

CHAPTER-VI : NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of the following receipts conducted during the year 2006-07, revealed loss/non-recovery of revenue etc. of Rs. 252.37 crore in 314 cases as mentioned below:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A. Mines and Minerals			
1.	Receipts from mines and minerals (A review)	1	38.32
2.	Non-initiation of certificate proceedings	7	34.99
3.	Non-levy of penalty/fees	36	30.64
4.	Non-levy of interest	9	9.17
5.	Non/short levy of auction money due to non/irregular settlement of <i>sand ghat</i>	6	3.81
6.	Non-levy of stamp duty and registration fees	11	2.28
7.	Non-levy or short levy of dead rent/surface rent	4	1.47
8.	Non/short levy of royalty and cess	1	0.20
9.	Other cases	18	16.77
Total		93	137.65
B. Water Rates			
1.	Delay in assessment of water rates	11	10.85
2.	Other cases	40	65.01
Total		51	75.86
C. Forest Receipts			
1.	Loss of revenue due to departmental lapses	115	13.54
2.	Less raising of demand	1	2.08
3.	Other cases	54	23.24
Total		170	38.86
Grand Total		314	252.37

During the year 2006-07, the concerned departments accepted underassessment and other deficiencies involving Rs. 108.33 crore in 89 cases which were pointed out during the year 2006-07.

Audit findings of the review of “Receipts from Mines and Minerals” involving a total financial effect of Rs. 38.32 crore and a few other illustrative cases involving Rs. 9.53 crore are mentioned in the following paragraphs.

A: MINES AND MINERALS

6.2 Receipts from Mines and Minerals

Highlights

Lack of a system to review the brick kiln registers maintained by the district mining officers to monitor non-payment of royalty by the defaulting brick kiln owners by the Director of Mines led to non-levy of penalty of Rs. 7.89 crore.

(Paragraph 6.2.7)

Lack of a system to ensure that the Director of Mines reviewed the verification particulars of forms conducted by the district mining officers/assistant mining officers led to non-levy of penalty of Rs. 12.79 crore against the works contractors.

(Paragraph 6.2.8)

The district mining officer failed to reconcile the departmental figures with the treasury figures resulting in misappropriation of Rs. 1.70 crore.

(Paragraph 6.2.10)

Non-execution of deeds for settlement of 44 stone quarries and sand *ghats* in eight DMOs during 2001-02 to 2006-07 resulted in non/short realisation of stamp duty of Rs. 3.60 crore.

(Paragraph 6.2.12)

In five district mining offices, 118 sand *ghats* with reserve price of Rs. 9.64 crore remained unsettled, resulted in loss of revenue of Rs. 8.95 crore.

(Paragraph 6.2.13)

6.2.1 Introduction

The mining of minerals is governed by the Bihar Minor Mineral Concession Rules (BMMC Rules), 1972 and Mineral Concession Rules (MC Rules), 1960 framed by the State Government under the Mines and Minerals (Regulation and Development) Act (MMRD Act), 1957. Receipts from mining of minerals accrue mainly in the form of royalty, dead rent, surface rent, application fee for lease/permit/prospecting licence, penalties, fines and interest for delayed/belated payment of dues etc. The minor minerals available in the State, are brick earth, building stones, clay, lime stones, sand etc.

A review of the receipts from mines and minerals was conducted in audit. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

6.2.2 Organisational set up

The regulation and development of mines and minerals, grant of mineral concessions, assessment, levy and collection of mining dues are administered by the Mines and Geology Department with the Commissioner cum Secretary as its head at the Government level. The Director of Mines is the head of the department and is assisted by seven Deputy Directors of Mines (DDMs), one at headquarters and six at circles and 27 district mining officers

(DMOs)/assistant mining officers (AMOs) in the districts. The DMO/AMO, in-charge of the district mining offices, are responsible for assessment, levy and collection of royalty and other mining dues. The DDM of a circle is the appellate authority and is vested with the powers of certificate officer for recovery of the mining dues.

6.2.3 Audit objectives

The review was conducted to examine whether

- the Acts/Rules/provisions relating to mining and realisation of royalty, dead rent, surface rent, application fees for lease permit/prospecting licence, fines, penalties and interest for delayed payment were properly adhered to;
- revenues realised were properly accounted for in the Government account under the proper head; and
- an effective internal control mechanism existed for monitoring the functioning of the department.

6.2.4 Scope of audit

The records pertaining to the years 2001-02 to 2005-06 in nine¹ out of 27 district mining offices, two² out of six circles and the Directorate of Mines were reviewed between November 2006 and June 2007. The units have been selected on the basis of revenue collected³.

6.2.5 Acknowledgement

Indian Audit & Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing the necessary information and records for audit. The finding of the review were forwarded to the Government and department in July 2007 and were discussed in the Audit Review Committee meeting held on 9 October 2007 with the Principal Secretary, Mines and Geology Department. The reply of the Government has been suitably incorporated in the respective paragraphs.

Audit findings

6.2.6 Trend of revenue

The details of budget estimates (BE) and actual receipts for the year 2001-02 to 2005-06 are mentioned below:

(Rupees in crore)

Year	BE	Actual receipts	Variation	Percentage of variation
2001-02	50.00	39.20	(-) 10.80	(-) 21.60
2002-03	61.60	61.20	(-) 0.40	(-) 0.65
2003-04	75.00	73.34	(-) 1.66	(-) 2.21
2004-05	81.00	80.09	(-) 0.91	(-)1.12
2005-06	81.00	100.90	(+) 19.90	(+)24.57

¹ Aurangabad, Bhojpur, Gaya, Jamui, Kaimur, Munger, Nawada, Patna and Rohtas.

² Gaya and Patna.

³ 69 per cent of the total collection during 2005-06.

The receipts of the department have been steadily increasing which is an encouraging trend. The increase of Rs. 19.90 crore in 2005-06 over the BEs was mainly due to the receipts of royalty from the National Thermal Power Corporation (NTPC), Barh for earth work and other receipts from auction of stone quarries and Works Department which were not known at the time of framing the BE.

System deficiencies

6.2.7 Receipts from brick kilns

Under the BMMC Rules and notification issued (March 2001) thereunder, brick kilns are classified into different categories. The brick kiln owners are required to pay the consolidated amount of royalty in two equal instalments at the prescribed rates (first instalment of 50 *per cent* is to be paid before commencement of the operation of the kiln and the second instalment of 50 *per cent* before March of that year). Rule 28 further provides that every application for quarrying permit shall be accompanied with a fee of Rs. 2,000.

As per Rule 26 A, if the brick earth remover/brick kiln owner fails to pay the consolidated amount of royalty in the prescribed manner, he shall not be allowed to carry on the business and the competent officer or any other officer duly authorised in this behalf by the State Government shall be competent to stop such business. Further, under the provision of the BMMC Rules and instruction issued by the Government (October 1986), it is the duty of the DMO/AMO/mining inspector (MI) to inspect the area of the brick kiln every month for detection of illegal mining operation.

The MMRD Act provides that in case of continued contravention of the provision of the Act by the brick kiln owner, an additional fine which may extend to Rs. 500 for every day during which such contravention continues after conviction for the first such contravention, may be imposed.

A brick kiln register is required to be maintained by each DMO containing the names of the licensees and the details of royalty paid by them. **There was no system to ensure that the Director of Mines reviewed the brick kiln registers maintained by the DMOs to monitor non-payment of royalty by the defaulting brick kiln owners and imposition of penalty. In the absence of such a system, a number of lapses were noticed which are mentioned below.**

6.2.7.1 Non-levy of penalty for illegal removal of brick earth

Test check of the records of six DMOs⁴ revealed that 603 brick kilns were operated during the period from 2001-02 to 2005-06 without obtaining permit and without paying the consolidated amount of royalty. Thus, the kilns were operated illegally. **Though all the kilns were inspected by the DMOs and illegal mining detected, yet no action was taken to impose the penalty of Rs. 3.16 crore⁵ under the BMMC Rules (Annexure-IX).**

⁴ Aurangabad, Bhojpur, Gaya, Kaimur, Patna and Rohtas.

⁵ In absence of actual price of earth excavated, the price has been calculated on royalty payable by the brick kiln owners, which is one of the components for working out cost.

6.2.7.2 Loss due to non-levy of fine for continued contravention

Test check of the register and other records in respect of five DMOs⁶, revealed that 82 defaulting brick kiln owners continued to engage in repeated illegal removal of brick earth and operated the kilns without paying royalty and obtaining permit for the period ranging between two to five years during 2001-02 to 2005-06. **Though the illegal operation was in the knowledge of the departmental authorities, no action was taken to stop it and levy fine.** Besides, continued violation of the provisions of the Act/Rules, this also resulted in non-levy of maximum penalty of Rs. 4.73 crore as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the district mining office	No. of defaulting brick kiln owners	Period of contravention during 2001-02 to 2005-06	Non-levy of fine
1.	Aurangabad	17	2 to 5 years	107.68
2.	Kaimur	16	2 to 4 years	83.93
3.	Nawada	16	2 to 5 years	105.85
4.	Patna	16	2 to 4 years	73.00
5.	Rohtas	17	2 to 5 years	102.20
Total		82	--	472.66

After this was pointed out, the Government, while admitting the audit observation stated (October 2007) that inter-departmental squad had been constituted to check illegal mining and action was being taken for filing a certificate case where previously not done.

6.2.7.3 Non-levy of interest

As per the BMMC Rules, the Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee, or other sum due to the Government.

Test check of the records of three DMOs /AMOs⁷ revealed that during the period from 2001-02 to 2004-05, 475 brick kilns were operating without paying consolidated royalty and 293 brick kilns paid a part of royalty. The DMOs /AMOs had not maintained the prescribed register for effective control to verify the dates of payment of royalty. In the absence of such register, interest amounting to Rs. 2.27 crore could not be levied on the unpaid royalty of Rs. 3.44 crore (Annexure-X).

After the cases were pointed out, the Government while admitting the audit observation stated in October 2007 that action would be taken for recovery of the interest.

The department may consider making the DMOs/AMOs accountable for illegal mining to prevent leakage of revenue. The brick kiln registers may be prepared. Review by the Director of Mines of the brick kiln registers may also be prescribed with appropriate periodicity for monitoring purpose.

⁶ Out of six DMOs referred in para no.6.2.7.1, four DMOs (Aurangabad, Kaimur, Patna and Rohtas) are common.

⁷ Bhojpur, Kaimur and Patna.

6.2.8 Non-imposition of penalty against works contractor for illegal procurement of minerals

The BMMC Rules provide that the works contractor shall purchase the mineral from lessee / permit holder and authorised dealer only. The Works Department shall not accept any bill which the works contractors submit to recover the cost of minerals used by them in completion of work unless the same is accompanied with prescribed forms 'M' and 'N' describing the names and addresses of the dealers from whom the minerals were purchased. It shall be the duty of the officer, who receives the said bill, to send the photocopy of the form and particulars to the concerned DMO / AMO. If contents of the forms, on verification by the concerned DMO / AMO, reveal that the minerals are not purchased from any bonafide lessee, it shall be presumed that the concerned mineral was obtained by illegal mining and in that event the said DMO/AMO shall take action as prescribed in these rules against the works contractor. **Audit scrutiny revealed that the Works Department was not furnishing the photocopies of the forms 'M' and 'N' to the DMOs/AMOs. Also, there was no system to ensure that the Director of Mines reviewed that the verification of the particulars of the forms was being conducted by the DMO/AMO. In the absence of such a system, a number of lapses were noticed which are mentioned below.**

Test check of the records of nine DMOs⁸ revealed that three works departments⁹ did not send the particulars of the minerals used by the works contractors to the DMOs/AMOs for verification. Instead, the departments during 2001-02 to 2005-06 levied royalty of Rs. 12.79 crore from the contractors for use of minerals and deposited it into the Government account. This indicates that the minerals were not purchased from any authorised lessee/dealer and the contractors were thus liable to pay penalty in addition to royalty. **But the DMOs/AMOs, on receipt of the statement of royalty from the works departments, did not initiate any follow up action to call for the copies of the forms 'M' and 'N' from the Works Department for verification and detection of the cases of the illegal mining.** This not only encouraged the contractors to purchase/mine the minerals illegally, but also led to non-imposition of penalty amounting to Rs. 12.79 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the DMOs	Year	Amount
1.	Aurangabad	2001-02 to 2005-06	0.93
2.	Kaimur	2002-03 to 2005-06	1.21
3.	Bhojpur	2001-02 to 2005-06	1.98
4.	Gaya	2003-04 to 2005-06	2.02
5.	Jamui	2005-06	1.07
6.	Munger	2001-02 to 2005-06	0.78
7.	Nawada	2001-02 to 2005-06	1.70
8.	Patna	2001-02 to 2005-06	2.98
9.	Rohtas	2005-06	0.12
Total			12.79

⁸ Aurangabad, Bhojpur, Gaya, Jamui, Kaimur, Munger, Nawada, Patna and Rohtas.

⁹ Public Works Department, Rural Development Department and Urban Development Department.

Note: Price of mineral as per Rule40(8) of the BMMC Rules, includes cost of production, handling charges, transport cost, royalty, sales tax and other tax and cess, margin of profit. But in the absence of rates of components, only royalty was considered for working out the price of mineral.

After the cases were pointed out, the Government stated in October 2007 that instructions had been issued to the treasury officer, not to entertain the bill of the contractors without obtaining form 'M' and 'N'. The reply is, however, silent on the failure of the DMOs/AMOs to detect these lapses.

The Government may consider fixing responsibility on the DMOs/AMOs who fail to obtain and verify the details in forms 'M' and 'N'.

6.2.9 Revenue recovery mechanism

Under the Bihar Financial Rules (BFR), it is the duty of the controlling officer to ensure that the dues of the Government are correctly and properly assessed, collected and paid into the treasury. As per the instruction of the Board of Revenue under the Public Demand Recovery (PDR) Act, the requiring officer (RO) and the certificate officer (CO) are jointly responsible for the speedy disposal of certificate cases and in case of any difficulties, bring the matter to the notice of the collector, without any undue delay for ensuring disposal of the certificate cases.

The RO is primarily responsible for systematic application for certificates, the prompt disposal of objections and the early application for execution. He is also required to ensure that execution proceedings are progressing satisfactorily.

Under the BMMC Rules and instructions issued thereunder from time to time, the amount of rent, royalty and penalty payable shall be recoverable as a public demand under the Bihar PDR Act, 1974. Accordingly, certificate proceedings are to be initiated for realisation of arrears for which the RO is required to maintain the details of cases in register IX and send the proposal of certificate case to the CO, who records the cases in register X. **These registers are required to be cross verified from time to time to reconcile the entries therein and ensure timely disposal of the certificate cases.** Further in case of permit holder/authorised dealer who fails to pay any Government dues within the stipulated time, a certificate case must be filed within seven months after the due date.

6.2.9.1 Position of outstanding revenue

As per details supplied by the Mines and Geology Department, the year wise break up of the arrear of revenue is as mentioned below:

Year (Upto)	Progressive Amount (Rupees in Crore)
2001-02	75.28
2002-03	83.93
2003-04	99.03
2004-05	116.63
2005-06	125.86

Out of the total outstanding dues of Rs. 125.86 crore, Rs. 106.26 crore (84.42 per cent) was covered under the certificate proceedings.

After the case was pointed out, the Government stated in October 2007 that action would be taken for early recovery of the dues.

6.2.9.2 Collection from certificate cases

Scrutiny of the records of the department revealed that no age wise details of pending certificate cases and their disposal along with year of recovery of the amount to which it related were available in the department. **The register IX required to be maintained by the RO was not maintained properly due to which the department was not in a position to monitor the status of outstanding dues and recovery. There was also no system of any report/return to be furnished by the district authorities showing the status of the certificate cases.** The department, on being requested by audit, obtained the figures of year wise collection of certificate dues for the year 2001-02 to 2005-06 from the respective district authorities which are as mentioned below:

(Rupees in crore)

Year	Collection from certificate dues					
	Dues		Collection		Percentage	
	No. of cases	Amount	No. of cases disposed	Amount received	Cases	Amount
2001-02	30,066	65.56	406	1.81	1.35	2.76
2002-03	NA	75.15	409	1.74	NA	2.31
2003-04	32,618	82.83	256	1.56	0.78	1.88
2004-05	32,417	96.24	176	0.83	0.54	0.86
2005-06	34,828	108.39	435	2.13	1.25	1.96

Thus, there was no effective follow up action by the department for expeditious disposal of certificate cases which resulted in accumulation of arrears of revenue of Rs. 106.26 crore. The chances of recovery from cases pending for long periods are also remote.

After the case was pointed out, the Government stated in October 2007 that action would be taken for speedy disposal of the cases.

6.2.9.3 Non-filing of certificate cases

Scrutiny of the records of the DMOs, Rohtas and Patna revealed that 48 cases of 2002-03 involving a revenue of Rs. 65 lakh were recorded in register IX of the concerned ROs and were sent to the CO for processing certificate cases. Verification with the entries in register X of CO by audit revealed that these cases were not recorded in the register for processing as certificate cases. Perusal of the statement of arrears of revenue revealed that these amounts were also not reflected as arrear in the records of the DMO (RO). **Thus, failure of the ROs to cross verify the entries of register IX with those in register X maintained by the COs resulted in non-initiation of certificate cases by the CO.**

After the case was pointed out, the Government stated in October 2007 that certificate proceedings would be initiated.

The Government may consider strengthening the mechanism for ensuring timely and speedy initiation/disposal of certificate cases in the interest of revenue.

6.2.10 Misappropriation of Government revenue

As per Rule 7 of BFR volume I, it is the duty of the controlling officer concerned to see that the dues of the Government are correctly and promptly assessed, collected and paid into the treasury. They should accordingly arrange to obtain from their subordinates monthly account and returns in suitable form claiming credit for amount paid into the treasury or otherwise accounted for and compare them with the statement of treasury credits furnished by the Accountant General (A&E), Bihar to see that the amounts reported as collected have been duly credited in the Public Accounts. If wrong credits come to the notice of the controlling officer, he should at once inform the Accountant General (A&E), Bihar for correction of the accounts. If any credits are claimed but not found in the accounts, enquiries should be made by the departmental officer concerned.

The amount received by the DMOs/AMOs in respect of mineral receipts are entered in the Bank Draft Register/Kacha Challan Register for cash amount. The DMOs/AMOs also send to the Government monthly statement containing the details of the revenue realised and credited to Government account. He is also required to verify the credits from the treasury records for its correctness.

Scrutiny of the monthly return sent by the DMO, Nawada for the year 2003-04 and 2004-05 revealed that Rs. 1.96 crore and Rs. 2.32 crore respectively were received as revenue from auction of sand *ghat* and were deposited in the treasury. Cross verification by audit of the treasury receipt schedule of Treasury Officer, Nawada revealed that only Rs. 2.58 crore was deposited in the Government account during the period. Failure of the DMO to reconcile the departmental figure with the treasury figure resulted in misappropriation of Rs. 1.70 crore (Annexure-XI).

After the case was pointed out, the Government while accepting the audit observation stated in October 2007 that departmental proceedings had been initiated against the concerned staff of the office.

The department may issue instruction for mandatory reconciliation of revenue figures of the department with those of the treasury figures every month.

6.2.11 Internal audit

Internal audit, a vital component of the internal control systems that enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The internal audit of different departments of the Government were centralised under the Finance Department in 1953. On enquiry by audit, the Finance (Audit) Department stated that the internal audit of the departments was being conducted on the basis of the requisition received from the administrative department for its subordinate offices.

Regarding the internal audit of Mines and Geology Department, only 15 audit reports had been issued by the Finance (Audit) Department during 2001-02 to 2005-06.

The details regarding number of offices due for audit, number of offices actually audited and position of internal audit reports, paragraphs issued and disposed were not furnished by the Mines and Geology Department (November 2007), despite being requested. Moreover, neither the department of Mines and Geology nor Internal Audit Wing (IAW) was in a position to state the number of requisitions sent/received during the years under review. **This indicates that the management had no means of knowing the areas of malfunctioning of systems and did not, therefore, have the opportunity of taking remedial action at the appropriate time.**

Thus, internal audit which is an important tool in the hands of the management of an organisation for ensuring its efficient functioning, has been rendered ineffective and inoperational.

The Government may take appropriate measures to make the IAW effective.

Compliance deficiencies

6.2.12 Non/short levy of stamp duty, surcharge and additional surcharge

6.2.12.1 The BMMC Rules provide that the right for extraction of any mineral may be leased out for five years and settled through public auction in the prescribed manner. The lease granted shall be executed in the prescribed form 'D' or in a form as near thereto as the circumstances of each case may require. The rule further envisages that where a mining lease is granted, the formal lease shall be executed within 90 days of the order sanctioning the lease and the lessee is liable to pay the stamp duty at the rate of three *per cent*¹⁰ as provided under the Indian Stamp (IS) Act, 1899. In addition, surcharge equivalent to stamp duty and 10 *per cent* additional surcharge are also leviable under the Bihar Finance Act.

Scrutiny of the records of three DMOs¹¹ revealed that 44 quarries of 88.57 acres were settled between February 2002 and July 2006 at Rs. 57.27 crore. But the department in case of 31 quarries involving auctioned amount of Rs. 55.55 crore, did not levy any stamp duty, surcharge and additional surcharge amounting to Rs. 3.48 crore. In 13 cases, the department levied only Rs. 1.29 lakh as stamp duty, surcharge and additional surcharge instead of Rs. 12.52 lakh. This resulted in non/short realisation of revenue of Rs. 3.60 crore (Annexure-XII).

After the cases were pointed out, the Government stated in October 2007 that stamp duty was collected at one fifth value of the lease deed (annual basis) in the case of DMO, Nawada and in the remaining 30 cases, demand would be raised. The reply is not tenable as the collection of stamp duty on one fifth value of five year lease agreement is not legally allowed and stamp duty on the

¹⁰ Calculated on the basis of anticipated royalty disclosed under clause 9 of Part IX of form 'D'.

¹¹ Munger, Nawada and Rohtas.

entire value at which the settlement was made was leviable. A report on recovery of stamp duty in the remaining cases has not been received (November 2007).

6.2.12.2 The BMMC Rules and notification issued by the Government in December 2002 provide that where the said settlements are made by public auction, a deed shall ordinarily be executed within 60 days and stamp duty will be charged as prescribed in the IS Act. Surcharge equivalent to stamp duty as well as 10 *per cent* additional surcharge are also required to be levied under the Bihar Finance Act for execution of the deed.

Scrutiny of the records in seven DMOs¹² revealed that 245 sand *ghats* were settled between calendar years 2004 and 2006 at Rs. 47.30 crore. But the department did not execute any settlement deed as required under the rule/notification. Thus, failure of the DMOs/AMOs to follow the provisions resulted in non-realisation of Rs. 1.02 crore on account of stamp duty including surcharge and additional surcharge (Annexure-XIII).

After the cases were pointed out, the Government stated in October 2007 that demand had been raised in the light of audit observation. A report on recovery has not been received (November 2007).

6.2.13 Loss of revenue due to non-settlement of sand *ghats*

Under the BMMC Rules, the settlement of sand *ghat* as minor mineral will be done by public auction by the Collector concerned with the highest bidder on annual basis.

Scrutiny of the records of sand *ghats* of five DMOs¹³ revealed that 118 sand *ghats* were not settled during the calendar year 2002 to 2006 with a reserve price of Rs. 9.64 crore. In Rohtas district, 15 out of 27 sand *ghats* were departmentally operated in the calendar years 2002 and 2004 and Rs. 68 lakh only was collected against the reserve price of Rs. 6.02 crore. Since riverine sand is in constant process of accumulation and depletion, lack of effective steps to settle the sand *ghats* year after year led to a loss of revenue of Rs. 8.95 crore to the Government (Annexure-XIV).

After the cases were pointed out, the Government stated in October 2007 that no bidder turned up for settlement of the sand *ghat*. The reply is not tenable as the department could have operated the sand *ghats* departmentally. Further, the reply is also silent regarding the failure of the department to realise the reserve fee in cases where the sand *ghats* were departmentally operated.

6.2.14 Loss of revenue due to injudicious settlement of stone quarries

According to rule 52 (1) (i) of BMMC Rules, as amended from March 2001, stone quarry is to be leased/settled out by public auction in respect of the mineral, notified under Rule 9 A. The Government in August 2001 notified the reserve price of stone quarries for all the districts of Bihar and accordingly the settlee had to pay the auctioned amount only.

¹² Aurangabad, Bhojpur, Gaya, Kaimur, Nawada, Patna and Rohtas.

¹³ Aurangabad, Bhojpur, Kaimur, Patna and Rohtas.

Scrutiny of the records of DMOs, Munger and Rohtas revealed that 12 stone quarries were settled by public auction between October 2002 and March 2004 for five years at the total auctioned amount of Rs. 4.42 crore. The settlees extracted 4,20,96,181 cft of stone from the said quarries up to March 2006. A sum of Rs. 11.91 crore was receivable in shape of royalty, had it been leased out, in the manner prescribed before the amendment. Thus, due to injudicious decision of the Government to auction stone quarries instead of leasing them, there was loss of revenue of Rs. 7.50 crore (Annexure -XV).

After the case was pointed out, the Government stated in October 2007 that instructions had been issued (November 2004) that in cases where the royalty receivable from the extracted stone exceeded the auctioned amount, the settlee had to pay the differential amount. The reply of the Government is, however silent regarding the delay of more than three years in issuing such corrective instructions which led to the loss of revenue in the cases of these 12 stone quarries test checked in audit.

6.2.15 Loss of revenue due to departmental operation of sand *ghat*

Rule 11A of the BMMC Rules provides for settlement of sand *ghat* by public auction by the Collector with the highest bidder for one calendar year. The Government decided in December 2001 to departmentally operate the sand *ghats* if these were not settled by auction.

The Government, due to imposition of model election code of conduct, decided to settle the sand *ghats* for the period from January to March 2005 with the settlees of 2004 on the proportionate reserve fee for three months as calculated on the basis of the reserve price for the year 2004. Accordingly, instructions were issued to all the District Collectors in December 2004 for settlement of the sand *ghats*.

Test check of the record relating to settlement of sand *ghat* for the calendar year 2005 in DMO, Munger revealed that the settlee for the year 2004 agreed to pay Rs. 77.28 lakh for the period January to March 2005 on the average reserve price of the preceding 12 months. The District Collector, Lakhisarai in December 2004, referred the request to the Government for appropriate direction on the matter. The department decided not to award the work to the previous settlee and issued instructions to carry out the work departmentally on the plea that the bidder did not agree to undertake the work. The plea of the Government is not tenable as the audit observation of acceptance of previous settlee has again been confirmed (November 2007) by the DMO/AMO, Lakhisarai. The department collected only Rs. 3.49 lakh during the period through departmental operation. Thus, failure of the department to award the work to the previous settlee resulted in loss of revenue of Rs. 73.79 lakh.

6.2.16 Non-imposition of penalty for illegal use of minerals in construction of railway tracks

The Government of India issued a notification in February 2000 specifying that ordinary earth used for filling or levelling purposes in construction of embankments, road, railways, building is a minor mineral. Further, every AMO/DMO is required to keep the list of the contractors engaged in construction work.

Rule 27(1) of the BMMC Rules provides that on an application made, the competent officer may grant a quarrying permit in form 'E' to any person to extract and remove any mineral from any specified land within the limits of his jurisdiction.

Scrutiny of the records of the DMO, Nawada revealed that 12.79 lakh cubic metre of earth and 72,000 cubic metre of *moorum*¹⁴ were used in the construction of a railway track for which no royalty was realised from the railway contractor. The railway contractor did not apply for permit for removal of earth and *moorum*. The DMO detected in his inspection that the contractors had illegally used the minerals attracting penal provisions of the BMMC Rules. Though three certificate cases were filed against the contractor for realisation of royalty of Rs. 2.13 crore, penalty of Rs. 2.13 crore for illegal removal of minor minerals was not levied as mentioned below:

Name of the Contractor	Earth work in filling at the rate of Rs. 15 per cubic metre	Moorum at the rate of Rs. 30 per cubic metre	Royalty payable (Rupees in lakh)
Modi construction Prop-Shri Naveen Modi, Kanke Road Ranchi	9,09,000 cubic metre	-----	136.35
--do--	3,00,000 cubic metre	48,000 cubic metre	59.40
M/s Allied company Kolkatta Prop- Shri Ajay kumar	70,000 cubic metre	24,000 cubic metre	17.70
Total	12,79,000	72,000	213.45

After the case was pointed out, the Government stated in October 2007 that necessary directives had been issued to the DMOs/AMOs. A report on recovery has not been received (November 2007).

6.2.17 Irregular renewal of lease of stone quarry

Under the provision of the BMMC Rules, application for renewal of mining lease shall be made at least 90 days but not earlier than 180 days before the expiry of the lease. The Government, in March 2001, however, stopped renewal of existing leases and fixed the reserve price of each unit of two acres of leased area at Rs. 11.50 lakh for five years in Nawada district.

Scrutiny of the records of the DMO, Nawada revealed that the lease period of a stone quarry of 162 acres was to expire on 30 September 2001. The department, however, in contravention of the Government order renewed 53.10 acres (out of 162 acres) on 7 April 2001 in favour of the lessee. The department, thereafter, suspended the operation of the mining lease in April 2007 without taking the possession of the area. Meanwhile, for such irregular renewal of mining operation the department sustained a loss of Rs. 1.31 crore¹⁵ on account of fixed reserve price receivable from fresh settlement.

¹⁴ A mixture of soil and clay used for levelling of roads.

¹⁵ Period 01.10.2001 to 31.03.2007 i.e. 5 ½ years
53.10/2 X 11.5 lakh/5yrs X 5 ½ years = Rs 335.86 lakh
Less revenue receipts up to 3/2007 = (-) Rs 204.87 lakh
(As per AMO Nawada during discussion) Rs 130.99 lakh

The Government, while accepting audit observation stated in October 2007 that orders for recovery had been issued. The reply is, however, silent regarding the reasons for such illegal renewal in violation of the Government order which led to loss of revenue.

6.2.18 Non-reconciliation of revenue receipts

The department is required to reconcile the receipts as per the records maintained by them with figures recorded in the books of the Accountant General (A&E), Bihar. Audit scrutiny revealed that reconciliation was not conducted during the period under review. As a result, there was variation between the departmental figures and the figures appearing in the Finance Accounts prepared by the Accountant General (A&E), Bihar as mentioned below:

(Rupees in crore)			
Year	Receipt as per Finance Account	Receipt as per Department	Difference
2001-02	39.20	40.99	(+)1.79
2002-03	61.20	57.52	(-)3.68
2003-04	73.34	67.59	(-)5.75
2004-05	80.09	75.33	(-) 4.76
2005-06	100.90	96.39	(-) 4.51

After this was pointed out the Government stated in October 2007 that necessary instruction had been issued to all the DMOs/AMOs for reconciliation of the figures.

6.2.19 Conclusion

Mining receipts are the second largest non-tax receipts to the State. Audit review revealed a number of deficiencies in the system of levy and collection of mining receipts leading to leakages of revenue and also in the non-levy of penalty for illegal and unauthorised mining operations. Internal control mechanism in the department was very weak as is evidenced by the failure of the DMOs/AMOs to maintain the prescribed registers and take appropriate action. Internal audit which is an important tool in the hands of the management of an organisation for ensuring its efficient functioning, has been rendered ineffective and inoperational due to lack of proper attention.

6.2.20 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- making the DMOs/AMOs accountable for illegal mining to prevent leakage of revenue. The brick kiln registers may be prepared. Review by the Director of Mines of the brick kiln registers may also be prescribed with appropriate periodicity for monitoring purpose;
- fixing responsibility on the DMOs/AMOs who fail to obtain and verify the details in forms 'M' and 'N';
- strengthening the mechanism for ensuring timely and speedy initiation/disposal of certificate cases in the interest of revenue;

- issuing instruction for mandatory reconciliation of revenue figures of the department with those of the treasury every month; and
- taking appropriate measures to make the IAW effective.

B: WATER RATES

6.3 Non-raising of the demand of *khatiani*

Under the Bihar Irrigation Act, 1997 and the rules framed thereunder, preparation of the statement of land irrigated (*sudkar*), cultivator wise measurement (*khesara*) and demand statement (*khatiani*¹⁶) are required to be completed by 30 November for *kharif*, 30 April for *rabi* and 15 June for hot weather crops by the Irrigation Department for recovery of water rates from the beneficiaries to whom water is supplied for irrigation purposes. These statements are to be forwarded to the revenue divisions of the department for recovery.

Test check of the records in seven divisions¹⁷ between April and November 2006 revealed that *khatiani* for 2.11 lakh hectares of *kharif* and 2.17 lakh hectares of *rabi* land irrigated during the years 2001-02 to 2005-06 were not prepared and forwarded to the concerned revenue divisions by the Irrigation Department. This resulted in non-raising of demand and collection of water rates of Rs. 4.55 crore for *kharif* and Rs. 4.01 crore for *rabi* crops.

After the cases were pointed out, the Executive Engineers (EEs) of three divisions¹⁸ stated between June and September 2006 that action was being taken to prepare *khatiani* at the earliest. The EEs of two divisions¹⁹ stated between September and October 2007 that demand had been raised. The other EEs attributed non-preparation of the *khatiani* to shortage of staff. Their replies are not tenable as adequate manpower was available in the divisions with reference to the sanctioned strength. Further reply has not been received (November 2007).

The cases were reported to the Government between October 2006 and April 2007; their reply has not been received (November 2007).

6.4 Loss of revenue due to non-settlement of cultivable *chat* land

Under the Bihar Irrigation Manual and instructions issued thereunder, the *chat* land²⁰ is to be settled/renewed on lease for nine months for the period from June to March every year for cultivation to persons belonging to the scheduled castes/scheduled tribes and to the landless farmers on priority basis. For this, applications are to be invited by the Sub-Divisional Canal Officer for *chat* land available for settlement on realisation of the settlement amount at prescribed rates including water rates. The settled amount of *chat* land is to be realised in advance along with all the arrears.

¹⁶ Abstract demand of irrigated land.

¹⁷ Dehri division, Dehri; Ganga Pump division, Chausa; Irrigation division, Baunsi, Bijikhorba and Laxmipur at Banka; Sone canal division, Bikramganj and Buxar.

¹⁸ Dehri division, Dehri, Irrigation division, Laxmipur at Banka and Sone canal division, Bikramganj.

¹⁹ Ganga Pump canal division, Chausa and Sone canal division, Buxar.

²⁰ Government land which is situated on both sides of the canal.

Test check of the records in Sone Canal sub division, Karagahar, Dehri division in July 2006 revealed that out of available 580.29 acres of *chat* land, settlement of 307.82 acres of land had expired. But neither did the department take any initiative to resettle the land with the previous settlee nor did it invite any application for fresh settlement of the land. Instead, the land was retained unauthorisedly by the previous settlees. Thus, failure of the department to settle the land for the period from 2002-03 to 2005-06 resulted in loss of revenue of Rs. 10.83 lakh.

After the case was pointed out, the EE stated in July 2006 that steps would be taken to settle the vacant land. The reply is however, silent about the reasons for non-settlement of *chat* land for such long period which eventually led to loss of revenue. Further reply has not been received (November 2007).

The case was reported to the Government in November 2006; their reply has not been received (November 2007).

C: FOREST RECEIPTS

6.5 Blocking of revenue due to non-disposal of collected/unclaimed timber

The Bihar Forest Produce (Regulation of Trade) Act, 1984, provides that all forest produce collected or to be collected from the forests of the State shall be disposed by public auction every year preferably before the end of April. Besides, unclaimed timber was to be disposed through public auction under the provisions of Indian Forest (IF) Act, 1927.

Test check of the records in five forest divisions²¹ between May and November 2006 revealed that 1,678.679 cubic meters of timber of various species and 505 fencing poles valuing Rs. 40.69 lakh were collected/seized during the years 2001-02 to 2005-06 and were not disposed till March 2006. This has resulted in blocking of revenue of Rs. 40.69 lakh.

After the cases were pointed out, the Divisional Forest Officer (DFO), Gaya, stated that timber was being sold from various depots. The reply is not tenable as effective steps were not taken by the DFOs for disposal. DFO, Purnea stated that all the arrear lots were placed on auction every month but due to abundant availability of dry woods in market from *raiya* plots, the sale of arrear lots was slow, DFO, Sasaram stated that timber was being disposed as per the new guidelines. The replies, however, do not throw any light on the undue delay in disposal of seized timber leading to accumulation of unsold timber in forest depots which eventually will result in deterioration and consequential loss of revenue.

The cases were reported to the Government between April and May 2007; their reply has not been received (November 2007).

6.6 Non-eviction of encroached forest land

Under the IF Act, 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 the Government forest land has taken place, may evict the encroachers and use all the powers

²¹ Gaya, Jamui, Munger, Purnea and Sasaram.

conferred on a magistrate under the Bihar Public Land Encroachment Act (BPLE Act), 1956. The IF Act further provides for realisation of royalty and compensation for damages to forest produce and forest land from the encroachers.

Continuance of encroachment and any unauthorised activity on forest land tantamounts to violation of the orders of the Supreme Court²² directing complete eviction of encroachers. The Principal Chief Conservator of Forest (PCCF), Bihar issued instructions in June 2003 for departmental action against forest officers for any slackness in compliance with the Apex Court's orders.

In Jamui and Sasaram forest divisions, it was noticed between May and September 2006 that in 18 cases, an area of 14.9229 hectares of forest land was encroached. Despite directives issued by the PCCF and orders of the Apex Court, no action was taken by the department to ensure eviction of the encroachers from such forest land. The revenue for damage to standing trees with compensation was also not assessed by the department for realisation from the encroachers. At the minimum net present value of Rs. 5.80 lakh per hectare, the value of encroached forest land is Rs. 86.56 lakh.

After the cases were pointed out, DFO, Sasaram stated in September 2006 that eviction proceeding was being initiated while DFO, Jamui did not furnish any reply. Further replies have not been received (November 2007).

The cases were reported to the Government in April 2007; their reply has not been received (November 2007).

Patna
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²² Writ Petition (Civil)-202 of 1995 T N Godavaram Thirumalpad Vs. Union of India.