and material consumed in the work had led to excess payment of ₹1.48 crore to contractors.*

Para 15 of Karnataka Financial Code (KFC) states that every Government servant, who incurs or authorises the incurring of expenditure of public money shall see that it does not contravene the canons of financial propriety. Para 15 also states “*every Government servant should exercise the same vigilance in respect of expenditure incurred from Government revenues as a person of ordinary prudence would exercise in respect of the expenditure of his own money*”. Also, as per Para 16 of KFC, it is the duty of every Government servant not merely to observe complete integrity in financial matters, but also to be constantly watchful to see that the best possible value is obtained for all public funds spent by him or under his control and to guard scrupulously against every kind of wasteful expenditure from public funds.

As per Para 115 of Karnataka Forest Account Code all payments for work or supplies are based on quantities recorded in Measurement Book or Field Note Book. It is incumbent upon the person taking the measurements to record the measurements clearly and accurately. Further, as per Para 118, for all payments made by Range Forest Officer, he should check measure 100 *per cent* of works carried out and Assistant Conservator of Forest should check measure 25 *per cent* before making payment. If at the time of check measurement of works, any deficiencies are noticed either in quantity or quality, the Deputy Conservator of Forest shall take action to recover the value of work which is charged and initiate disciplinary action against the concerned.

The mandate of the Forest Department, inter alia, includes protecting the forests and wildlife. To protect the forests, the Department has taken up the work of erecting barbed wire fencing. The scope of the work included erection of barbed wire fencing with Cement Pillar Fence Posts (Reinforced Cement Concrete-RCC poles) at 3 metre intervals with one additional supporting pole for every three poles erected along the boundaries of plantations. As per the estimate (Data Sheet approved for the scheme/programme), 444 RCC poles per running kilometre<sup>82</sup> were required to be erected. The dimension of each RCC pole was 1.65 metres x 0.125 metres x 0.15 metres. Out of 1.65 metres length of the pole,

---

<sup>82</sup> No. of poles were estimated by the Forest Department per ha. As per the estimate 72 running meters required to be fenced with 32 poles per ha. Accordingly, per km of boundary line it works out to 444 poles.

0.45 metres was to be embedded in Plain Cement Concrete (PCC) footing below the ground level in excavated pits of specified size (0.30mx0.30mx0.50m).

It was noticed that in 13 Forest Divisions (between May and November 2023), while calculating the quantity of PCC to be filled in the pit, excavated for erecting RCC pillars, the Divisions did not deduct the quantity of PCC corresponding to the portion of RCC pole embedded in the pit. Considering the dimension of RCC poles, the excess quantity of PCC considered for payment worked out to 3.75 cum<sup>83</sup> per kilometre. A total of 644.10 kilometre of barbed fencing had been executed in these Divisions during 2021-22 and 2022-23 and the excess quantity considered for payment was 2,408.37 cum. Thus, incorrect measurement of quantity of the PCC used in the works by the Divisions had resulted in excess payment of ₹1.48 crore as detailed in the **Appendix-38**. In two<sup>84</sup> Divisions the measurement of PCC filled in the pit was done correctly, deducting the volume of the RCC pillar embedded in the pit.

After these observations were pointed out Government replied in April 2024 that certain Divisions have stated that RCC pillars were embedded in a bed of PCC for strength. Concrete was also utilised above the ground around the pillar to strengthen the pillar and avoid water logging lest it is pushed down by wild animals. Certain Divisions have reported difference between the objected amount pointed out by Audit, due to the reasons like tender savings, non-execution of works etc. Government also stated that in case of some of the Divisions notices were issued to contractors and action being taken to recover the excess amount from the contractors.

This reply is not consistent as some of the Divisions accepted the audit observations and issued notices for recovery. The reply of the other Divisions stating that concrete has been measured as per the dimensions of the pit is not in accordance with the quantum of concrete actually used and is therefore not acceptable and is merely a justification for incorrect measurement and payments made.

**Recommendation 11: Government may direct the Forest Department to recover the excess payments made to contractors.**

---

<sup>83</sup> For embedded length of 0.45 M per RCC Pole and considering 32 RCC poles per ha, as provided in the data sheet, the extra quantity of PCC per KM=  $0.125 \times 0.15 \times 0.45 \times 32 / 72 \times 1000 = 3.75$  cum.

<sup>84</sup> Chikkaballapura and Ramanagara

## Public Works Department (PWD)

### 3.2 Irregular work measurements and payments - ₹ 21.32 crore

**Karnataka Public Works Departmental Code (KPWD Code) stipulates that no work should be measured and paid after 15<sup>th</sup> of March.**

**In Ballari and Koppal Divisions, works related to Construction and Improvement of CC Roads and Drains worth ₹ 21.32 crore were measured and paid within a span of 1 to 21 days from the date of entering into agreement with the Contractors, though the curing of concrete and test reports could be prepared only after 28 days.**

Para 202 of the KPWD Code states that to ensure equalization of expenditure throughout the year and to avoid the rush of expenditure at the end of each month and at the end of the year, it has been ruled that work done and measured in one month shall ordinarily be paid for during the next month. But no work should be measured after the 15<sup>th</sup> of March without the special order of Chief Engineer concerned and paid for till April.

Further, Para 228 (e) of KPWD code highlights the potential irregularities which may be caused by rush of expenditure in March which are as follows:

- i) Payments made before the work or service, for which they are due, is performed.
- ii) Hasty or imperfect measurements of works followed by hurried payments towards the close of the year.

These irregularities shall be scrupulously avoided and if committed, serious notice will be taken by Government of the conduct of the Government servants responsible for them.

Clause 602 of Ministry of Road Transport and Highways (MoRTH), 5<sup>th</sup> revision stipulates the procedure to be adopted for laying concrete roads. As per the said Clause Trial Mixes shall be made in presence of Engineer or his representative and that the Design mix be subject to approval of the Engineer. Further, during the execution of work, sample cubes from fresh concrete shall be cured and tested at 28 days as per IS 456:2000, which means that once the work is commenced it typically takes a minimum of 28 days for curing and testing the quality of concrete. The 28 days compressive strength shall be the criterion for acceptance and rejection of the concrete.

On a review of 32 Major works such as 'Construction and Improvement of CC Roads and Drains' taken in Koppal and Ballari Divisions under 5054 Head of Account (HoA), it was observed that the works were entrusted to the contractors by executing agreements between 25<sup>th</sup> February and 24<sup>th</sup> March 2022. However, disregarding the provisions of the KPWD Code, work measurements were done between 15<sup>th</sup> and 24<sup>th</sup> March 2022 and payments totaling ₹ 21.23 crore were made between 15<sup>th</sup> and 28<sup>th</sup> March 2022. The details are given in **Appendix-39**

(Koppal Division) and **Appendix-40** (Ballari Division). The payments were made within a short span of 1 to 21 days from the agreement date and hence, were in violation of the provisions of the KPWD code. Also, construction of CC roads and drains within such a brief period was not feasible. As the work could not be executed and completed within the short period of 1 to 21 days, Audit concludes that the work measurements in these cases were fictitious and the payments were made without actual work execution or the works were executed subsequent to release of payments.

On being pointed out by Audit in October 2023, Government replied in December 2023 that an action plan was prepared based on the grant allotted and the same was approved by the Superintending Engineer. These works were entrusted to experienced Class-I contractors having men and machinery. Bills for these works were prepared based on the actual progress and was paid by withholding a part of bills for want of test reports of compressive strength of concrete. After satisfactory test results, final bills were paid. The main objective of the Department is to ensure that Grants were not wasted and to carry out essential works in public interest.

As evident from the reply that in these cases though work had not reached the stage where measurements could have been taken, payments were made in advance trusting the contractor's ability by the Officers of the respective Divisions at their discretion instead of following the prescribed Rules and procedures. The payments made to avoid lapse of Grants received are clear violation of paragraphs 202 and 228 (e) of the KPWD Code.

While the Koppal Division had paid the entire amount as per the RA Bills, the Ballari Division paid the RA bills after withholding a meagre amount of ₹ 2 lakh per work for want of test reports. Preparation of RA bills without test Reports was irregular. Besides, the Quality Assurance reports enclosed with the Government reply also showed that the works were executed later. In 15 out of 20 works pertaining to Ballari Division, the date of measurement preceded the date of casting of concrete up to 70 days. The details are given in the **Appendix-41**. As per Para 228 (d) "no work measured after 15th March shall, without the special orders of the Chief Engineer, be paid for till April". As no such special orders of the Chief Engineer were found on record, the payments made were beyond the powers of the Divisional Engineers and were irregular. Furthermore, the Government reply is silent about the execution and measurement of work without the approval of the trial mixes.

**Recommendation 12: Government may investigate and fix responsibilities on Government servants as stipulated under Para 228(e) of the KPWD Code.**

### 3.3 Undue benefit to Network service providers towards road cutting charges - ₹ 7.32 crore

**While permitting the laying of Optical Fiber Cable networks from different service providers, four PWD Divisions adopted incorrect rate towards road cutting and restoration charges instead of collecting at the rate specified by GoK in this regard. This had resulted in undue benefit to Network service providers by way of short recovery of Road Cutting Charges of ₹7.32 crore.**

Electricity Supply Companies (ESCOMs) and various internet network service providers (NSPs) lay their electricity supply/distribution lines or optic fiber cables within the Right of Way (RoW) alongside roads. For this purpose, the ESCOMS and NSPs are required to obtain permission from the respective Road Management Authorities. The Public Works Division grants permission to the user agencies on payment of road cutting and restoration charges to compensate for any damage occurring during the process of road cutting.

Government of Karnataka (GoK), following up on World Bank's 'Doing Business Reports'<sup>85</sup>, to improve ease of doing business, standardized (June 2020) the rates<sup>86</sup> for cutting RoWs of State Highways (SHs) and Major District Roads<sup>87</sup> (MDRs) for the purpose of obtaining electricity connections. Further, GoK vide letter dated 19 April 2021 issued to all Chief Engineers of PWD, Karnataka State Highway Improvement Project and Karnataka Road Development Corporation Limited, directed that the rates prescribed under the GO dated 08 June 2020 must be applied to all road cutting activities, including the laying of cables and other related works in the State.

Audit observed (June 2023 to August 2023) that in four<sup>88</sup> test checked Public Works Divisions, permissions for road cutting in SHs/MDRs were given in 22 cases for a length of 153.73 Km. The Divisions in these cases had adopted their own rates, instead of adopting the rates fixed by the Government vide GO dated 08.06.2020. As a result, the road cutting charges collected in these four Divisions was only ₹0.37 crore as against ₹7.69 crore required to be collected. Thus, non-compliance with Government instructions by four PWD Divisions had resulted in undue benefit of ₹7.32 crore to network service providers as detailed in the **Appendix-42**. After these cases were pointed out, the Executive Engineer, PWD Mysuru Division agreed (August 2023) to recover the amount from the user agencies concerned.

After these cases were reported to the Government in October 2023, Government replied in December 2023 that GO dated 08 June 2020 and 08 February 2021 are applicable only for laying electricity cables and gas pipes respectively. Further, the Government stated that action has been taken to frame guidelines and rate chart for road cutting and use of RoW by network service providers and the guidelines would be issued in due course. The reply is not

<sup>85</sup> Study Report on the regulations that enhance business activity and those that constrain it.

<sup>86</sup> vide G.O dated 08.06.2020

<sup>87</sup> Gravel surface-₹500/M, Metal Road- ₹1000/M, Bituminous surface-₹1700/M and Concrete Road- ₹2000/M.

<sup>88</sup> Davanagere, Madikeri, Mysuru and Shivamogga Spl. Division

tenable as the Government vide GO dated 19 April 2021 had already made the rates prescribed under GO dated 08 June 2020 and 08 February 2021 applicable for laying optic fiber cables. The Divisions were required to collect the charges as per the directions of the GO dated 19 April 2021.

### 3.4 Non-adherence to provisions of Price Adjustment resulted in excess payment to the contractor - ₹ 5.76 crore

**Incorrect determination of base quarter and adoption of incorrect index item from the Wholesale Price Index (WPI) in computation of price adjustment had resulted in excess payment of ₹ 5.76 crore to contractors by two PWD Divisions.**

Country Procurement Assessment Report (CPAR) for India published by World Bank in December 2003, recommended that “Price Adjustment (PA) should be mandated in respect of all contracts of value more than ₹5 million and a completion period of more than 12 months. Price adjustment should be made applicable from the date of opening of tenders”. The recommendation was aimed at accounting for fluctuations in rates/prices of materials and as a means for fair claim and dispute resolution mechanisms in large and long duration public procurements.

In pursuance of the CPAR recommendation, Government of Karnataka (GoK) issued orders dated 26.11.2004 which stipulated that PA clause shall be included in works contract whose estimated cost exceeds ₹ 100 lakh and the period of completion is 12 months or more. The G.O. outlined the formula<sup>89</sup> to determine PA based on the Wholesale Price Index (WPI) published by GoI. Further Orders/clarifications were also issued by GoK on the subject in November 2008 and February 2016. The GOs stipulated, inter alia, the following procedure:

PA to be computed separately for (i) Labour, (ii) Cement (iii) Steel (iv) Bitumen (v) Fuel and Lubricant (vi) Plant and Machinery Spares and (vii) Other material components. The percentage of each component has to be worked out on the estimates of cost and incorporated in the tender documents before issue.

As per the formula provided in the GO, the PA shall be calculated on the basis of average consumer price index of the quarter in consideration<sup>90</sup> with respect to the base quarter which shall be ‘Three consecutive calendar months preceding

<sup>89</sup>  $V\alpha = 0.85 \times \alpha_p / 100 \times R \times (\alpha_i - \alpha_o) / \alpha_p$  - Where,

R = Total Value of the work done during the quarter

$V\alpha$  = Increase or decrease in the cost of work due to changes in the rates for the  $\alpha$  component  
 $\alpha_o$  = All India average Wholesale Price Index for the component  $\alpha$  for the quarter preceding the date of opening of bids.

$\alpha_i$  = All India average wholesale price index for the component  $\alpha$  for the quarter under consideration

$\alpha_p$  = Percentage of component  $\alpha$  in the work.

<sup>90</sup> Three consecutive Calendar months including the calendar month in which work was started in the first instance and thereafter next quarter shall be consecutive three calendar months following the preceding quarter.



the calendar month of opening the Tender’.

PA was not to be provided for value of works executed under variations<sup>91</sup>; for which PA (if any) is to be worked out separately based on the terms mutually agreed.

Audit test checked the records of two<sup>92</sup> PWD Divisions during August and December 2022. Verification of records related to Construction of Court Complex at Parvathi Nagar in Ballari and Construction of PWD Bhavan in Kalaburagi, between July<sup>93</sup> and October<sup>94</sup> 2017, revealed that clauses stipulated in the GOs were not followed by the Divisions while computing the PA and paid to the contractor<sup>95</sup>. The deviations from the conditions/clauses stipulated in the GOs noticed are given below:

The PA formula given in the G.O dated 26.11.2004 adopted the index value given for ‘Heavy machinery and parts’ for ‘Plant and Machinery Spares’ component was based on WPI with base year of 1993-94 which was discontinued from 28th August 2010. In the subsequent WPI, the item ‘Heavy machinery and parts’ was not published. Therefore, the Department should have adopted an appropriate item which closely represent this category in WPI<sup>96</sup> and required changes should have been made in the Bid document as this item carries significant weightage (22.5 per cent ) in PA calculations. However, no such action was taken by the Department. While the Ballari Divisions adopted index for Manufacture of Machinery and Equipment and the Kalaburagi Division adopted index for All Commodities from the WPI with base year 2011-12, which was incorrect. As both the works related to construction of buildings, the index for ‘Manufacture of machinery for Mining, Quarrying and Construction’ was the appropriate index.

The base quarter was taken as the calendar quarter preceding the quarter in which the tenders were opened instead of three consecutive calendar months preceding the calendar month of opening the tender by the PWD Ballari Division.

Kalaburagi Division computed and paid PA to the contractor on the total value of works including executed under variations. This was irregular as the Variations (EIRL<sup>97</sup>/Workslip) are yet to be approved by the competent authority and as no mutual terms by way of Supplementary Agreement were entered into, there was no contractual provision for payment of PA on variation items.

The non-compliance with the clauses stipulated in the GOs resulted in excess payment to the contractor amounting to ₹5.76 crore as given in the **Table No.3.1** below:

<sup>91</sup> Variations means quantity executed in excess of the estimation.

<sup>92</sup> Ballari and Kalaburagi

<sup>93</sup> To be completed in 24 months

<sup>94</sup> To be completed in 18 months

<sup>95</sup> M/s K.M.V Projects Ltd for both the works

<sup>96</sup> Comparable Substitute: Paragraph 4.168 of Manual on CPI: A comparable variety of the item, which is equivalent or nearest to the specified variety in quality and contents to the prescribed one, is selected and the prices are collected for this substitute on a continuing basis.

<sup>97</sup> Extra Item Rate List

**Table No. 3.1: Non-compliance with the Price Adjustment Clauses**

Sl. No.	Description	Construction of Court Complex at Parvathi Nagar in Ballari	Construction of PWD Bhavan in Kalaburagi	Remarks
		(₹ in crore)		
1	Price Adjustment paid	7.826	8.77	In respect of PWD Bhavan Kalaburagi, though the Division computed PA at ₹ 8.89 crore, the PA paid was only ₹8.77 crore.
2	Excess payment of Price Adjustment due to adoption of incorrect Index for ‘Plant and Machinery Spares’ and due to adoption of incorrect Quarter for Base Index. (Details are given in <b>Appendix – 43</b> )	0.97	1.29	Both the Divisions erred in classification of ‘Plant and Machinery Spares’. With respect to bid opening date of 28.02.2017 in Ballari Division, the base quarter was taken as October to December 2016 instead of November 2016 to January 2017.
3	Excess Price Adjustment Payment due to inclusion of Variation items for calculation of 'R' value. (Details are given in <b>Appendix-44</b> )	0	3.50	The contract of Kalaburagi was awarded (October 2017) at tendered cost of ₹ 46.58 crore. Subsequently, the scope of this work underwent modifications and as per EIRL/Work slips proposals submitted by CE to the Government, the total work has been proposed to be revised to ₹ 82.17 crore. The variations are yet to be approved (January 2024). Value of works executed under variations works out to ₹ 27.30 crore and PA payment of ₹ 3.51 crore has been paid contrary to stipulated provisions.
	<b>Total Excess PA paid (2+3)</b>	<b>0.97</b>	<b>4.79</b>	

After these cases were reported to Government in November 2023, Government endorsed the replies furnished by both Ballari and Kalaburagi Divisions. While Ballari Division accepted the Audit observations, Kalaburagi Division replied that since the index for 'Heavy Machinery and Parts' was discontinued in

August 2010, the Division had no option but to adopt index for all commodities provided in WPI. The reckoning of index for 'Manufacture of Mining, Quarrying and Construction' would have been erroneous as the work involves only execution of civil, electrical and plumbing works deploying machinery only. Since the scope of the work does not include manufacture of Machinery, the index item suggested by Audit cannot be adopted. Further, incorrect PA calculation would lead to contractual disputes.

Endorsement of differing replies given by the two Divisions by Government was contradictory. As soon as the index for 'Heavy, Machinery and Parts' was discontinued in WPI, Government should have notified the appropriate index item for calculation and payment of PA to 'Plant and Machinery Spares' component in the works expenditure. On a review of index items in the WPI, Audit found that 'Manufacture of Machinery for Mining, Quarrying and Construction' is the appropriate item which can be adopted for calculation and payment of PA with respect to use of 'Plant and Machinery Spares' in construction of buildings. However, no action was taken by the Government or PWD, Karnataka to instruct the Divisions to follow the applicable index item. It is pertinent to note that National Highway Authority of India (NHAI) and State of Orissa have notified the said WPI item to be considered in this regard. The details are as follows:

- (i) NHAI vide their OM dated 04 June 2018, has ordered adopting weighted average of 'Loader' and 'Concrete Vibrator and Mixer' for the purpose of calculating PA for construction machinery. These items are sub-items of the Group 'Manufacture of Machinery for Mining, Quarrying and Construction' in WPI.
- (ii) Similarly, PWD of Orissa State had issued instruction in November 2019 to adopt 'Manufacture of Machinery for Mining, Quarrying and Construction' item for PA in place of 'Heavy Machinery and Parts' which was discontinued from 2004-05.

In respect of PA allowed by the Kalaburagi Division, it was stated that the PA payments were provisionally admitted and paid for three-fourth of the variation quantity only. Reply is not acceptable as variation items were not eligible for payment of basic rate in the absence of administrative approval and supplementary agreement. Therefore, the question of provisionally admitting and paying PA does not arise.

Similar observation on incorrect PA was also noticed in Minor Irrigation Department and brought out in paragraph 3.8 of this Report.

**Recommendation 13: Government should notify the appropriate index item for calculation and payment of price adjustment for 'Plant and Machinery Spares' component in the works expenditure. The Government should take action to recover the excess amount paid to the Contractor and give directions to all Divisions to scrupulously adhere to the Government instructions regulating price adjustment payments.**

### **3.5 Double payment to contractors for an item of work due to incorrect estimates and measurements**

**Composite items of work in Schedule of Rates such as Stone Works, Bridge Works, etc. the cost of providing, fixing and removing ‘form work’, was included. In five works executed by State Highway Development Project (SHDP) in addition to the composite work items, the ‘form work’ was also paid. This had resulted in excess payment of ₹0.95 crore to contractors.**

Clause 1719 of the MORTH specification stipulates that unless mentioned separately as an item in the contract, the contract unit rate for concrete shall also include the cost of providing, fixing and removing ‘form’<sup>98</sup> work’ required for concrete work as per Section 1500 of these specifications. Further as per point 18 of General notes to the SR, Chapter 5 i.e. Stone works, Chapter 6 i.e. Brick works and Chapters 25 to 33 i.e. for Bridge works, the rates are inclusive of form works, scaffolding and centering. Similarly item 37.59 of Chapter 37 pertaining to providing and laying plain/reinforced cement concrete for side drains is also inclusive<sup>99</sup> of ‘form work’. Therefore, the estimates prepared for concrete works under Chapters 5, 6, 25 to 33 and 37 should not include ‘form works’ and no separate payment should be made for this component of work.

Audit scrutiny of five works costing ₹128.75 crore in State Highway Development Project (SHDP) and in Chitradurga P.W.D Division, revealed that item rates from chapter 25 to 33 and 37 of the SoR were adopted in the estimates. In these cases, it was noticed that ‘form work’ was included as a separate item in the estimates and paid. This had resulted in double payment to contractors amounting to ₹0.95 crore as detailed in the **Appendix-45**.

On this being pointed out the Government accepted (March 2024) the Audit Observation and stated that as per the General notes to SR, no separate payment should be made for form works. Further, Government stated that action would be taken to recover the payment made for the item of Providing and removing form work as separate item from the pending bills of the contractors concerned.

### **3.6 Excess payment of ₹ 0.99 crore to contractor due to adoption of incorrect rate for soft rock excavation**

**Though IS standard stipulate that Soft Rock does not require blasting for excavation, adoption of rate from Schedule of Rates of Water Resources Development Organisation (WRDO) for blasting of soft rock had resulted in excess payment of ₹0.99 crore to the contractor.**

Under the Indian Standard (IS) code IS 1200 (Part 1): 1992 (paragraph No.3(e)), Rock or boulders which may be quarried or split with crowbars are classified as

<sup>98</sup> Formwork is a structure used to contain poured concrete and to mould it to the required dimensions and to support until the concrete is able to support itself.

<sup>99</sup> Referred to as ‘cost of centering and shuttering’

‘Soft Rock’ and any rock or boulder for the excavation of which blasting is required is classified as ‘Hard Rock’. Accordingly, the Schedule of Rates (SR) prepared by Public Works Department (PWD) from time to time, provided rates for blasting only in respect of excavation of hard rock. In respect of soft rock, rates for manual and mechanical means of excavation are provided in the SRs.

The work of construction of Judicial Magistrate of First Class (JMFC) Court building at Harapanhalli was awarded to (August 2021) a contractor<sup>100</sup> by the Executive Engineer (EE), Hospet Division for a contract amount of ₹5.88 crore including GST. The land for the building was on a hillock, which was required to be levelled by cutting to Reduced Level (RL) of 122.50 mtr. The estimate therefore, had a provision to excavate the hillock to an extent of 46,620 cum for which the item of earthwork for lowering and levelling the ground other than foundation by mechanical means was operated. The estimated rate for this item (Item no.2.24) was ₹61 per cum.

During the inspection of the work (December 2021) by the Chief Engineer (CE), it was apprised by the Assistant Executive Engineer (AEE) that soft rock was encountered during excavation. The AEE further informed that the item 2.24 of the SR pertaining to excavation in gravel at ₹61 per cum was provided in the estimate based on superficial look. It was instructed to the officers present during inspection to measure the extent of ordinary/soft rock and prepare a revised estimate by providing for blasting and levelling the ordinary/soft rock and obtain approval of the competent Authority. Accordingly, a revised estimate of ₹7.00 crore was prepared and the same was approved by the Government in March 2022.

In the revised estimate, total quantity of earth to be excavated for levelling and lowering the ground was determined as 59,089.49 cum, of which 29,509.50 cum (50 per cent) was classified as soft rock excavation. The rate for soft rock excavation (₹370.98 per cum) was borrowed from the SR of Water Resource Department, which pertained to foundation excavation for canal cross drainage works in soft rock requiring blasting. This was incorrect and highly inflated the expenditure as the PWD Schedule of Rates itself provided the rate for soft rock excavation by mechanical means (Item no. 2.23.2) at ₹68.00 per cum. As per the tender conditions, any extra item required during the execution of work is to be paid at a rate derived from the SR (prevailing at the time of award of contract) plus or minus the Tender Premium (T.P). The SR meant here was basically the PWD SR and not any other SR. Therefore, the rate payable as per tender condition for soft rock excavation works out to ₹71.06/cum<sup>101</sup>. Thus, the adoption of incorrect higher rate for soft rock excavation in total disregard of tender conditions resulted in excess payment of ₹99.12 lakh (₹88,50,489.00<sup>102</sup>+12 per cent GST).

In reply, Government stated (October 2023) that the Chief Engineer had inspected the work in December 2021 and after careful examination of the variety of the soft rock encountered, was convinced that it required blasting. Also, it stated that a report had been taken from the Department of Civil

<sup>100</sup> Shri Basavana Gauda B Patil

<sup>101</sup> ₹68 + 4.5 per cent T.P = ₹71.06

<sup>102</sup> (₹370.98 – ₹71.06) \* 29,500.50 = ₹88,50,489

Engineering, BDT college. Accordingly, the Extra Item Rate List (EIRL) was approved by the Government in March 2022. The Audit contention that soft rock does not require blasting was incorrect, as in such a case Water Resources Development Organisation (WRDO) would not have provided an item in their SR. The rate for hard rock excavation at ₹ 741 per cum was more expensive than rate for soft rock requiring blasting at ₹ 371 per cum.

The reply is not acceptable on the following grounds:

- The contention that the item 2.24 of the SR pertaining to excavation in gravel at ₹61 per cum was provided in the estimate based on superficial look lacks justification as Para 93 of the KPWD code mandated that Trial Pits should invariably be taken at the site of work and the nature of soil ascertained by carrying out tests, Geotechnical investigations before preparing the estimates. Preparation of revised estimates based merely on inspection by the Chief Engineer and without carrying out requisite tests was irregular, being ultra-vires the codal provisions.
- Also, the test report of a private college is an afterthought as the same was sought by the Department (on 16 September 2023) after the issue of Draft Paragraph (on 6 September 2023). There was no test conducted before approval of revised estimates.

Thus, adoption of incorrect item for excavation of soft rock with blasting resulted in excess payment of ₹ 0.99 crore to the contractor.

**Recommendation 14: Government may direct the Department to classify rocks as per IS Code and execute excavations in accordance with the PWD Schedule of Rates. In all cases where rocks require blasting, the same may be classified as hard rock and the excavated material be taken to stock and disposed of in auction to earn revenue to Government.**

### Minor Irrigation and Ground Water Development Department

#### 3.7 Undue Financial Benefit to the Contractors

**Irregular payment of price adjustment contrary to the tender conditions resulted in undue financial benefit of ₹18.83 crore to the Contractors.**

The contract agreement is a legal pact between the Contractor and the Employer which defines the scope of work, cost, timeline and conditions for execution of work. Paragraph 180(2) of Karnataka Public Works Departmental Code (KPWD Code) proscribes payment of rates to the Contractors in excess of that provided in the agreement. Paragraph 186 of the KPWD Code also prohibits extending any concession to the Contractor which is not covered by the contract agreement.

During the Compliance Audit (August to December 2023) of Minor Irrigation Department (MID), Audit observed that in respect of the works listed in **Table No.3.2**, the price adjustment clause was not provided in the contract agreements:

**Table No.3.2: List of works where price adjustment clause was not provided in the agreements**

(₹ in crore)

Sl. No.	Name of the Work	Tendered cost of the work	Date of Agreement	Up to date payment	Date of completion of the work	Implementing Division
1.	Filling of Madarasana Tank from Bhairapura pick up and Dasarahalli tank from Hiremagaluru tank by Lift Irrigation Schemes in Lakhya Hobli Chikkamagalur Taluk Chikkamagalur District	31.50	15.02.2021	28.57	06.07.2022	Hassan
2.	Survey, investigation, design, supply, installation, testing and commissioning of LIS for providing Irrigation facility to the lands of Koujalagi, Gosabal and surrounding villages	140.34	05.02.2020	137.10	30.11.2021	Belagavi
3.	Protection work near Manikatta from Ch 0.00 to 3.0 KM and protection work near Aganashini 3.00 to 7.78 KM in Kumta Taluk, Uttara Kannada	33.74	26.06.2020	32.96	22.12.2022	Haliyal

Source: Information compiled from the tender/work files and Running Account bills

In respect of works listed at **Sl. No.1** and **2**, Clause 11.4 of Section 2 (Instructions to tenderers) of the tender document specified that the rates and prices quoted by the tenderer shall be fixed for the duration of the contract and shall not be subject to adjustment on any account. The price adjustment clause 40<sup>103</sup> was also deleted and not made applicable in the tender documents. However, after completion of the work, Contractor made (October 2022 and December 2022) requests for payment of price adjustment. In response, the Chief Engineers, MID (South and North) sought (December 2022 and January 2023) directions from Secretary to Government of Karnataka, MID regarding payment of price adjustment for the above works. In reply, the Secretary, MID issued (February and March 2023) orders allowing price adjustment in respect of above works with a condition that the Contractor had to repay the amount in case of any subsequent orders. Based on the above orders, the Contractors were paid price adjustment amounting to ₹16.55 crore.<sup>104</sup>

In respect of work listed at **Sl.No.3**, the tender document vide Clause 45 of the General Conditions of Contract (GCC) read with Particular Conditions of Contract (PCC) specified that contract was not subject to price adjustment. Accordingly, the bid of the successful Contractor was finalised. The work was completed in December 2022. However, Audit observed that the MID Division, Haliyal made (November 2022) the payment of ₹2.28 crore on account of price adjustment for the above work on the pretext that price adjustment was applicable for works having completion period of more than 12 months. It was further observed that additional price adjustment amount of ₹1.99 crore was also approved (March 2023) by the Division which is pending for payment with Chief Accounts Officer (September 2023).

In reply, Government stated (March 2024) that in respect of works listed at **Sl No.1** and **2** of the **Table**, the outbreak of Covid-19 resulted in abnormal increase in the rates of construction materials and labour and hence, based on the request of the Contractors, price adjustment was provided on the authority of speaking order issued by the Secretary to Government, MID.

The Government reply was not acceptable as Finance department, GoK vide order dated 13 July 2020 had provided specific relaxations in respect of civil works contracts in view of Covid 19 pandemic as detailed below:

- i) The Contract may be extended up to 6 months without levy of liquidated damages
- ii) Refund of Security Deposit proportionate to the rate of progress of completion of work.

The extension of price adjustment contrary to the agreed contract conditions was not part of the relaxations approved by the Finance Department, GoK; Further in respect of work at Sl No.1, the tenders were floated without the provision of price adjustment provision in September 2020 i.e. after the declaration of Covid 19 pandemic and the same was agreed and signed (February 2021) by this

---

<sup>103</sup> As per the standard tender document KW-4 of Government of Karnataka

<sup>104</sup> MI Hassan Division - ₹ 5.45 crore and MI Belagavi Division - ₹ 11.10 crore



successful Contractor.

Thus, the Contractor was aware of the Covid-19 scenario as well as absence of provision of price adjustment while quoting his rates and signing the agreement for the work. Hence the concession provided to Contractors, which was not part of the agreed tender conditions, was not only in contravention of KPWD Code, but also vitiated the whole tendering process.

In respect of the work listed at **Sl.No.3** of the **Table**, Government stated that provision for price adjustment was available as per clause 6 of Special Conditions of Contract.

The reply is not acceptable as Part 3 of the tender agreement which specified the conditions of contract stated that GCC read in conjunction with PCC and other documents therein, should be a complete document expressing fairly the rights and obligations of both the parties. Accordingly, Clause 45 of GCC read in conjunction with PCC pertaining to clause 45, provided that the contract was not subject to price adjustment.

Thus, payment of price adjustment contrary to the agreed tender conditions amounting to ₹18.83<sup>105</sup> crore resulted not only in irregular undue benefit to the Contractors, but also vitiated the tendering process *ab-initio* as the same benefit was not made available to the other participating bidders at the time of tendering.

**Recommendation 15: Action may be taken to recover the price adjustment payments made to the Contractors which was contrary to the contract agreements and fix responsibility on the erring officials.**

### **3.8 Excess payment to Contractor**

**Adoption of incorrect method for determining the base index values for regulating price adjustment resulted in excess payment of ₹ 4.91 crore.**

To address the frequent fluctuations in rates of construction materials and labour, Government of Karnataka (GoK) issued (November 2004) order allowing price adjustment clause in all works whose estimated cost put to tender was ₹100 lakh or more and the period of completion was 12 months or more. Further, GoK vide its order dated 26 February 2016 issued clarifications on methods of calculating price adjustment. The order prescribed that for determining the base index for a specific component of work, the average of all India wholesale price index value<sup>106</sup> of the said component for three consecutive

<sup>105</sup>  $11.10 + 5.45 + 2.28 = ₹ 18.83$  crore

<sup>106</sup> Published by the Labour Bureau, Ministry of Labour, Government of India (for Labour component of work) and the office of Economic Advisor, Ministry of Commerce and Industry, Government of India (for other components of work like Cement, Steel, Bitumen, Plant and Machinery spares and other materials)

calendar months preceding the calendar month of opening the tender shall be considered.

The Executive Engineer (EE), Minor Irrigation Department, Tumakuru Division (Division) invited tenders (February 2021) for the work of “Survey, Investigation, Design, Supply, Installation, Testing *etc.*, for filling of tanks in Chikkanayakanahalli taluk of Tumakuru District” work at an estimated amount of ₹209.80 crore (excluding GST). Bids were opened in the month of March 2021 and after the due tendering process, the work was awarded to M/s. Sri. SSEM-ASR (Joint Venture), Bengaluru (Contractor) for the contract price of ₹276.64 crore (excluding GST). An agreement was entered into with the Contractor on 17 June 2021 with the stipulated period of completion of 30 months i.e., by 16 December 2023. The work was under progress as of March 2023 and the Division paid an amount of ₹194.59 crore (March 2023) to the Contractor for the work (including GST and excluding price adjustment).

During scrutiny of records of the Division (November 2023), Audit observed that clause 40 of the contract agreement provided for price adjustment on account of change in cost of labour and materials<sup>107</sup> in accordance with the principles and procedures prescribed in the Contract data. However, principles/formulae for calculation of price adjustment were not incorporated in the Contract data. In the absence of specific contract conditions, the price adjustment should have been regulated as per the applicable GoK orders/clarifications.

The Division passed six price adjustment bills for the work carried out by the Contractor till February 2023 and an amount of ₹23.01 crore was paid (as of March 2023) towards price adjustment. The Division while regulating the price adjustment of various components for the work<sup>108</sup> had adopted the wholesale price index value for the month of December 2020 as the base index. This was contrary to the GoK order which stipulated that the average wholesale price index of three calendar months preceding the month of opening the tender was to be adopted as the base index. Since the Government order did not specify whether to adopt the date of opening of financial bid or technical bid for calculating the base index, Audit on a conservative basis adopted the date of technical bid opening, viz 15 March 2021 and the base index was calculated as average price index of previous three months December 2020, January 2021 and February 2021

Audit re-calculated the price adjustment payable to the Contractor adopting the average value of wholesale price index for the three calendar months preceding the month of opening the tender which worked out to ₹16.52 crore<sup>109</sup>. However, the Division made price adjustment payment of ₹21.43 crore resulting in excess payment of ₹4.91 crore to the Contractor as detailed in the **Appendix-46**.

---

<sup>107</sup> 1) Cement -6 percent ,2) Steel -14 percent, 3) Hot coiled & Roller sheets -40 percent 4) All commodities’ -10 percent ,5) Plant & Machinery -10 percent, 6) Labour- 10 percent 7) Fuel and lubricants -10 percent.

<sup>108</sup> Except for fuel and lubricants component, remaining six components.

<sup>109</sup> Excluding fuel and Lubricant component

After this was pointed out, Government accepted (June 2024) the Audit Observation and agreed to recover the excess payment from the future bills of the contractor.

Similar observation on incorrect PA was also noticed in PWD and brought out in paragraph 3.4 of this Report.

**Recommendation 16: The Government should take action to recover the excess amount paid to the Contractor and give directions to all Divisions to scrupulously adhere to the Government instructions regulating price adjustment payments. Government should also issue clarification regarding adopting the date of opening of technical bid for reckoning previous three months for arriving at base index in price adjustment calculations.**

### **3.9 Unfruitful expenditure in construction of Bhandara**

**Undue delay in termination of the contract and inaction on the part of the Department to complete balance works resulted in unfruitful expenditure of ₹79.69 lakh on incomplete construction of Bhandara at Bilagi.**

Government of Karnataka accorded administrative approval (December 2017) for the work of “Constructing a Bhandara<sup>110</sup> across Aghanashini River at Bilagi, Uttar Kannada District” with the objective of storing water for agriculture and providing drinking water to livestock. The Executive Engineer, Minor Irrigation Department (MID), Haliyal (Division) invited (February 2018) tenders for the above work at an estimated cost of ₹1.98 crore. After due tender process the work was awarded (July 2018) to a Contractor<sup>111</sup> at the quoted price of ₹ 2.08 crore with a stipulated period of completion of 11 months (by 17 June 2019).

Audit scrutiny (September 2023) of the Division’s records revealed that as per contract agreement clause 49.1, the Employer may terminate the contract, if the other party causes a fundamental breach of the contract. As per Clause 49.2(a) fundamental breaches of contract include but shall not be limited to the following: “the Contractor stops work for 45 days when no stoppage of work is shown on the current program and the stoppage has not been authorised by the Employer”.

Audit observed that the Contractor did not show interest in commencing the work *ab-initio*. The Contractor began the work belatedly in January 2019 after the receipt of a notice (December 2018) from the Division. The Contractor executed the work up to foundation level by June 2019 and achieved a financial progress of ₹ 0.80 crore (July 2019) as against the targeted milestone of 100 *per cent* (₹ 2.08 crore). Thereafter, the Contractor discontinued the work and there was no financial/physical progress till date (December 2023).

<sup>110</sup> Small vented dam

<sup>111</sup> M/s. Shri B Dhanush Srinivas

Assistant Executive Engineer, Sirsi sub-division, MID (AEE) observed the lack of progress in the work and issued notices ( February 2021 to July 2021) to the Contractor to resume the work, but the Contractor did not show any interest to restart the work. Hence, the Division proposed (October 2021) to the Chief Engineer (CE), MID, North Zone for termination of the contract. On receipt (February 2022) of the approval, the Division terminated (May 2022) the contract at the risk and cost of the contractor under clause 49.2 of the agreement/tender.

Audit Observations were as follows:

- As per the clause 49 of the contract conditions, the Division was required to terminate the contract in the event of Contractor stopping the work unauthorisedly for 45 days. Despite observing lack of progress in the work since June 2019, the Division proposed for termination of the contract only in October 2021 after delay of 28 months. The inordinate delay in termination of contract by the Division lacked justification, as the progress of works was not as per the agreed schedule and the Contractor failed to reach the physical milestones from the beginning and showed no willingness to resume the work.
- The Division, despite terminating the agreement in May 2022, did not make any efforts till date (December 2023) to evaluate the balance work and invite new tender to complete the works even after 18 months from the termination of the contract. Also, the Division failed to forfeit the payable dues of the contractor such as Earnest Money Deposit, Security Deposit or any other bills payable. Though, termination of contract was approved by CE, North Zone on 15 February 2022, the Division failed to take timely action to forfeit/renew the available bank guarantee of the Contractor of ₹10.41 lakh which expired on 19 February 2022.

Audit team along with the AEE, conducted a site visit on 14 September 2023. During the visit, Audit observed that the foundation structure had been left unattended, with no further action taken to protect it from exposure to the elements of nature making it susceptible to deterioration.

The failure on the part of the Division in timely termination of contract and completing the balance works by inviting new tender not only resulted in the incurred expenditure of ₹79.69 lakh becoming unfruitful for the last four years, but also defeated the intended objective of providing water for drinking and irrigation purposes.

Government replied (March 2024) that the delay in re-tendering was due to the objection from the farmers to restart the work. It was further replied that fresh tenders would be called for balance works estimated at ₹2.28 crore as per Current Schedule of Rate of 2023-24. After finalisation of the tender, the amount to be recovered from the Contractor would be assessed and deducted from any payable amount or from works taken up in other Departments.

Reply cannot be accepted as the Division neglected to take necessary action to terminate the contract when faced with the contractor's lack of interest in even commencing the work. This inaction of the Division was compounded with non-revoking of the Bank Guarantee and forfeiture of the Earnest Money Deposit. The incurred expenditure is also unfruitful as the Bhandara is incomplete and

susceptible to damage and deterioration. The cost escalation due to delay in retendering runs the risk of the original Contractor contesting the risk and cost due to the delay. The Government will likely have to bear the increased cost which would have been avoidable.

**Recommendation 17: The Department should take immediate action to complete the balance works and fix responsibility on the delinquent officials for inaction causing loss to Government as well as for cost and time overruns.**

**Bengaluru  
The**

**(Vimalendra A. Patwardhan)  
Principal Accountant General (Audit-II)  
Karnataka**

**Countersigned**

**New Delhi  
The**

**(K Sanjay Murthy)  
Comptroller and Auditor General of India**