

CHAPTER V
INTERNAL CONTROL SYSTEM
IN GOVERNMENT
DEPARTMENTS

LABOUR DEPARTMENT

5.1 Internal Control Mechanism in Labour Department

Highlights

The labour force in the Union Territory of Puducherry constitutes 33 per cent of the total population. The Department enforces 34 Labour and Factory Laws enacted to create safe working environment and to ensure the safety, health and welfare of the workers. A review of the Internal Control System in the Department revealed deficiencies in cash control as evidenced by non-reconciliation of challans, cess collection by unauthorised officials and correctness of collections was not being ensured. Large number of vacancies had adverse impact upon functioning of the Department as mandatory inspections were not being carried out. System of issuance of licence and renewal suffered from numerous deficiencies and the basic records pertaining to renewal of licences and inspections were not maintained. Follow up action required consequent to inspection was not recorded and there was no internal audit mechanism in the Department.

- Rules and instructions were not followed in the preparation of budget. Revenue remitted were not reconciled with Government account and cess for the welfare of building workers was not collected as per the provisions of the Act.

(Paragraphs 5.1.5, 5.1.6.1 and 5.1.6.3)

- Essential technical posts sanctioned for enforcing various laws and rules were kept vacant.

(Paragraph 5.1.7.1)

- No mechanism exists for renewal of licences. No annual action plan for inspection of all units registered under various Acts was drawn up and the inspection of factories was inadequate.

(Paragraphs 5.1.7.2 and 5.1.7.4)

- Follow up action was not taken to rectify the deficiencies noticed during inspection.

(Paragraph 5.1.7.6)

- No internal audit mechanism exists in the Department.

(Paragraph 5.1.8)

5.1.1 Introduction

Internal control minimises the risk of errors and irregularities in an organisation. The control is exercised by delegating necessary power and authority to different levels of organisation, issuing instructions from time to time, prescribing maintenance of registers and records, obtaining returns from the subordinates and field offices and conducting periodical surveys and inspections. Internal Audit and Vigilance mechanism are an integral part of administrative and managerial control.

The Union Territory of Puducherry (UT) has four¹ regions. Total labour force in the UT is about 3.17 lakh, which constitutes 33 *per cent* of the total population. Labour Department functions with the objectives of creating safe working environment and ensuring the safety, health and welfare of the workers. The objectives are achieved by enacting Labour and Factory Laws and their proper enforcement. Thirty four such laws including three State Acts were enforced in the UT to regulate the employment and welfare of labour in 2,221 factories and 11,486 shops and other establishments. The functions of the Department are broadly classified into four wings, viz. Labour Law Administration, Factory Inspectorate, Employment and Training.

The Labour Law Administration deals with licensing and inspection of shops and establishments to verify the compliance of various labour laws. The Factory Inspectorate wing is concerned with issue of licence to factories and compliance of various labour and factory laws. While Employment wing aims at providing remunerative employment to the unemployed youth, the Training wing provides necessary training to ensure a steady flow of skilled workers to domestic industry.

5.1.2 Organisational set-up

Secretary to Government is the Administrative Head at Government level and Commissioner of Labour is *ex officio* Joint Secretary (Labour) and Head of Department. He also functions as Chief Inspector of factories and boilers. The Commissioner is assisted by a Joint Chief Inspector of Factories (JCIF) to administer Factory Inspectorate wing and by a Deputy Labour Commissioner (DLC), to administer the Labour Law Administration wing. The JCIF is assisted by one Medical Inspector, one Inspector of Boilers, five Inspectors of Factories and five Assistant Inspectors of Factories. The Labour Law Administration wing has four Labour Officers, 16 Assistant Inspectors of Labour and 12 Women Labour Welfare Officers. For the Employment and Training Wings, the DLC is assisted by an Assistant Director (Employment and Training). A Senior Accounts Officer is in charge of accounts.

¹ Puducherry, Karaikal, Mahe and Yanam

5.1.3 Audit objectives

The audit objectives are to assess adequacy and effectiveness of

- budgetary control
- cash control
- operational controls
- the adequacy of internal audit arrangement and the vigilance mechanism in the Department

5.1.4 Audit coverage

The records/registers relating to the period from 2001-06 maintained at the Secretariat (Labour Department), Commissionerate and Labour Law Administration and factory Inspectorates enforcing various Laws and Rules in Puducherry and Karaikal regions were test checked during March to July 2006.

Audit findings

5.1.5 Budgetary control

Funds provided by the Legislature under non-plan, plan and Centrally Sponsored Scheme (CSS) and the expenditure incurred thereagainst during 2001-06 are given below:

(Rupees in crore)

Year	Non-plan		Plan		CSS		Total	
	Provision	Expenditure	Provision	Expenditure	Provision	Expenditure	Provision	Expenditure
2001-02	3.94	3.91	3.08	2.94	0.05	0.03	7.06	6.88
2002-03	4.00	4.00	3.19	2.82	0.03	0.04	7.22	6.85
2003-04	4.25	4.24	3.70	3.70	0.00	0.00	7.95	7.94
2004-05	4.58	4.57	4.43	4.43	0.00	0.00	9.01	9.00
2005-06	4.85	4.83	5.37	4.57	0.00	0.00	10.22	9.40
Total	21.62	21.55	19.77	18.46	0.08	0.07	41.46	40.07

The savings of Rs 79.80 lakh under plan during 2005-06 was mainly attributed to announcement (March 2006) of elections to the UT Legislature.

5.1.5.1 Funds provided for vacant posts

Unnecessary provision of funds in the budget for vacant posts

Finance Department issued instructions not to provide funds for vacant posts in the revised estimate. Test check of budget proposals revealed that three to five months provision was made in the revised estimate resulting in

re-appropriation or savings. Test check revealed provision of Rs 3.19 lakh under six units of appropriation during 2002-06 for vacant posts in the revised estimate.

5.1.5.2 Drawal of funds without immediate requirement

General Financial Rules stipulate that funds shall be obtained under supplementary grant only if the expenditure could not be postponed to next year. Though the election code came into force in March 2006, the Commissioner obtained Rs 50 lakh for releasing grant to Franco-Indian Vocational Training Institute (FIVTI), a new scheme, under supplementary grant on 31 March 2006. Consequently, the amount could not be utilised in the financial year. Besides, the sanction for Rs 8.81 lakh for release of grants to FIVTI obtained in December 2005 was also not acted upon and the grant for this amount was not paid to FIVTI.

The Labour Officer, Karaikal obtained four sanctions from Government for Rs 1.37 lakh for conducting seminars. While one sanction was obtained in November 2005 for Rs 0.13 lakh, the other three were obtained on 30 and 31 March 2006. Rupees 1.24 lakh was drawn on 31 March 2006 and kept unutilised due to declaration of election code in March 2006. Drawal of the amount after the announcement of elections was only to avoid lapse of grant. The amount remained unspent as of July 2006.

5.1.6 Cash control

5.1.6.1 Absence of reconciliation

**Receipts not
reconciled with
Government account**

The Department derives revenue from collection of licence and registration fees from factories and shop and establishments under various Acts and Rules. The amounts are either collected by the Department and remitted to Government account or directly remitted to Government account by the applicants. However, the Commissioner failed to reconcile the challan-wise payments with the Government account as prescribed in Receipts and Payments Rules. This may lead to manipulation of the amount in the challans and consequent loss of revenue, besides paving way for the malpractices including embezzlement.

5.1.6.2 Non-revision of security deposit

The GOI revised (December 1988) the rate of annual security deposit to be collected from the employers under the Contract Labour Act, 1970, from Rs 30 per worker to Rs 90 per worker. This Act was also applicable to UT. The Department, however, had not initiated proposals to amend the relevant rules adopting the revision. Consequently, there was a short collection of Rs 11.27 lakh² during April 1992 to March 2006. Incidentally, it was seen that the security deposit collected was neither spent for the welfare of the

² 18,779 workers x Rs 60 per worker

workers nor refunded to the employers as was mandatory. Consequently, the deposit collected had lapsed to Government account after three years.

Government stated (December 2006) that the rates would be revised as and when felt necessary. The reply was not tenable as the Contract Labour Act, 1970 is a Central Act.

5.1.6.3 Deficiencies in collection of cess

Cess for the welfare of building workers was not collected as provided in the Act

Building and Other Construction Workers Welfare Cess Act, 1996 provides for collection of cess from the employers of building workers at one to two *per cent* of the cost of construction. The Act provides for establishing a Board to utilise the cess amount for the welfare of the workers. The Board has to pay one *per cent* of the cess as collection charges to cess collectors. Government appointed (March 2002) two Labour Officers as cess collectors and four officers of Public Works Department (PWD) as assessing officers to ensure the correctness of the building cost given by the assessee. During 2003-06, Rs 1.60 crore has been collected as cess. Audit scrutiny revealed the following:

While the cess was not collected by Labour Officer, Karaikal, the Labour Officer, Puducherry collected cess of Rs 36.27 lakh during 2003-06 without assessment of building cost, through the assessing officers. The cess was also collected by PWD divisions (Rs 66.83 lakh), Town Planning Authorities (Rs 34.70 lakh), and Inspectorate of Factories (Rs 22.24 lakh), though they were not notified as Cess Collectors. While PWD divisions collect cess from payments made to the contractor, the Inspectorate of Factories and Town Planning Authorities collect cess only based on the building cost arrived by certified engineers and not assessing officers appointed under the Act. Besides, the Town Planning Authority only collected cess for estimates of work costing more than Rs 10 lakh. Thus, cess was not collected from all employers of building workers. The collection activity was undertaken only in the capacity of Government servants and the collection charges payable to the officers collecting cess had to be remitted into Government Account. Test check revealed that the Town Planning Authority, Puducherry remitted the cess collection charges received from the Board into Government Account. However, collection charges amounting to Rs 0.61 lakh during 2004-05 received by Public Health Division of PWD, Labour Officer, Puducherry and the Inspector of Factories were not remitted into Government Account but shared by Officers involved in the collection. This amounts to misappropriation of Government money.

Thus, the Department had not ensured collection of cess from all employers of workers and the correctness of the cess collected. Besides, the cess was collected by officials not authorised under the Act and collection charges received by Government servants for carrying out their duty were not remitted to Government account.

5.1.7 Operational control

5.1.7.1 Manpower management

Essential posts were not filled up

As against 275 technical posts sanctioned for enforcing various Acts and Rules, 44 were remained vacant for periods ranging from five to 118 months. The reasons for vacancies included non-framing of recruitment rules, non-convening of Departmental Promotion Committee meeting, non-preparation of panel for promotion, etc. Essential posts of Principal of two ITIs, Inspector of Boilers and Labour Officer, Karaikal were held as additional charge. In spite of vacancy in the Department, one Labour Officer was on deputation to Electricity Department from December 2004.

Consequent on the death of women workers in a factory due to occupational disease, Government appointed (March 2003) the Collector, Puducherry to conduct an enquiry. The report submitted (September 2003) indicated deficiencies in enforcement of various Acts as the cause. Based on the recommendation, Government ordered (June 2004) creation of additional posts of Inspector of Factories and Medical Officers with supporting staff and a Technical Officer within six months. The Department proposed belatedly in September 2005 creation of two posts of Inspector of Factories, One Medical Inspector, one Junior Scientific Assistant, one Technical Officer and 12 ministerial staff. The proposal was not included in the annual action plan of 2005-06 and the posts were not created till July 2006.

5.1.7.2 Deficiencies in system of issue of licence

The licence issue registers, the basic record containing the details of licenced shops and other establishments/factories, were not maintained properly. Only entries of issue of licence were made and the renewal, cancellation, etc., are watched through separate file for each licence. Consequently, the consolidated number of licenced establishments is not available in the Department. Scrutiny of the licence issue register maintained by Labour Officer, Puducherry revealed existence of 7,108 licences in Puducherry as of March 2006. Test check of files of 1,383 out of 7108 cases revealed that the licences were cancelled in 823 cases as of March 2006. As such, the extent to which number of licenced establishment were in existence remained unverified.

No system was evolved to watch renewal of licences

Licences issued under labour laws are valid for one year and are to be renewed by submitting renewal applications. The Department computerised the data of licences issued partially but the details of renewal were not indicated therein. Test check of files of 992 cases in Puducherry and Karaikal revealed that the licences were not renewed in 699 cases for periods ranging from one to 25 years. Consequently, the existence of the units or running of units without licence could not be identified by the Department. Test check revealed that the Department collected licence fees with fine for delayed renewal from 161 licencees during 1992-2006. This indicated that the Department had not watched the renewal of licence. The

Labour Officer, Puducherry assured (August 2006) to issue advertisement in newspapers for renewal.

Pondicherry Factory Rule, 1964 stipulates that no factory could be operated without renewal of licence. The licences expire on 31 December every year. The Factory Inspectorate computerised the list of working factories but the details regarding renewal of licence were not indicated. To a query raised by Audit, the Department informed (August 2006) that 59 factories had not renewed their licence. While 42 factories applied for renewal, 17 factories had not applied for renewal as of January 2006. However, these are functioning without renewal of licence. This indicates that the Inspectorate had not taken any steps to ensure the compliance of Rules.

Licences were issued under Shops and Establishment Act instead of Contract Labour Act

Test check of applications for licences and licences issued during 2003-06 in Puducherry revealed that 87 licencees who are carrying out activities relating to contract labour were issued licence under Shops and Establishment Act instead of Contract Labour (Regulation and Abolition) Act. This was done mainly to avoid payment of security deposit under Contract Labour Act. The Labour Officer, Puducherry assured (August 2006) to review the cases and bring them under Contract Labour Act.

5.1.7.3 Non-maintenance of records

Reasonableness of the target fixed for inspection could not be ensured

The Inspectors of Labour (including Assistant Inspectors) had to undertake periodical inspections in their jurisdiction to ensure compliance of various provisions under various labour welfare Acts. A target of 15,000 units has been fixed for inspection by the Inspectors in the Annual Plans of each year. In the absence of actual units existing and norms for inspection by each Inspector, the reasonableness of the target could not be ensured by Audit. The details obtained from the Department indicated that the units actually inspected ranged between 11,968 and 14,851.

Basic data on renewal of licences not maintained

The Department had not maintained any register containing the basic data on renewal of licences, number of units required to be inspected every year and follow up action on inspections. The table below illustrates the discrepancy in reporting of information on the number of factories functioning in the UT.

Year	Number of factories		
	Mentioned in Administrative Report	Reported to Audit	Reported to GOI
2001	1,870	2,240	1,870
2002	2,082	2,257	Not available
2003	2,255	2,275	1,472
2004	2,237	2,288	1,619
2005	2,221	2,345	Not sent

Further, the Inspector of Factories informed audit that the details of factories required to be inspected once in a year, twice and thrice in a year were not maintained properly for want of staff. But these statistical data were available in the Administrative Report. Due to improper maintenance, the correctness of the figures given in the Administrative Report is doubtful.

5.1.7.4 Non-preparation of action plan

There was no approved action plan for the inspection activities

The Commissioner had not prepared any action plan for the inspection activities to cover the entire units in a period of one year. Inspectors carried out the inspections according to their choice as no norm was fixed. The number of working factories available and inspections actually done as per the diaries submitted to the Director during 2001-06 are given below:

Year	Number of working units	Number of units inspected	Units not inspected (in percentage)
2001-02	1870	1410	25
2002-03	2082	1658	20
2003-04	2255	1204	47
2004-05	2237	1622	27
2005-06	2221	1988	10

The Inspectors visited factories only seven days in a month covering 25 factories on an average. Diversion for other works and non-availability of vehicles were given as reasons for the shortfall. The Commissioner stated (March 2006) that annual plan to inspect hazardous factories once in six months and other factories annually would be drawn.

5.1.7.5 Deficiency in the inspections by Medical Inspectors

The Factories Act, 1948 stipulates that Medical Inspector of Factories (MIF) has to certify the occupational health condition/fitness of hazardous factory workers. The Act prescribed periodicity of inspection, which ranged between one to four every year. There was only one MIF stationed at Puducherry and the post was vacant during 26 July 2003 to 17 August 2004. The performance data of MIF is given below:

Year	Number of hazardous factories	Number of employees in hazardous factories	Number of employees targeted for examination	Number of employees medically examined
2001-02	NA	NA	1200	1207
2002-03	NA	NA	1800	2909
2003-04	148	2224	1800	578
2004-05	231	2537	1800	1823
2005-06	206	NA	1800	1576

NA: Not available

The number of labourers in hazardous factories increased every year but the target fixed was static at 1800. The proposal for creation of another post of MIF was pending with the Department (July 2006). Consequently, the inspection by MIF was inadequate.

5.1.7.6 Follow up action on inspections

Follow up action on deficiencies noticed in inspection was not taken

The violations/deficiencies noticed during inspections were to be informed to Labour Commissioner for prosecution. However, no record/register was maintained for entering the results of inspection and follow up action taken on them. During 2001-06, the Inspector of Karaikal and Puducherry reported to Audit that three cases were sent to Labour Commissioner. However, the Commissionerate stated that only two cases from Karaikal were received and both of them were returned as they were not in a complete shape.

The Department detected 10 cases of child labour during 2002-03 and launched prosecution in March 2003. While the trial was not completed in four cases, the offenders of the remaining six cases were acquitted mainly due to delay in filing case, non-identification of the child, proof of age, lack of independent witness, etc. This indicates the inadequate follow up action.

The Superintendent (Industrial Hygiene Laboratory) conducted survey of hazardous factories and reported the level of pollution and chemical material content in factories to Commissioner. Though the Joint Chief Inspector of Factories followed up these reports with the factories, the compliance of factories were not verified by the Inspector of Factories on these reports.

5.1.8 Internal audit and vigilance

There was no internal audit mechanism

The Department has no internal audit mechanism. Consequently, the functioning of the four wings was not reviewed.

All complaints against the employees of the Government received by the Chief Vigilance Officer are probed by him and referred to the respective Department for taking appropriate administrative action. To an audit enquiry, the Department stated that no vigilance case was pending against its employees.

Test check of the records of the Commissionerate, however, revealed that one vigilance case was pending against the Principal, ITI, Nettapakkam on payment made without receipt of material costing Rs 0.30 lakh. The enquiry, against the Principal was completed and the action proposed was also approved by the Lieutenant Governor in August 2005. However, final orders were not passed based on the representation of the Principal as of September 2006.

5.1.9 Conclusion

Budget estimates were prepared including provisions for vacant posts disregard to the instructions. Cases of drawal of funds at the year end to

avoid lapse of budget were noticed. Cash control was ineffective and also was not implemented properly as mandatory reconciliation of challans was not being carried out and cess was being collected by unauthorised officials. There were cases where it was collected without ensuring the correctness of the amount. Critical technical posts remained vacant for long period. System to watch renewal of licences was completely ineffective. Besides, records pertaining to inspection and even for follow up of inspections were not prepared and system of follow up action consequent to inspection was grossly inadequate. There was no internal audit mechanism in the Department.

The Government accepted (December 2006) the audit observations and promised to take remedial steps. Regarding audit observations on 'Operational Control', the Government stated that they had proposed to computerise all the categories of licences which would provide adequate Internal Control Mechanism for proper monitoring of the activities of various wings of the Department.

Recommendations

- Rules pertaining to collection of cess should be reiterated and monitored for ensuring strict compliance.
- A comprehensive exercise for implementation of a system of regular storing and updating of data pertaining to number of units in existence under shops and establishment category, factory category and contract labour category should be carried out. The data should be utilised for keeping a watch over timely renewal, planning of inspection and for the purpose of follow up.
- Internal audit system should be introduced specifying mandate, staffing pattern and plan for carrying out of regular internal audit.

The Government stated (December 2006) that the recommendations of Audit had been taken into account for future guidance and strict compliance.