

## CHAPTER-VI: NON TAX RECEIPTS

### 6.1 Results of audit

Test check of records of the following receipts conducted during the year 2005-06, revealed loss/non recovery of revenue etc. of Rs 192.27 crore in 290 cases as indicated below:

(Rupees in crore)				
	Sl. No.	Categories	No. of cases	Amount
	<b>A</b>	<b>Review on Police Receipts</b>	1	52.38
		<b>Total</b>	<b>1</b>	<b>52.38</b>
	<b>B</b>	<b>Mines and Minerals</b>		
	1	Non/short levy of royalty and cess	4	0.68
	2	Non levy of interest	12	1.23
	3	Non levy of penalty/fees	15	5.90
	4	Non levy of stamp duty and registration fees	11	4.40
	5	Non/short levy of auction money due to non/irregular settlement of <i>sand ghat</i>	5	7.26
	6	Other cases	33	16.73
		<b>Total</b>	<b>80</b>	<b>36.20</b>
	<b>C</b>	<b>Water Rates</b>		
	1	Loss of revenue due to non assessment of target of irrigation	9	1.63
	2	Delay in assessment of water rates	14	4.86
	3	Other cases	61	53.23
		<b>Total</b>	<b>84</b>	<b>59.72</b>
	<b>D</b>	<b>Weights and Measures</b>		
	1	Non realisation of revenue due to non reverification of weights and measures	1	0.13
	2	Revenue not credited to Government treasury	1	0.03
		<b>Total</b>	<b>2</b>	<b>0.16</b>
	<b>E</b>	<b>Forest Receipts</b>		
	1	Loss of revenue due to departmental lapses	76	35.12
	2	Other cases	47	8.69
		<b>Total</b>	<b>123</b>	<b>43.81</b>
		<b>Grand Total</b>	<b>290</b>	<b>192.27</b>

A few illustrative cases including a review on "**Police Receipts**" involving tax effect of Rs 62.37 crore are discussed in the following paragraphs:

## **A: POLICE RECEIPTS**

### **6.2 Review: Police receipts**

#### **Highlights**

- Demand of GRP for Rs 9.62 crore pertaining to the years 1979-80 to November 2000 was raised with delay ranging from four to 25 years.  
**(Paragraph 6.2.8.1)**
- Irregular adjustment of police receipt of Rs 35.94 crore towards departmental account.  
**(Paragraph 6.2.8.2)**
- Leave salary and pension contribution of Rs 79.44 lakh was not realised from railways.  
**(Paragraph 6.2.8.3)**
- Expenditure of Rs 11.09 crore representing Railway share of GRP cost was irregular.  
**(Paragraph 6.2.8.4)**
- Demand for Rs 1.37 crore being cost of staff of establishment of IG and DIG was not raised.  
**(Paragraph 6.2.9)**
- Demand of Rs 5.35 crore for police forces supplied to commercial institutions and individuals was not raised.  
**(Paragraph 6.2.10.1& 6.2.10.2)**

#### **Recommendations**

Government may consider to:

- devise effective and efficient mechanism for timely assessment, raising of demand and collection of police cost;
- maintain demand, collection and balance register by all assessing authorities for assessment of dues and recoveries thereof from time to time;
- avoid unauthorised adjustment towards departmental expenditure from Government revenue; and
- deploy police force to commercial undertakings and private individuals on receipt of police cost in advance.

#### **Introduction**

**6.2.1** The police receipts in State are governed by Police Act, 1861, Bihar Police Manual 1978 (BPM), Bihar Service Code Volume-I, BFR, Government Accounting Rule, 1990 (GAR) and Indian Railway Financial Code Volume-1.

The receipts of the Police Department mainly comprise recovery of cost of police force supplied to other Governments, (including Railways), public sector undertakings, private companies and individuals etc., fees, fines and forfeitures and miscellaneous receipts such as sale proceeds of condemned Government vehicles, unclaimed/ confiscated goods and wrecker charges for towing disabled vehicles lying on the road.

#### **Organisational set up**

**6.2.2** Under overall control of Government, Home (Police) Department, the Director General and Inspector General of Police (DGP) is the head of the department who is assisted by Additional Director General of Police (ADGP) and Assistant Inspector General (AIG) of police at headquarters, Inspector General of Police (IG), Deputy Inspector General of Police (DIG) and Senior Superintendents of Police (SSPs)/ Superintendent of Police (SPs) incharge of zones, ranges and districts respectively. There is one IG (Rail) who is responsible for deployment of police force for protection of Railways. He is assisted by one DIG and four Superintendents of Rail Police (SRPs). Besides, there are commandants, Bihar Military Police (BMP) in the state.

DGP is responsible for deployment of police force, assessment and collection of cost of police guards in respect of police personnel deployed in Railways and outside the State where as SP is responsible for assessment and collection of cost of deployment of police guard supplied to institutions/individulas in district concerned.

#### **Audit objectives**

**6.2.3** The review of police receipts was conducted to ascertain:

- whether provisions of Acts/rules relating to assessment and collection of police cost for deployment of police force were applied correctly and effectively; and
- that internal control mechanism was functioning properly.

#### **Scope of Audit**

**6.2.4** The review of the records pertaining to the year from 2000-01 to 2004-05 of the office of Secretary, Home (Police) Department, DGP, IG (Rail), four SRPs, 13 out of 40 SSPs/SP and six out of 16 Commandants, BMP was conducted between January and July 2006. Major findings emerging out of review are mentioned in succeeding paragraphs:

#### **Trend of revenue**

**6.2.5** Bihar budget procedures (BBP) provide that estimates of revenue and receipt should show the amounts expected to be realised within the year. In estimating revenue for the ensuing year, the calculations should be based on actual demand including any arrears due for past years and the probabilities of their realisation during the year. In the case of fluctuating revenue, the estimate should be based on a comparison of the last three years' receipts. BFR provides that the controlling officer should examine the budget proposals

received from the disbursing officer and submit these to Finance Department for further action.

BEs and actual receipts during the last five years were as under:

(Rupees in crore)				
Year	BEs	Actual receipts	Short fall	Percentage of variation
2000-01	149.02	4.70	(-)144.32	97
2001-02	45.00	3.98	(-) 41.02	91
2002-03	46.35	22.71	(-) 23.64	51
2003-04	46.35	16.86	(-) 29.49	64
2004-05	24.67	13.72	(-)10.95	44

The variation between BEs and actual receipts ranged from 44 to 97 *per cent* during 2000-01 to 2004-05. Reasons for variations though called for in January 2006 were not furnished (October 2006).

During the year 2000-01, though the actual receipt was only Rs 4.70 crore against the BEs of Rs 149.02 crore, the BEs during 2001-02 were reduced to Rs 45 crore against which the actual receipt was merely Rs 3.98 crore, BEs during 2004-05 was further reduced to Rs 24.67 crore as compared to Rs 46.35 crore during 2003-04. The actual receipt during 2002-03 was Rs 22.71 crore as compared to Rs 3.98 crore in 2001-02 and thereafter it continued to decrease. There was nothing on record indicating any rationale behind such *ad hoc* estimation of revenue.

Further, scrutiny of records relating to BEs in the office of the DGP for the years 2000-01 to 2004-05 revealed that the DGP's office did not submit any BEs to the Finance Department. BEs were prepared by the Finance Department on *ad hoc* basis by effecting increase/ decrease in the preceding years BEs. The Finance Department admitted in April 2006 the fact of preparation of BEs on *ad hoc* basis owing to non receipt of BEs from controlling officer(s) concerned. Thus, prescribed procedure under BBP for preparation of BEs was not followed. As such the BEs prepared were unrealistic.

## 6.2.6 Arrears of revenue

**6.2.6.1.** According to instructions issued by DGP in August 2000 and from time to time, the progress report for realisation of cost of supply of police force supplied to other Governments, private individuals and commercial undertakings etc; was to be submitted periodically by SSP/SPs to DGP to monitor progress of recovery of outstanding dues for further submission to Government.

The position of arrears pertaining to the year 2000-01 to 2004-05 were called for in January 2006, Information was furnished by DGP after obtaining the same from SSPs/SPs for only 29 out of 40 districts wherein arrears of Rs 7.81<sup>1</sup> crore was outstanding as on March 2006. Year wise details of arrears is as under:

<sup>1</sup> Other Government department: Rs 0.05 crore; other parties : Rs 2.81 crore and bodies/corporation/air port authority: Rs 4.95 crore.

Year	Amount in crore
2000-01	0.18
2001-02	4.22
2002-03	0.98
2003-04	1.12
2004-05	1.31
<b>Total</b>	<b>7.81</b>

The information of arrears prior to 2000-01 was not furnished.

**6.2.6.2** Cross verification of details of arrears furnished by DGP with the records of eight districts by audit revealed that there was substantial variation in the figures supplied by DGP and as per records maintained by SSPs/SPs as shown under:

**(Rupees in lakh)**

Sl No	Name of the district	Arrears according to DGP's office	Arrears according to SPs of districts concerned	Difference
1	Nalanda	38.83	41.88	(-)3.05
2	Lakhisarai	5.41	6.34	(-)0.93
3	Muzaffarpur	7.85	84.84	(-)76.99
4	Madhubani	9.52	52.09	(-)42.57
5	Gaya	Nil	189.30	(-)189.30
6	Motihari	Nil	31.17	(-)31.17
7	Katihar	Nil	57.01	(-)57.01
8	Buxar	Nil	41.81	(-)41.81

Difference in figures of arrears obtained from field offices and furnished by DGP was indicative of lack of monitoring in respect of recovery of demands raised by district police authorities.

#### **Internal control mechanism**

**6.2.7** Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Internal audit, a vital component of internal control is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Finance (Audit) Department, which works as internal auditor has conducted audit of DGP office in the year 2003-04 pertaining to the period upto 1997-98 only. The internal audit report, however, did not contain any observation on the receipts of the department.

**6.2.7.1** BFR provides that controlling officer concerned has to see that the dues of Government are correctly and promptly assessed, collected and deposited in the treasury. To monitor the recoveries, a demand, collection and balance register (DCB register) is required to be maintained wherein all demands raised, recovered and balance is to be mentioned.

Test check of records of DGP Office and SSP/SPs offices revealed that in none of the offices, DCB register was maintained. In the absence of these records, raising of demand and recovery thereof could not be ascertained.

#### **Non reconciliation**

**6.2.7.2** Government of Bihar, Home (Police) Department issued instructions in February 2002, that every drawing and disbursing officer is to prepare a

statement of expenditure year wise and item wise (head wise) alongwith treasury voucher number and date and obtain required certificate after its reconciliation/verification from the Accountant General (Accounts & Entitlement).

The position of expenditure as reported by four SRPs and expenditure according to Accountant General (A&E) was as under:

**(Rupees in crore)**

Year	Expenditure	SRPs			
		Jamalpur	Katihar	Muzaffarpur	Patna
2001-02	SRP	3.57	7.35	9.86	10.20
	AG	3.12	8.28	5.92	9.37
	Difference	(+)0.45	(-) 0.93	(+)3.94	(+)0.83
2002-03	SRP	3.10	7.69	11.24	11.56
	AG	4.13	10.22	10.16	10.51
	Difference	(-) 1.03	(-) 2.53	(+)1.08	(+)1.05
2003-04	SRP	4.081	8.09	10.22	10.88
	AG	4.084	8.41	8.87	10.78
	Difference	(-)0.003	(-)0.32	(+)1.35	(+)0.10
2004-05	SRP	4.29	8.71	11.15	13.78
	AG	4.35	9.05	10.41	12.80
	Difference	(-) 0.06	(-) 0.34	(+)0.74	(+)0.98

The above table indicates that during the years 2001-02 to 2004-05, there was difference between expenditure figures as reported by the department and those accounted for by the AG. Reasons for variations though called for between February to April 2006 were not intimated.

#### **Recovery of cost of deployment of police force from Railways**

**6.2.8** BPM provides for charging cost for supply of police force to Central Government departments including Railways. According to provisions of Indian Railway Financial Code Volume-1, the cost of Government Railway Police (GRP) will be shared between State Government and Railways on 50:50 basis, provided the strength is determined with the approval of Railways. Share of cost of police will include pay and allowances in respect of GRP staff including office and supervisory staff upto the level of IG provided they are exclusively incharge of GRP, office expenses and contingencies, cost of pensionary charges, cost of rent of building occupied by GRP staff, apart from medical reimbursement and medical allowances payable to staff.

#### **Abnormal delay in raising demand**

**6.2.8.1** As per BFR, it is the duty of the controlling officer to see that the dues of Government are correctly and promptly assessed, collected and paid into the treasury.

Test check of records of DGP office revealed that Rs 53.54 crore being 50 percent share of cost of GRP for the period from 1979-80 to 2003-04 was recoverable from Railways. The claims were, however, preferred late and the delay ranged between six months to 25 years as per details given below:

(Rupees in crore)

Sl. No.	Name of Railways/SRP concerned	Period	Amount	Demand raised in	Delay in raising demand between
1.	E Railway / (SRP Patna/Jamalpur)	1992-93 to 14.11.2000	5.81 <sup>2</sup>	October 2004	4 to 11 years
2.	NF Railway / (SRP Katihar)	1979-80 to 1991-92	3.81	September 2004	12 to 25 years
3.	E Railway / (SRP Patna/Jamalpur)	15.11.2000 to 30.09.2002	12.27	September 2004	2 to 4 years
4.	NF Railway/ (SRP Katihar)	15.11.2000 to 31.03.2004	03.63 01.87	March 2004, September 2004	6 months to 3 years
5.	NE Railway / (SRP- Katihar/Muzaffarpur)	15.11.2000 to 30.09.2002	2.91 0.79 0.88	October 2004, March 2004 and February 2004	1 to 4 years
6.	EC Railway/ (SRP- Jamalpur/Katihar/Patna/Muzaffarpur)	1.10.2002 to 31.03.2004	21.57	September 2004	6 months to 2 years
		<b>Total</b>	<b>53.54</b>		

Claim of Rs 9.62 crore was raised with delay ranging between four to 25 years (as shown in Sr. No. 1 and 2). The delay in preferring claims was indicative of lack of proper monitoring over preferring claims.

#### **Irregular adjustment**

**6.2.8.2** As per BPM read with GAR, all revenue and receipts should be paid, without deduction, into treasury and credited in the accounts. Crediting of net receipts after deduction of expenditure is not allowed. Further, the department of Central Government (including Railways) which received supplies/services will present a bill along with the accepted invoice to its own accounts officer concerned who will make payment by cheque /bank draft drawn in favour of the officer concerned of the supplying Government in settlement of its claim. No expenditure can be incurred from consolidated fund without the vote of legislature.

Government of Bihar gave consent in June 2004 to Railway Board, New Delhi to adjust Rs 35.94 crore out of GRP dues payable to State towards the instalment payable by Government for construction of railway over and under bridge. Accordingly, Railway Board adjusted Rs 35.94 crore out of Rs 53.54 crore dues payable to state from Railways.

As no expenditure can be incurred without budget provision passed by legislature, the adjustment of revenue towards expenditure or its diversion was not in conformity with the provisions of BPM and GAR.

The matter was pointed out in February 2006 to Secretary, Home Department and IG, (Rail). IG (Rail), Patna stated in July 2006 that the matter has been

<sup>2</sup> Out of Rs 5.81 crore, Rs 0.91 crore pertained to the period 1992-93 to 1995-96. This amount was not included in the demand of Rs 5.83 crore raised by the department in May 1997 as pointed out in the report of CAG (Revenue Receipt) in the year ending March 1999. Reasons for not including the said amount was attributed to non receipt of required certificate from the AG (A&E).

taken up with Government and railway authorities. Further replies have not been received (October 2006).

### **Non realisation of leave salary and pension contribution**

**6.2.8.3** As per BPM, pay and allowances of GRP personal including officers, leave salary and pension contribution calculated at the rates prescribed and contingency charges are to be taken into consideration for calculating railway share of police cost.

Scrutiny of records of IG (Rail) revealed that Rs 79.44 lakh pertaining to leave salary and pension contribution of the GRP for the period from 1996-97 to September 2002 was not admitted by Railways.

After this was pointed out, the department replied that the claim was not admitted by Railways for want of AG's certificate. The reply is not tenable as the audit certificate for the year 1996-97 to September 2002 was issued by the AG's which pertains to expenditure incurred during the year. Leave salary and pension contribution is calculated at prescribed rates on yearly basis and audit certificate is not relevant for that purpose.

### **Irregular expenditure**

**6.2.8.4** Under the provisions of GAR, the cost of GRP will be shared between State Government and Railway on 50:50 basis provided the strength is determined with the approval of Railways.

Test check of records of SRPs Muzaffarpur and Patna revealed that during the period from 2000-01 to 2004-05, the department deployed 335 to 475 policemen in excess of posts sanctioned/approved by Railways and incurred an expenditure of Rs 22.18 crore. As such the department had incurred irregular expenditure of Rs 11.09 crore being share of Railway as per details given below:

Year	District	Sanctioned strength approved by Railway	Men in position	(+) Excess/ (-) short deployment	Expenditure (Rs in crore)
2000-01	Muzaffarpur	845	823	(-) 22	
	Patna	677	1,034	(+) 357	
	<b>Total</b>	<b>1,522</b>	<b>1,857</b>	<b>(+) 335</b>	<b>1.45</b>
2001-02	Muzaffarpur	845	991	(+) 146	
	Patna	677	1,006	(+) 329	
	<b>Total</b>	<b>1,522</b>	<b>1,997</b>	<b>(+) 475</b>	<b>5.28</b>
2002-03	Muzaffarpur	845	919	(+) 74	
	Patna	677	996	(+) 319	
	<b>Total</b>	<b>1,522</b>	<b>1,915</b>	<b>(+) 393</b>	<b>5.16</b>
2003-04	Muzaffarpur	845	894	(+) 49	
	Patna	677	1,012	(+) 335	
	<b>Total</b>	<b>1,522</b>	<b>1,906</b>	<b>(+) 384</b>	<b>4.69</b>
2004-05	Muzaffarpur	845	938	(+) 93	
	Patna	677	979	(+) 302	
	<b>Total</b>	<b>1,522</b>	<b>1,917</b>	<b>(+) 395</b>	<b>5.60</b>
	<b>Grand total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>22.18</b>

### Lacuna in Government Accounting Rule

**6.2.9** GAR provide that for calculating Railway share, pay and allowance upto the level of SP are to be included whereas as per Indian Railways Financial Code Vol.I, pay and allowance upto the level of IG (R), provided they are exclusively incharge of GRP, are to be taken into account while calculating Railway share.

Test check of records of DGP revealed that Government incurred an expenditure of Rs 2.74 crore on pay and allowance in respect of establishment of IG (R) and DIG (R) during the period from 2000-01 to 2004-05 but no demand of Rs 1.37 crore being 50 per cent share of Railway was demanded from Railway in terms of provisions contained in Indian Railway Financial Code Vol-1. Thus, Government was deprived of revenue of Rs 1.37 crore.

After this was pointed out, IG (R), Patna stated in July 2006 that the matter has been taken up with railway authorities. Further reply has not been received (October 2006).

### Recovery of cost for supply of district police to commercial institutions and individuals

**6.2.10** According to BPM read with Police Act, and executive instructions issued by police headquarters from time to time, guards and parties of the police can be supplied to departments of Government of India (GOI), state electricity board, commercial undertakings of public sector of State and Central Government, private individuals and other non Government bodies on payment of cost in advance.

### Non raising of demand

**6.2.10.1** Test check of files of four SPs and one Commandant revealed that deployment of police force<sup>3</sup> was made to different commercial institutions between the period 2000-01 and 2004-05, but demand for police cost of Rs 2.64 crore was neither assessed nor raised as per details given below:

(Rupees in lakh)				
Sl. No.	Name of the office	Name of the unit (Strength deployed)	Period	Amount
1	SP Gaya	State Bank of India, Main Branch, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Bank of Baroda, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Maitriya Project, Gaya (H:01, C:04)	2000-01 to 2004-05	16.86
		Road Institute, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Dongeshwari Picket, Gaya (H:01, C:10)	2000-01 to 2004-05	36.86
		Amash Oriental, Gaya (H:03, C:27)	6.02.03 to 8.09.03	14.15
		(H:03, C:16)	15.10.03 to 31.12.04	21.65
(H:01, C:08)	01.1.05 to 31.03.05	02.08		
2.	SP Madhubani	State Bank of India, Jhanjharpur, (H:01, C:04)	2000-01 to 2004-05	20.25

<sup>3</sup> Head Constable (H) and Constable (C).

(Rupees in lakh)

Sl. No.	Name of the office	Name of the unit (Strength deployed)	Period	Amount
3.	SP Nalanda	State Bank of India, Nalanda (H:01, C:06)	2000-01 to 2004-05	23.53
		Museum, Nalanda (H:01, C:04)	2000-01 to 2004-05	16.86
4.	SSP Patna	TV Tower, Agamkuan (C:01)	2001-02 to 2004-05	03.06
		All India Radio (C:01)	2001-02 to 2004-05	03.06
5.	Commandant BMP-5, Patna	Bihar State Electricity Board, Patna (H:02, C:08)	2001-02 to 2004-05	44.81
			<b>Total</b>	<b>263.74</b>

After this was pointed out between February and June 2006, SSP, Patna raised demand of Rs 6.12 lakh in June 2006 while other SPs stated that demand would be raised.

**6.2.10.2** Test check of files of SP of nine districts<sup>4</sup> relating to deployment of police force also revealed that deployment had been made to ex Governor, ex-CMs, ex MPs, ex Judges, ex MLAs/MLCs, doctors, advocates and other individuals between the period 2000-01 and 2004-05, but demand for police cost of Rs 2.71 crore was neither assessed nor raised as detailed below:

(Rupees in lakh)

Sl No.	Name of the office	Particulars	Strength deployed		Period	Amount
			Havildar	Constable		
1	SP Buxar	18 individuals (ex MLA-6, others-12)	1	18	2000-01 to 2004-05	41.81
2	SP Gaya	33 individuals (ex MLA-1, Mukhiya-2, Advocate-2, others-28)	-	33	2000-01 to 2004-05	37.13
3	SP Madhubani	10 individuals (ex CM-1, ex-Minister-1, ex-MLA-6, ex MP-1 other-1)	04	09	2000-01 to 2004-05	20.44
4	SP Motihari	17 individuals (MP-1, MLA-1, MLC-1, ex MLA-3, ex MP-3, ex MLC-1, Doctor-1, others-6)	09	24	2004-05	31.17
5	SP Nalanda	1 individual (ex MP-1)	0	1	2003-04 to 2004-05 (22.08.03 to 31.03.05)	01.49
6	SSP Patna	46 individuals (ex-Gov.-1, ex CM-3, ex-Judge-4, ex MP-4, ex MLA-4, Doctor-23, Advocate-5, Others-2)	0	49	2000-01 to 2004-05	41.52
7	SP Katihar	3 individuals (others-3)	0	3	2004-05	2.79
8	SP Muzaffarpur	34 individuals (Others 34)	2	32	2000-01 to 2004-05	81.52
9	SP Jamui	7 individuals (ex MLA-1, Others-6)	3	30	2001-02 to 2004-05	12.81
					<b>Total</b>	<b>270.68</b>

<sup>4</sup> Buxar, Gaya, Jamui, Katihar, Madhubani, Motihari, Muzaffarpur, Nalanda and Patna.

After this was pointed out between February and June 2006, SSP, Patna stated that demand notice for payment of cost of Rs 41.52 lakh was issued in March 2006 while SPs, Buxar, Gaya, Jamui, Katihar, Madhubani, Motihari, Muzaffarpur and Nalanda stated that demand would be raised.

### **Conclusion**

**6.2.11** The department failed to monitor arrears of revenue and maintain the DCB registers to assess the demand and collection thereof. Government revenue was irregularly adjusted towards departmental expenditure without the approval of State legislature. There was abnormal delay in raising demand against Railways and demands were not raised against commercial undertakings and individuals which was due to lack of internal control on the part of department.

### **Acknowledgement**

Audit findings as a result of test check of records were reported to Government in July 2006 with a specific request to attend the meeting of the Audit Review Committee (ARC) of police receipt. A meeting of ARC was held on 20 October 2006 and Additional Secretary (Home) Police attended the meeting and the reply of the Government has been incorporated in the review.

## **B: MINES AND MINERALS**

### **6.3 Non levy of penalty for illegal mining of brick earth and sand**

Under the provisions of Bihar Minor Mineral Concession Rules, 1972 (BMMC Rules) and notification issued thereunder, every brick kiln owner/brick earth remover shall pay amount of prescribed consolidated royalty per annum based on category of brick kiln before issue of permit. Further, Rules provide that whoever removes minor mineral without valid lease/permit shall be liable to pay the price thereof as penalty. Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

In eight district mining offices<sup>5</sup> (DMOs), it was noticed between March 2005 and March 2006 that 739 brick kilns were operated in brick season 2003-04 and 2004-05 without payment of prescribed royalty. Brick kiln earth and sand was removed without obtaining permits. Taking the minimum price of mineral equivalent to royalty, there was non levy of penalty of Rs 4.47 crore.

After this was pointed out in March 2006, Assistant Mining Officer (AMO) Motihari stated that no specific provision for imposition of penalty lies under rule 26 (A) of BMMC Rule. The reply of AMO was not tenable as Rule 40 (8) attracts penal provision for illegal removal/excavation of minor minerals/brick kiln earth whereas Rule 26-A deals with payment of consolidated royalty by brick kiln owner having valid permit. Where mining is done without any permit, all such cases are to be treated as illegal excavation and penalty

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<sup>5</sup> *Bhojpur, Buxar, Gaya, Jahanabad, Lakhisarai, Motihari, Munger and Vaishali.*

imposed under Rule 40(8). No reply was received from other DMOs (October 2006).

The cases were reported to Government between January to April 2006; reply has not been received (October 2006).

#### **6.4 Loss of revenue due to non execution of deeds of settlement**

Under the provision of BMMC Rules, settlement of *sand ghats* is done for one calendar year by collector of the district by public auction and a deed of settlement is to be executed within 60 days of the order of the settlement on payment of stamp duty as prescribed in the Indian Stamp Act, 1899. In case of non execution of deed, the settlement order shall be deemed to have been revoked.

In three district mining offices,<sup>6</sup> 84 *sand ghat* areas were settled at Rs 32.39 crore for the years between 2003 and 2005 without executing deeds of settlement as required under the Rules. This resulted in loss of stamp duty of Rs 2.04 crore (including surcharge of Rs 1.07 crore).

After this was pointed out between October 2004 and August 2005, AMO, Patna stated that demand notices were issued while AMO, Munger stated in May 2005 that action would be taken to recover the amount. Further replies have not been received (October 2006).

The cases were reported to Government in February 2006; reply has not been received (October 2006).

### **C: WATER RATES**

#### **6.5 Non raising of demand due to non preparation of *khatiani***

Under the provisions of Bihar Irrigation Act, 1997 and Rules framed thereunder, preparation of statement of land irrigated (*sudkar*), cultivator wise measurement (*khesra*) and demand statement (*khatiani*) are required to be completed by 30 November for *kharif*, 30 April for *rabi* and 15 June for hot weather crops by Irrigation Department for recovery of water rates from the beneficiaries to whom water is supplied for irrigation purposes and forward the same to revenue divisions for recovery.

In two divisions<sup>7</sup>, it was noticed between May and July 2005, that *khatiani* for 2.86 lakh acres of *kharif*, 0.61 lakh acres of *rabi* and 0.14 lakh acres of hot weather crops land irrigated during the years 2000-01 to 2004-05 were not prepared and forwarded to the concerned revenue divisions for raising demand of water rates of Rs 3 crore.

After this was pointed out between May and July 2005, the executive engineers (EE) concerned stated in June 2005 and July 2005 that *khatiani* would be prepared and sent to revenue divisions for collection.

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<sup>6</sup> Bhojpur, Munger and Patna.

<sup>7</sup> Bhagalpur division, Bhagalpur and Triveni Canal division, Raxaul.

The cases were reported to Government between October and November 2005; reply has not been received (October 2006).

#### **6.6 Loss of revenue due to settlement of chat land at lower rates**

Under the provisions of Bihar Irrigation Manual and instructions issued thereunder, *chat land*<sup>8</sup> is to be settled on lease for nine months for the period from June to March each year to scheduled caste/ scheduled tribes and landless farmers at prescribed rates. Government revised in April 2002 the rates for settlement of *chat land* at the rate of Rs 1,000 per acre. In addition, water rate is also charged.

In Sone canal division, Ara, it was noticed that 730 acres of double crop *chat land* was settled at the old rate of Rs 213 per acre instead of revised rate of Rs 1,163 per acre (including water rates) for the years 2002-03 to 2004-05. This resulted in short realisation of revenue of Rs 14.24 lakh.

After this was pointed out in July 2005, the EE stated that the revised rates were received in the division in March 2005. Reply of the EE is not tenable as the order for the revision of rate was communicated by Engineer in Chief, Water Resources Department, Bihar to all Chief Engineers concerned in the month of April 2002 and the letter of March 2005 as referred to by the EE above was only clarification sought for from the Chief Engineer concerned.

The case was reported to Government in October 2005; reply has not been received (October 2006).

### **D: WEIGHTS AND MEASURES**

#### **6.7 Non realisation of revenue due to non reverification of weights and measures**

Under the provisions of Standards of Weights and Measures (Enforcement) Act, 1985 read with Bihar Standards of Weights and Measures (Enforcement) Rules (BSWM Rules), 1988 made thereunder, every person in possession, custody or control of any weight or measure which he intends to use in any transaction or for industrial production, shall present such weight or measure for verification by an inspector and get it stamped at least once in a year on payment of prescribed fee. Contravention of the Act attracts punishment with fine which may extend to Rs 500. Further, under Rule 17 (3) of the BSWM Rules, if such weights and measures are presented for reverification after expiry of validity of stamping, an additional fee at half the rates specified in Rules shall be payable for every quarter for the period of delay. The inspectors are required to inspect/test weight or measures randomly at any time within their jurisdiction and also to direct any person having possession of weights or measures to produce the same before them for verification in order to detect any violation of the Act.

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<sup>8</sup> Government land which is situated on both sides of the canal.

Scrutiny of register of users<sup>9</sup> in the offices of nine inspectors<sup>10</sup> of weights and measures, for the period 2002-03 to 2004-05 revealed that though 2,373 users failed to produce their weights and measures for reverification, no action was initiated by inspectors either to inspect the apparatus at the place of installation or direct the users to produce the same for inspection. This not only resulted in irregular use of apparatus without authorisation, but also led to non realisation of fee and additional fee of Rs 13 lakh (calculated for the period 2002-03 to 2004-05). In addition, fine of Rs 500 in each case was also leviable.

After this was pointed out, the inspectors<sup>11</sup> stated between March and May 2006 that reply would be furnished after verification of records. Further reply is awaited (October 2006).

The case was reported to Government in July 2006; reply has not been received (October 2006).

## 6.8 Revenue not credited to Government account

According to BFR read with Rule 7 of Bihar Treasury Code Vol-I, it is the primary responsibility of departmental authority to see that all revenue receipts due to Government are correctly and properly assessed, realised and credited to Government account without undue delay. BSWM Rules and instructions issued by the Controller, Weights and Measures, Bihar in June 2002, provides that all payments received by the inspectors during a week are required to be deposited in treasury on each Wednesday or any day of the following week.

**6.8.1** Cross verification of the details shown in cash book, copy of money receipts and challans for the period from 17 July 2003 to March 2005 as produced to audit by four sub divisions<sup>12</sup> with treasury records revealed that Rs 2.69 lakh collected by inspectors of weights and measures was either not accounted for in the cash book or accounted for in the cash book but not deposited in treasury as per details given below:

(Amount in rupees)				
Name of Sub divisions	Period	Amount collected	Amount deposited in treasury	Balance
Bagaha	2003-04 (17.7.2003 to 31.3.2004)	1,41,929	1,36,608	5,321
	2004-05	1,38,784	1,06,468	32,316
Bettiah	2004-05	1,16,796	57,648	59,148
Narkatiaganj	2003-04 ( 13.8.2003 to 31.3.2004)	3,05,469	1,99,153	1,06,316
	2004-05	62,531	15,484	47,047
Bettiah Sadar	29.3.2005	18,859	NIL	18,859
<b>Total</b>		<b>7,84,368</b>	<b>5,15,361</b>	<b>2,69,007</b>

<sup>9</sup> Register of users of weights and measures to be maintained in form prescribed under Rule 10 of BSWM Rules.

<sup>10</sup> Bagaha, Begusarai Sadar, Begusarai Additional, Bettiah, Danapur Sadar, Gaya Sadar, Jehanabad, Narkatiaganj and Sherghati.

<sup>11</sup> Bagaha, Begusarai Additional, Begusarai Sadar, Bettiah, Danapur Sadar, Gaya Sadar, Jehanabad, Narkatiaganj and Sherghati.

<sup>12</sup> Bagaha, Bettiah, Narkatiaganj and Bettiah Sadar.

After this was pointed out, the inspector Bettiah Sadar deposited (May 2006) a sum of Rs 18,859 into Government account which was collected in March 2005. Reason for non deposit of the amount was attributed by the inspector to abnormal rush of traders in the last week of March 2005 and ongoing camps being held for collection of revenue during that period. In remaining cases, the inspectors concerned stated (May 2006) that the reply would be furnished after examination of records. Further reply is awaited (October 2006).

**6.8.2** Further test check of records of the office of the inspector, incharge Bettiah, Bagaha and Narkatiaganj sub divisions in May 2006 relating to the years 2002-03 to 2004-05, revealed that neither the cash book nor the counterfoil of money receipts issued were properly maintained. Details of cash book and corresponding money receipts for different periods falling between September 2003 and December 2004 which were not produced to audit are given in *Annexure-I*.

In absence of counterfoils of money receipts and cash book, revenue actually collected and remitted into treasury could not be ascertained for the years 2003-04 and 2004-05 (up to December 2004).

After this was pointed out, the inspector stated (May 2006) that his predecessor did not hand over records on his transfer. An inventory of the available records was prepared in the presence of a magistrate on the order of District Magistrate. The cash book and receipt books were not available in the office at the time of preparation of inventory, as such, required documents could not be produced to audit. Thus, it is evident that revenue involved in receipt books which were not handed over by predecessor during September 2003 and December 2004 had been misappropriated.

These cases were reported to Government in July 2006; reply has not been received (October 2006).

## **E: FOREST RECEIPTS**

### **6.9 Non realisation of Government revenue due to non raising of demand**

Government of India (GOI), Ministry of Environment and Forest instructed in March and September 2004 that State Governments should receive funds for compensatory afforestation and net present value from the user agencies for diversion of forest land for non forestry purposes and keep the fund in the form of fixed deposits (FD in nationalised banks only) in the name of concerned divisional forest officer (DFO) or the nodal officer of the State. During the years 2004 to 2006, interest receivable from nationalised banks on FDs ranged between 5.5 and 6.5 *per cent*.

**6.9.1** Test check of records of the Regional Chief Conservator of Forests (RCCF), Muzaffarpur revealed in June 2005 that inter departmental meeting of Forest, Road and Electricity departments held in February 2004 approved felling of trees along National Highway 28<sup>13</sup> for construction of east west

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<sup>13</sup> 360.57 km to 520 km (UP border to Muzaffarpur).

corridor by the National Highways Authority of India (NHAI). NHAI deposited the provisional amount of Rs 1 crore in May 2004 with the RCCF, Muzaffarpur pending detailed estimate in respect of compensatory afforestation and cost of removal of felled trees. The amount was credited to Government account in May 2004 as forest receipts and order was issued in July 2004 for commencement of the work.

The RCCF, Muzaffarpur in July 2004 submitted detailed estimate of Rs 2.87 crore to the Principal Chief Conservator of Forests (PCCF), Bihar for realisation from NHAI on account of logging, transportation of felled trees and plantation of trees and requested the PCCF to raise demand for the balance of Rs 1.87 crore from NHAI. The demand was, however, not raised till the date of audit (June 2005).

After this was pointed out, RCCF, Muzaffarpur stated in August 2006 that action was being taken to raise demand for balance dues with NHAI. Progress of recovery is awaited (October 2006).

**6.9.2** Test check also revealed that the amount of Rs 1 crore received from NHAI was credited to Government account in May 2004 as revenue receipt instead of keeping it in the form of FD as directed by GOI. This led to loss of interest of Rs 12.83 lakh for the period from May 2004 to August 2006.

The matter was reported to department/Government in April and October 2006; reply has not been received (October 2006).

#### **6.10 Non eviction from forest land**

Under the provisions of Indian Forest Act (IF Act), 1927 as amended from time to time encroachment of forest land is a cognisable and non bailable offence. Any forest officer not below the rank of DFO, if he has reason to believe that encroachment of Government forest land has taken place, may evict the encroachers and use all the powers conferred on a magistrate under the Bihar Public Land Encroachment Act (BPLE Act), 1956. The Act further provides for realisation of royalty and compensation for damages to forest produce and forest land from encroachers.

Continuance of encroachment and any unauthorised activity on forest land tantamounts to violation of the orders of the Hon'ble Supreme Court <sup>14</sup> directing complete eviction of encroachers. PCCF, Bihar issued instructions in June 2003 for departmental action against forest officers for any slackness in compliance of the Apex Courts' orders.

**6.10.1** In Araria forest division, it was noticed in December 2005 that 3.18 hectares of forest land in Arha Madarganj protected forest in Araria forest range (erstwhile Purnea forest division) valued at Rs 18.44 lakh was encroached between 1992-95 but was pending eviction under the forest laws. Instead of using the powers conferred under the BPLE Act, cases were filed in judicial courts between 1992 and 1995 which rejected the cases in April 2002.

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<sup>14</sup> *Case no WP-202/95.*

Test check further revealed that though DFO, Purnia reported to PCCF that eviction process was on, no proceedings except show cause notices issued between May and November 2002 were taken against the encroachers till March 2004, when the records were transferred to newly created Araria forest division. DFO, Araria forest division also did not take any action for eviction of encroachers from forest land till date of audit (December 2005).

After this was pointed out, the RCCF, Muzaffarpur stated in August 2006 that on physical verification of the forest area under encroachment it was found that the forest area was totally barren and devoid of any trees and that DFO has been directed for speedy eviction of the encroached forest land. The extent of loss, of forest produce though called for, has not been reported (October 2006).

**6.10.2** In Nawada and Sasaram forest divisions, it was noticed in August and September 2005 that in 13 forest offence cases, encroachment of 35.10 hectare<sup>15</sup> of forest land valued at Rs 2.04 crore was reported by concerned range officers between July and September 2004. In spite of mandatory requirement under the IF Act and specific orders of the Apex Court, no action was taken by the department to ensure eviction of the encroached forest land till date of audit (August and September 2005).

After this was pointed out, the DFO, Nawada stated in August 2005 that reply would be furnished after scrutiny of records while DFO, Sasaram stated in September 2005 that action would be taken for eviction. Further reply has not been received (October 2006).

The cases were reported to Government in April and May 2006; their reply has not been received (October 2006).

### **6.11 Loss of revenue due to non disposal of confiscated forest produce**

IF Act provides that when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with vehicles, tools etc used in committing such offence shall be seized by the forest officer. On report of such seizure, forest officer not below the rank of DFO may confiscate the seized materials and report the matter to appropriate judicial authorities for allowing disposal of the same.

In Tirhut forest division, Muzaffarpur, it was noticed in June 2005 that officials of custom division, Muzaffarpur in April 1998 seized a truck load of 11.265 ton of khair wood valued at Rs 5.63 lakh which was illegally felled and intimated the DFO to take over the seized forest produce for necessary action under forest laws. The DFO in August 1999 ordered for confiscation of seized articles and directed the Range Officer (RO), Muzaffarpur (West) to take possession of the same. Appeal filed by respondents was rejected by the district magistrate cum appellate authority in December 2001 and the materials were finally available for disposal in 2002-03. Despite repeated requests by

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<sup>15</sup> *Rajauli: 30 hectares in 8 cases; Kauakol: 1.62 hectares in 2 cases; Rohtas: 3.24 hectares in 2 cases and Chenari: 0.24 hectare in one case.*

the custom division, the RO failed to take possession of the confiscated materials. The DFO also did not take any action against the erring RO. Subsequently, custom division sold the timber in May 2005 through public auction for Rs 0.68 lakh and credited the same to Central Government account. Thus, failure on the part of the Forest Department to take over the material and dispose of the same resulted in loss of revenue of Rs 5.63 lakh.

After this was pointed out, RCCF, Muzaffarpur stated in August 2006 that process has been initiated to identify the officials responsible for the loss of revenue. Further reply is awaited (October 2006).

The matter was reported to Government in April 2006; reply has not been received (October 2006).

**Patna**  
**The**

**(ARUN KUMAR SINGH)**  
**Principal Accountant General (Audit)**

**Countersigned**

**New Delhi**  
**The**

**(VIJAYENDRA N. KAUL)**  
**Comptroller and Auditor General of India**