



CHAPTER – IV
COMPLIANCE AUDIT



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URBAN DEVELOPMENT AND HOUSING DEPARTMENT

4.1 Avoidable expenditure of interest and penalty

Failure of Nagar Parishad, Saharsa, to ensure timely remittance of statutory contributions, to the Employees' Provident Fund, resulted in an avoidable expenditure towards penalty for damages and interest charges of ₹ 1.14 crore.

As per the provisions of the Employees' Provident Fund (EPF) & Miscellaneous Provisions Act, 1952, read with paragraphs 30 and 38 of the Employees Provident Funds Scheme, 1952, the principal employer holds the responsibility of paying the provident fund contribution in regard to the employees employed directly, as well as the employees employed by or through a contractor, along with the administrative charges³². Contribution to the Employees' Provident Fund (EPF) is to be 10 *per cent* of the aggregate of the basic wages, dearness allowance and retaining allowance³³ (if any). Further, it is the duty of the employer, to deduct the employee's contribution/statutory dues, from the wages, towards EPF, Pension Scheme and Insurance Scheme, and to remit the recovered amount, together with the employer's share, to the Fund, within 15 days of the end of every month as per para 38 of EPF Scheme 1952. Further, Sections 7Q and 14B of the above mentioned Act, provide for levy of interest and penalty, respectively, on the belated remittances, at the rates specified³⁴.

Scrutiny (April 2022) of records of the Nagar Parishad, Saharsa, revealed that contributions³⁵ towards EPF, Employees' Pension Scheme and Insurance Scheme, in regard to the daily wages of employees, for the period January 2016 to November 2020 and January 2021, were remitted to the EPF account, maintained by the EPF Office, Bhagalpur, during the period April 2020 to March 2021, with delays up to 58 months. Consequently, EPF Office, after issuing a notice (August 2021), levied an interest charge of ₹ 37.60 lakhs, along with penalty for damages, amounting to ₹ 76.78 lakh, under the provisions of the Act (*Appendix 4.1*).

³² *Administrative Charge means such percentage of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees other than an excluded employee, and in respect of which Provident Fund Contribution are payable, as the Central Government may fix, in consultation with the Central Board and having regard to the resources of the Fund for meeting its normal administrative expenses.*

³³ *Retaining allowance means an allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.*

³⁴ *The employer shall be liable to pay simple interest at the rate of 12 per cent per annum or at such higher rate, as may be specified in the Scheme (as per EPF Act, 1952) and damages ranging from five per cent (for delays less than two months) to 25 per cent (for delays for six months and above), as per the EPF Scheme, 1952.*

³⁵ *Both the employer's and employees' contributions.*

The Nagar Parishad was provided with a number of opportunities (from the month of September 2021 to December 2021) by the EPF Office, to present its side of the contention for delay in deposit of contributions, into the EPF accounts of the daily wages employees. However, it failed to provide any reason for delayed remittance of the contributions.

As a result, the Nagar Parishad paid (January 2022) a penalty of ₹ 1.14 crore³⁶, towards interest charges and damages, to the EPF Office, from Stamp Duty received from the State Government as assigned revenue (a source of revenue of Municipality).

In reply, the Executive Officer of the Nagar Parishad stated (May 2022) that the contribution of employees, from January 2016 onwards, had been remitted from time to time, to EPF Office, after approval of the Municipal Board. The reply was not acceptable, as the contributions had been remitted to EPF Office, but with delays, which ultimately led to levying of interest charges and penalty for damages, amounting to ₹ 1.14 crore.

Thus, the failure of the Nagar Parishad to follow statutory provisions and ensure timely remittances of contributions to EPF Office, resulted in avoidable expenditure of ₹ 1.14 crore, towards interest and damages.

The matter had been reported to the State Government, no reply had been received (as on October 2023).

4.2 Fraudulent payment

Failure of Nagar Parishad, Sheikhpura, in exercising checks while making payment to a private firm, which had not participated in the tender process, for supply of Solar Power Plants (Roof Top), led to fraudulent payment of ₹ 91.14 lakh. In addition, the Nagar Parishad sustained a loss of ₹ 1.37 crore, due to irregular disqualification of an eligible firm, in the technical bid.

Rule 126 of the Bihar Financial Rules (BFR) stipulates that every authority, delegated with the financial power to procure goods in the public interest, shall have the responsibility and accountability to bring efficiency, economy and transparency in matters relating to public procurement. Further, Rule 12 of the BFR stipulates that every controlling officer must satisfy himself that not only adequate provisions exist, within the departmental organization, for systematic internal checks to guard against waste and loss of public money and store, but also that the prescribed checks are effectively applied. As per the general terms and conditions for procurement of goods through the Government e-Market Place (GeM) Portal, Micro and Small Enterprises (MSE) which are manufacturers of the primary product category or service provider of the primary service category and give specific confirmation to this effect with appropriate documents, at the time of bid submission, are exempted from furnishing the Earnest Money Deposit (EMD).

Scrutiny (July 2022) of records of the Nagar Parishad, Sheikhpura, revealed that a tender for purchase of four 'Solar Power Plants (Roof Top) ONGRID Systems

³⁶ Penalty of 'interest charges' - ₹ 37.60 lakh and 'damages' - ₹ 76.78 lakh

(SPPOS) three phases', of 40 KW capacity each, whose estimated cost was ₹ 2.50 crore, was invited, through the GeM Portal, in April 2021. Eleven firms participated in the tender process and only three firms were declared as technically qualified and their bids were opened for financial bidding. The firm 'Green India Environ & Infrastructure (GIEI)' had quoted the lowest price of the SPPOS and, therefore, a work order was issued (28 April 2021) to the firm, for supply and installation of four SPPOS, for ₹ 1.96 crore, at the rate of ₹ 49 lakh per SPPOS. As per the work order, the supply and installation of four SPPOS were to be done within 20 days from the date of work order, *i.e.* up to 18 May 2021.

The firm (GIEI) supplied two SPPOS and the Nagar Parishad made payment of ₹ 91.14³⁷ lakh to the firm (GIEI) on 18 June 2021. Audit conducted (29 June 2022) a joint physical verification, along with the JE of the Nagar Parishad and found that the two SPPOS had been installed on the roof top of the Town Hall & the Nagar Parishad Building. The remaining two SPPOS had not been supplied till June 2022, *i.e.* even after a lapse of more than one year from the date of issue of the work order.

Audit further observed that the Nagar Parishad paid (30 June 2021) the cost of two SPPOS, amounting to ₹ 91.14 lakh, to a firm 'Anvi Revival Enterprises (ARE)', which had not participated in the tender process for the supply of SPPOS and the Nagar Parishad did not issue any supply order to the firm. Thus, the Nagar Parishad made fraudulent payment to an unauthorised firm.

On this being pointed out in audit, the Executive Officer (EO) of the Nagar Parishad stated (July 2022) that, due to lack of technical knowledge, payment had been made by mistake, to two different firms. It was further stated that an FIR would be lodged against the firm and action would be taken to blacklist it. The reply of the EO was not acceptable, as payment had been made to a firm that had not taken part in the tender process.

It was also observed that the firm 'Sunstone Solar Solutions Private Limited (SSSPL)', which had participated in the tender, had quoted the lowest rate of ₹ 59.30 lakh, for supply of four SPPOS, but had been disqualified in the technical bid on the basis of non - submission of EMD, while the firm did not need to submit any EMD, as it was registered under MSE category. The firm submitted the certificate of being a firm registered as an MSE, similar to the other three firms which were declared as technically qualified.

Had the Nagar Parishad, Sheikhpura, not disqualified the firm 'SSSPL' in the technical bid, it would have incurred expenditure of ₹ 59.30 lakh only, for procurement of four SPPOS and could have saved ₹ 1.37 crore on the procurement of four SPPOS. On this being pointed out in audit, the EO of the Nagar Parishad stated (July 2022) that, due to lack of knowledge regarding the clauses of EMD exemption, the firm was disqualified in the technical bid. The reply of EO was not acceptable, as the terms and conditions, for exemption from furnishing EMD, were elaborated in the general terms and conditions of procurement on the GeM Portal.

³⁷ Total amount- ₹ 98,00,000 (49 lakh* 2) – ₹ 1,96,000 (GST) – ₹ 4,90,000 (Performance Security) = ₹ 91,14,000

Thus, it shows that the concerned officials in the Nagar Parishad, Sheikhpura, made fraudulent payment of ₹ 91.14 lakh to an unauthorised firm. Further, they did not follow the financial rules for procurement of goods and did not observe the general terms and conditions for purchase of goods through the GeM portal, which led to loss of ₹ 1.37 crore, to the Nagar Parishad.

The matter had been reported to the State Government, no reply had been received (as on October 2023).