

CHAPTER-5

Compliance Audit

Compliance Audit of Government departments and their field formations brought out several instances of lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs under broad objective heads.

5.1 Non-compliance with the Rules, Orders, etc.

For sound financial administration and financial control, it is essential that expenditure conforms to financial rules, regulations and orders issued by the competent authority. This not only prevents irregularities, misappropriation and frauds, but also helps in maintaining good financial discipline. Some of the audit findings on non-compliance with Rules, Orders, etc. are as under.

ROAD CONSTRUCTION DEPARTMENT

5.1.1 *Avoidable expenditure on price adjustment*

Allowance of excess time for completion of road work in violation of Government orders resulted in inclusion of price adjustment clause in the agreement and consequential avoidable expenditure of ₹ 6.25 crore.

Based on the criteria prescribed by the Indian Road Congress (IRC) for fixation of completion schedule of a road work, Government of Jharkhand in Road Construction Department (RCD) ordered (August 2007) that the widening and strengthening of a road up to a length of 15 km shall be completed within 10 months (less than one year) and the time limit shall not be deviated under any circumstances. In November 2007, RCD decided that price adjustments shall be payable on cement, bitumen, steel and other material for projects valued above ₹ 2.5 crore, completion schedule of which is more than one year. The decision was incorporated as a clause in the Standard Bidding Document (SBD) introduced in November 2007. Thus, the work of widening and strengthening of a road up to a length of 15 km does not attract price adjustment clause.

During audit scrutiny (June 2011 and February 2012) we observed that the Executive Engineers (EEs), Road Division (RD), Godda and National Highway (NH) Division, Chaibasa issued (between February and June 2009) three Notice Inviting Tenders (NITs) for widening and strengthening of four roads¹ (with road length between 8 and 13 km), the value of which ranged between ₹ 10.45 crore and ₹ 24.60 crore. The NITs were issued based on the Bill of Quantity (BoQ) of the works approved (February 2009) by the Superintending Engineers, Road Circle Dumka and NH Circle, Ranchi. The time schedule mentioned in the NITs ranged between 13 months to 15 months. We observed that in the case of both the roads of NH Chaibasa, initially the EE invited tender (19 January 2009) stipulating completion period of 12 months. Later on, a corrigendum was issued (21 January 2009) increasing the

¹ (1) **Godda-Pirpaiti Road** from 25 to 32 km (length: 8 km, completion schedule: 15 months, and 33 to 42 km -10 km, completion schedule: 15 months) (2) **Chaibasa-Jaitgarh Road** from 177 to 189 km and 190 to 202 km of NH 75E (length 13 km each and completion schedule: 13 months for each road).

period to 13 months without according any reason. There was nothing on record justifying the deviation from the permissible time limit fixed by the RCD. The Departmental Tender Committee², while according approval to the tenders, also did not ensure adherence to the Government orders of August 2007.

The EEs executed (between August and October 2009) four SBD agreements for ₹ 68.56 crore³ with three contractors⁴. As the completion schedule fixed was more than one year, price adjustment clause was included in the agreements. Against the agreed value of ₹ 68.56 crore, the contractors were paid (between December 2010 and January 2012) ₹ 77.40 crore (RD Godda: ₹ 21.05 crore; NH Chaibasa: ₹ 56.35 crore) which was inclusive of price adjustment of ₹ 6.25 crore (RD Godda: ₹ 1.42 crore; NH Chaibasa: ₹ 4.83 crore). The road works were completed between September 2010 and February 2011. We observed that out of the four roads, one road (Chaibasa-Jaitgarh Road: 13 km) was completed in 11 months 6 days for which the completion time was initially fixed as 12 months and later extended to 13 months. Another road (Godda-Pirpaiti Road: 10 km) whose completion time was fixed as 15 months was actually completed in 13 months. This indicated that the time schedule provided was more than the requirement and was injudicious.

On this being pointed out (May 2012), the Special Secretary, RCD, forwarded (November 2012) the replies of EE, RD, Godda and Chief Engineer (CE), NH Wing, Ranchi. In the case of RD, Godda, the reply stated that under the SBD, the norms regarding the number of plant and machinery to be deployed at the site were fixed according to the value of the bid which resulted in decreased deployment of plant and machinery necessitating provision of a longer time for completion of the work. Besides, the work included additional items viz construction of guard wall, culverts, drains etc.

The issue of decreased deployment of machinery under SBD was again referred (March 2013) to the Engineer-in-Chief, RCD, who stated that the requirement of plant and equipment provided in SBD is only a guideline and is not mandatory. The scale of deployment of machinery has to be decided in keeping with the requirement of the specific work. Thus, the EE, RD, Godda should have assessed the requirement of machinery keeping in mind the time schedule prescribed in RCD order of August 2007. Further, only 15 days was prescribed for the additional items (construction of guard wall, culverts, drains etc. mentioned in the reply) for which enhancement of time schedule for completion was not in order.

In the case of NH Chaibasa, it was stated that the RCD order of August 2007 was not applicable for NH works in Jharkhand as works on NHs are governed by the guidelines issued by the Ministry of Road Transport and Highways. The reply was not acceptable as the order of August 2007 also directed the CE, NH Wing to follow the same completion schedule while granting technical sanction of such work.

² Headed by Engineer-in-Chief

³ RCD, Godda: ₹ 11.33 crore + ₹ 8.97 crore, NH, Chaibasa: ₹ 25.82 crore + ₹ 22.44 crore

⁴ **RCD, Godda:** (1) Calcutta Industrial Supply Corporation, Kolkata;
NH Division, Chaibasa: (1) Khokhar Infrastructure Pvt. Limited, Tata Road, Chaibasa (2) Ram Kripal Singh Construction Pvt. Limited, Ranchi.

Thus, due to irregular fixation of completion schedule of road works by the Departmental authorities at the time of inviting tenders, in violation of the Government order of August 2007, an avoidable expenditure of ₹ 6.25 crore was incurred on price adjustment.

BUILDING CONSTRUCTION DEPARTMENT

5.1.2 *Unauthorised execution of agreement*

The Department allowed execution of a work valued at ₹ 47.53 crore with provision for escalation and mobilisation advances to a contractor who had quoted the price against an NIT with conditions for non-payment of price escalation and mobilisation advances. This was in violation of the Government orders to ensure right to equal opportunity to the tenderers.

According to Finance Department order issued in September 2005, any condition of the Notice Inviting Tender (NIT) should not be changed during the process of finalisation of the tender after issue of the NIT, so that the right to equal opportunity may not be denied to the tenderers.

Construction of the Collectorate Complex, Phase-II, at Ranchi was technically sanctioned (March 2007) and administratively approved (September 2007) for ₹ 41.65 crore by the Building Construction Department (BCD). The work involved construction of three buildings after demolition of an old building and shifting of records to a new building which was under construction in Phase-I. According to the condition of the administrative approval (AA), the tender for construction of the Collectorate building Phase-II was to be invited in such a manner that the agreement could be executed just before the building under Phase-I was nearing completion.

Scrutiny (December 2011) of records of the Executive Engineer (EE), Special Works Division, BCD, Ranchi revealed that the Phase-I building was due for completion by January 2008. Notice Inviting Tender (NIT) for Phase-II work was issued in December 2007 by the EE. According to the conditions of the NIT, sealed tenders on approved Bill of Quantity (BOQ) to be drawn in PWD form F2⁵ were invited and no claim was admissible in case of sudden fluctuation and/or increase in rates of labour, material etc. No mobilisation advance was also payable to the contractor. The Tender Evaluation Committee (TEC) decided (March 2008) the tender at ₹ 47.53 crore (8.5 per cent above BoQ value) in favour of the same contractor⁶ to whom the work of Phase-I was allotted earlier. The SE, Building Construction Circle, Ranchi intimated (April 2008) the EE about the decision of tender. However, the EE did not execute an agreement with the contractor because the site for construction of the buildings in Phase II was not clear as work of Phase I was not complete. Meanwhile, the Government introduced (November 2008) the Standard Bidding Document (SBD) for works costing above ₹ 2.50 crore. Payment of price adjustment and grant of mobilisation/ equipment advances was allowable under SBD. The contractor requested (24 November 2008) the EE for execution of agreement under SBD as the value of the work was ₹ 47.53 crore. The EE sought (25 November 2008) permission from the Special Secretary,

⁵ In an F2 agreement, the tenderer quotes his rates on overall items in percentage above or below the estimated cost and there is no provision for price adjustment and mobilisation advance.

⁶ Shri Ram Kripal Singh Construction Pvt. Ltd, Ranchi.

BCD for execution of agreement under SBD. The Department allowed (12 December 2008) execution of SBD agreement with the contractor at the original approved cost of ₹ 47.53 crore which was already at 8.5 per cent premium. The EE executed (December 2008) SBD agreement with the contractor and paid (March 2012) price adjustment amounting to ₹ 5.85 crore till March 2012 and mobilisation/equipment advance of ₹ 7.13 crore to the contractor as per terms and conditions of SBD.

As the SBD agreement attracts price adjustment and payment of mobilisation advances, contrary to the conditions of the NIT of December 2007, execution of SBD agreement at the contract price which had been decided on the basis of the conditions of the NIT was unjustified. Award of work to the original contractor without inviting fresh tenders was also in violation of the Finance Department's instructions (September 2005) for ensuring right to equal opportunity.

Thus, the Department unauthorisedly allowed execution of SBD agreement with the original contractor for work worth ₹ 47.53 crore which also provided for payment of price adjustment and mobilisation/equipment advances.

The matter was referred to the Government (May 2012). The Department stated (August 2012) that the site was not available due to delay in shifting of offices, removing of encroachment and demolition of the old Collectorate building. This resulted in signing of SBD agreement in place of F2 agreement. The reply was not in order as change in the original terms and conditions of the NIT on which the tender was decided was not permissible and award of work without inviting fresh tender under SBD agreement resulted in denial of right to equal opportunity to the other tenderers.

RURAL WORKS AND RURAL DEVELOPMENT DEPARTMENTS

5.1.3 Non-recovery of advances

Non-adherence to the codal provisions by the departments regarding grant of temporary advances and their adjustment led to non-recovery of Government money of ₹ 48.34 lakh.

Rule 100 of the Jharkhand Public Works Account Code provides that when a disbursing officer makes a remittance to a subordinate officer for making petty payments on muster rolls or other vouchers, it should be treated as a temporary advance and should be accounted for in Form 2 (Schedule XLV-form no.113). The accounts of temporary advances were to be closed by the Executive Engineers (EEs), as soon as possible, after recovery or adjustment of advances. As per Government order⁷ (December 1983), the accounts of temporary advances were to be rendered by the officials to the EE within one month from the date of drawal of such advances and subsequent advances should be granted only after assessing the progress of work done and adjustment of the previous advances.

Scrutiny (November 2011) of the Cash Book and details of outstanding advances in Rural Works Division (RWD), Garhwa revealed that advances amounting to ₹ 56.46 lakh paid (between February 2007 and March 2011) to

⁷ Letter dated 31 December 1983 of Technical Vigilance Cell, Cabinet (Vigilance) Department

four Assistant Engineers, for execution of various schemes⁸ and work charged payments, remained outstanding (*Appendix-5.1*). We observed that advances were paid 2 to 29 times to each AE and the same remained unadjusted for 8 to 57 months as of November 2011. Thus, payment of advances without adjustment of previous advances was in violation of the codal provision.

On this being pointed out by Audit, the EE, RWD, Garhwa stated (12 March 2013) that against ₹ 56.46 lakh, ₹ 39.30 lakh has been recovered (between May and November 2012) and the balance outstanding advance of ₹ 17.16 lakh remained unadjusted/unrecovered as of February 2013.

Similarly, we noticed (April 2010) in Rural Development Special Division (RDS), Gumla, that advances amounting to ₹ 37.10 lakh were paid (January 2004 to February 2010) to 10 JEs for execution of various schemes/works, which remained outstanding as of April 2010 for periods ranging from 2 to 76 months (*Appendix -5.2*). We observed that advances were paid 2 to 54 times to each JE, in violation of the codal provision.

When we pointed this out, the EE, RDS, Gumla, stated (12 March 2013) that an amount of ₹ 5.92 lakh was adjusted, leaving a balance of ₹ 31.18 lakh unadjusted/unrecovered as of February 2013.

It was further noticed that advances of ₹ 4.44 lakh (sl. nos. 1 and 4 of *Appendix-5.1* and sl.nos. 4 and 9 of *Appendix-5.2*) were outstanding against four officials⁹ who had either retired or were transferred to other divisions, while ₹ 14.75 lakh was outstanding against an official of RWD, Garhwa (sl. no. 2), who had expired in August 2010.

The matter was reported to the Government (June 2012). Their reply had not been received (February 2013).

Thus, due to non-adherence to the codal provisions by the EEs regarding grant of advances and their adjustment, scheme funds of ₹ 48.34 lakh remained unadjusted/unrecovered as of February 2013.

FINANCE DEPARTMENT

5.1.4 *Inadmissible Payment of House Rent Allowance and Transport Allowance*

Sanction of House Rent Allowance higher than the entitled limit resulted in inadmissible payment of ₹ 70.87 lakh along with Transport Allowance amounting to ₹ 23.18 lakh.

Rule 4(b) (ii) of the Bihar State Employees (House Rent Allowances) Rules, 1980, as applicable in Jharkhand, stipulates that the Administrative Departments, in respect of staff serving under them, are authorised to sanction House Rent Allowance (HRA) admissible in the qualified city provided they are satisfied that:

⁸ District Scheme, Health, Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Member of Legislative Assembly (MLA) Fund, Member of Parliament (MP) Fund, Mukhya Mantri Vikas Yojana (MMVY), National Food For Work Programme (NFFWP), Sunischit Swarn Jayanti and Sam Vikas Yojana.

⁹ Two officials (₹ 2.41 lakh) of RWD, Garhwa and two officials (₹ 2.03 lakh) of RDS, Gumla

- (1) the distance between the place of duty and the periphery of the municipal limit of the qualified city does not exceed eight kilometers and
- (2) the staff concerned have to reside within the qualified city out of necessity, i.e., for want of accommodation nearer their place of duty.

Note 2 of Rule 4(b) (ii) further stipulates that this rule will not apply to establishments entitled to HRA, project allowance, remote locality allowance, hill allowance or other such allowance under any other provision of this rule or other general or special order.

The Finance Department, during revision of pay scales, fixed (February 1999) HRA for unclassified cities/towns at the rate of five *per cent* of basic pay drawn with effect from 1 February 1999. The rate was subsequently enhanced (February 2009) to 10 *per cent* of pay plus grade pay with effect from 1 September 2008. Thus, with the introduction of a fixed rate of HRA for unclassified cities/towns, the staff posted in those areas were not entitled to get the benefit available under Rule 4(b)(ii).

Scrutiny (April 2011 and July 2012) of salary vouchers (March 2007 to May 2011) of employees of five¹⁰ offices situated within the periphery of eight Kms of Ranchi revealed that 192 employees of these offices were paid HRA of ₹ 1.31 crore at Ranchi rate (15 *per cent* and 20 *per cent*) under the provision of the Rule 4(b) (ii). Based on the Finance Department's orders of February 1999 and February 2009, the employees of these offices were entitled for HRA of ₹ 60.60 lakh at the rate of 5 *per cent* (February 1999 to August 2008) and 10 *per cent* (September 2008 to May 2011). However, 192 employees were paid HRA of ₹ 131.47 lakh resulting in inadmissible payment of HRA of ₹ 70.87 lakh during March 2007 to May 2011 (*Appendix 5.3*).

Further, according to Resolution No.660 dated 28 February 2009 of the Finance Department, Transport Allowance was admissible only to the employees posted within the notified municipal corporation limits of Ranchi, Jamshedpur and Dhanbad.

Scrutiny revealed that inadmissible Transport Allowance of ₹ 23.18 lakh was paid during March 2009 to May 2011 to 177 employees of these offices in contravention of the Finance Department resolution (*Appendix 5.4*).

On this being pointed out in audit (September 2012), the Government forwarded a copy of the clarification issued (2 February 2013) to the concerned authorities wherein it was stated that the rate of HRA for establishments situated within the periphery of eight km of classified cities will be the same as for unclassified cities. While the clarification of the Government was in line with the audit observations, the Government did not offer any comments on the excess payments made on HRA and TA.

5.2 Audit against propriety/Expenditure without justification

Authorisation of expenditure from public funds is to be guided by the principles of propriety and efficiency of public expenditure. Authorities empowered to incur expenditure are expected to enforce the same vigilance as

¹⁰ Circle Officer (CO) Namkum, Block Development Officer (BDO) Namkum, Primary Health Centre (PHC), Namkum, Child Development Project Officer (CDPO), Ratu and CDPO, Namkum, Ranchi

a person of ordinary prudence would exercise in respect of his own money and should enforce financial order and strict economy at every step. Audit detected instances of impropriety and extra expenditure, some of which are given hereunder:

DRINKING WATER AND SANITATION DEPARTMENT

5.2.1 *Inadmissible payment to contractor*

Non-adherence to the Government directives in the terms and conditions of the contract led to undue financial benefit to a contractor due to payment of inadmissible amount of ₹ 6.77 crore.

Based on the approval of the Cabinet, Government of Jharkhand (GoJ), Road Construction Department issued (26 March 2002) a resolution that all material required for execution of works valued at ₹ 10 lakh and above would be supplied by the contractor and not by the Department. It was also decided that “approved percentage rates” over the tendered Bill of Quantities (BoQ), i.e. premium rates will not be payable to contractors on the cost of material like bitumen, cement, steel, rods, pipes and other construction material supplied and utilised by them in the works including carriage and profit. Further, the Schedule of Rates (SoR) prepared (2006-07) by the Rate Fixation Committee included 10 *per cent* as contractor’s profit for each item including cost of material. According to the resolution (March 2002), the order regarding non-payment of premium rate on material was applicable to all Works Departments in the State.

Scrutiny (October 2010) of the records of Executive Engineer (EE), Drinking Water & Sanitation Division No. I, Dhanbad, revealed that the EE executed (December 2007) an agreement with a contractor (M/s Nagarjuna Construction Corporation Limited, Gurgaon) for Renovation and Augmentation¹¹ of Dhanbad Phase II, Water Supply Scheme for ₹ 68.67 crore. The agreement was executed at 15 *per cent* over and above the BoQ on all items including pipes, bitumen, steel, cement etc. contrary to the Government resolution of March 2002. This resulted in inadmissible payment of premium rates of ₹ 4.44 crore (*Appendices 5.5 and 5.6*) on the cost of Ductile Iron (DI) pipes utilised in the work.

Further, the agreement provided for a lead of 300 km for carrying the DI pipes. However, scrutiny of the invoices revealed that the rates on which the contractor purchased DI pipes (K7 and K9) from the supplier were inclusive of all taxes and carriage cost up to Dhanbad Railway Station. Thus, providing carriage cost from Kolkata to the site i.e. lead of 300 km in the agreement was actually excess provision of carriage by the Department which resulted in injudicious payment of ₹ 2.33 crore to the contractor for carriage cost of DI pipes (K7 and K9) (*Appendices 5.7 and 5.8*).

Thus, non-adherence to the Government directive and excessive allowance of rates for supply of DI pipes by the Department resulted in inadmissible payment and injudicious expenditure of ₹ 6.77 crore to the contractor.

¹¹ Renovation and augmentation of Dhanbad Phase II Water Supply Scheme including detailed survey, levelling, design and drawing of each concerned items, water treatment plant, rising main DI K-9 pipes and distribution main pipes DI K-7 etc.

The matter was reported (June 2012) to the Government. The Department stated (August 2012) that “the order issued (March 2002) by the Road Construction Department (RCD) on non-payment of premium rate on material was not applicable to the Drinking Water & Sanitation Department (DW&SD).”

The reply of the Department is not in order as the said resolution (March 2002) was applicable for all Works Departments including DW&SD and copies of the same were circulated to the concerned departments including DW&SD. The Department did not furnish any reply on excess payment of carriage cost.

WATER RESOURCES DEPARTMENT

5.2.2 *Undue financial aid to the contractor*

Non-adherence to the condition of the agreements and orders of the higher authority led to undue financial aid of ₹ 1.08 crore to the contractor by payment for drawings and designs of Bhairwa and Kesho Reservoir schemes for residual works.

In Hazaribag and Barhi, two medium irrigation projects, namely Bhairwa and Kesho Reservoir schemes, were started in 1987-88 and 1990-91 respectively for creating irrigation potential of 9,073 hectare (Bhairwa: 4,858 ha and Kesho: 4,215 ha). The drawings and designs of the components (dam, spillway, canals etc.) of these projects were approved by the Chief Engineer, Water Resources Department (WRD), Ranchi between August 1986 and March 1991. Works on these projects, however, stopped in 1991-92 (Kesho) and 1993-94 (Bhairwa) due to non-release of funds by the Government of Bihar.

After creation of Jharkhand, the residual works of the projects were taken up (Bhairwa: July 2005 and Kesho: March 2007) on turnkey basis at an agreed cost of ₹ 122.67 crore (Bhairwa: ₹ 55.73 crore and Kesho: ₹ 66.94 crore) to be completed within 30 months from the date of agreements¹². According to the agreements, the works were to be executed as per the drawings and designs approved in 1986/1991, as these were in the nature of residual works. However, the payment schedule attached with the agreements included the item 'submission of drawings and designs by the contractors and their approval by the department', which was not in order.

Scrutiny (May and June 2011) of records of the divisions revealed that the contractors submitted their own drawings and designs and the EEs paid ₹ 1.08 crore¹³ (May 2008 and October 2009) to the contractors for submission of drawings and designs and their approval. This was in contravention of the clauses of the agreements which stated that the work would be executed as per already approved designs. It was further seen in Kesho project that the Superintending Engineer (SE), Water Ways Circle, Hazaribag also instructed (January 2008) the EE, Water Ways Division, Barhi that the agreement had been executed for doing work on already approved (1986-91) drawings and

¹² Bhairwa: 1F2/2005-06 executed by the Executive Engineer, Water Ways Division, Hazaribag on 2 July 2005 and Kesho: 15 F2/2006-07 executed by the Executive Engineer, Water Ways Division, Barhi on 23 March 2007.

¹³ Bhairwa: ₹ 57.95 lakh up to May 2008 and Kesho: ₹ 49.58 lakh up to October 2009.

designs and any deviation from the approved drawing and designs would not be allowed. The Chief Engineer (CE), WRD also instructed (March 2008) the SE, Hazaribag to get the written consent of the contractor that the work was being done as per already approved drawings and designs. There was nothing on record to indicate that the SE had obtained any consent in this regard from the contractor. Thus, payment of ₹ 1.08 crore by the EEs on account of drawings and designs was in violation of the orders of the higher authorities resulting in undue financial aid to the contractors.

On this being pointed out by Audit (May and June 2011), the Government stated (September 2012) that in the case of Kesho and Bhairwa schemes, in the payment schedule, which was attached with the agreement, one *per cent* of the cost of different components was provided (July 2005 and March 2007) for preparation and approval of drawings and designs.

The reply was not acceptable as the payments made for submission of drawings and designs were in violation of the agreements which stipulated that the works were to be executed as per already approved designs and drawings. Further, the SE, Hazaribag had already directed the EE to follow only the original approved drawings and designs.

ROAD CONSTRUCTION DEPARTMENT

5.2.3 *Unfruitful expenditure on construction of a bridge without approach road*

Unfruitful expenditure of ₹ 1.02 crore was incurred on a high level bridge due to taking up the work without acquisition of land for approach road.

According to Rule 132 of the Bihar Public Works Department (BPWD) Code, as adopted in Jharkhand, except in case of emergent work such as repair of breaches etc., no work should be started on land which has not been duly made over by a responsible Civil Officer. Further, as per provisions¹⁴ of BPWD Code, the process of tender should be initiated only when technical sanction has been accorded, allotment of funds has been ensured and land has been acquired, if required for the work.

Construction of a High Level Bridge and approach road over Chamgadha River/Nala in 29th km Hazaribag-Barkagaon-Tandwa Road was necessitated for replacing the old narrow and unserviceable existing bridge with a wide bridge in order to provide better road communication. The administrative approval for construction of the High Level Bridge and approach road was accorded (August 2007) by the Road Construction Department (RCD) for ₹ 1.26 crore and technical sanction was granted (July 2007) by the Chief Engineer (CE), Central Drawing Organisation, RCD, Ranchi for ₹ 1.27 crore. The work was awarded (November 2007) to the contractor by the Executive Engineer (EE), Road Division, Hazaribag for ₹ 1.26 crore and an agreement was executed in January 2008. The work was scheduled to be completed in one year, i.e. by January 2009.

Scrutiny (January 2012) of the records of the EE revealed that the contractor completed the work of the High Level Bridge in April 2010 except the work of

¹⁴ Paragraphs 4.5 and 7.5 of memo no. 948 dated 16 July 1986 of Cabinet Secretariat and Co-ordination Department (Vigilance Cell), incorporated in BPWD Code

bridge furniture¹⁵ and the work of approach road due to non-acquisition of the proposed land. The contractor repeatedly requested¹⁶ the EE to provide land for construction of the approach road. Finally, the contractor stopped the work (May 2010) mid way after execution of only the bridge work valued at ₹ 98.80 lakh, the payment for which was made up to August 2010.

Further scrutiny of records and information furnished by the Department (June-October 2012) revealed that possession of land (on paper) was communicated in December 2011 by the Land Acquisition Officer (LAO) to the EE, but the work was not started due to public hindrances as two landowners refused (May 2012) to accept the compensation amount on the plea of valuation at a lower rate. The matter could not be resolved by the LAO and the approach road could not be constructed as of October 2012 for want of land.

A total expenditure of ₹ 1.02 crore¹⁷ was incurred (June 2012) on the construction of the bridge, which could not be put to use in the absence of the approach road. Thus, the processing/tendering of work by the EE and according technical sanction by the CE, Central Drawing Organisation, without ensuring availability of land, resulted in unfruitful expenditure of ₹ 1.02 crore.

The Department stated (October 2012) that the expenditure was not infructuous as pedestrians and cyclists are utilising the bridge. The reply was not in order as the purpose of the high level bridge to replace the existing narrow unserviceable bridge for easy plying of vehicles was not served. Besides, the objective of providing better road communication to the road users throughout the year remained unachieved.

RURAL WORKS DEPARTMENT AND JHARKHAND STATE RURAL ROAD DEVELOPMENT AUTHORITY

5.2.4 Unfruitful expenditure and non-recovery of liquidated damages

Failure of the Executive Engineer (EE) to take timely action resulted in unfruitful expenditure of ₹ 1.34 crore besides non-recovery of liquidated damages of ₹ 25.50 lakh.

According to paragraph 4.8.2 of the standard specification and Code of practice for Water Bound Macadam (WBM) of the Indian Road Congress, the base course is to be provided with bituminous surfacing. The latter shall be laid only after the WBM course is completely dry and before allowing any traffic on it. Further, as per clauses 44 and 52 read with clause 21 (b) (c) of the SBD, if the contractor failed to complete the work within the stipulated period, Liquidated Damages (LD) at the rate of one *per cent* of the initial contract price¹⁸ including maintenance cost of the whole work per week subject to a maximum 10 *per cent* rounded off to the nearest thousand was leviable on the contractor. Further, according to the instructions¹⁹ issued in January 1991, the

¹⁵ Divider, reflector, pavement marker, signboard etc

¹⁶ Contractor's letter no. nil dated 04 April 2010, 24 May 2010, 13 January 2011, 16 July 2011, 28 November 2011, 21 January 2012 and 08 May 2012

¹⁷ Contractor's Payment ₹ 98.80 lakh + Contingency: ₹ 0.42 lakh + Land Acquisition: ₹ 2.89 lakh

¹⁸ Contract price (₹ 3.49 crore) including maintenance cost

¹⁹ Letter no. 34/90-2 dated 15 January 1991 issued by Department of Water Resources, Bihar,

genuineness of Bank Guarantees (BGs) submitted by the contractors should be verified from the bank by the Executive Engineers (EEs) at the earliest.

Chief Engineer (CE), Jharkhand State Rural Road Development Authority (JSRRDA) accorded (December 2007) technical sanction to the work of construction of 10 Kms. bituminous road from Kolkole Khurd to Banwar (package No. JH 0202) under Pradhan Mantri Gram Sadak Yojana (PMGSY) in Chatra District at a cost of ₹ 3.49 crore. The work was allotted (April 2008) to M/s Lovely Transport, Ranchi through tender at a cost of ₹ 3.48 crore. The contract was signed (May 2008) between the Executive Engineer (EE), Rural Work Division, Chatra and the contractor. The work was scheduled to be completed by May 2009.

Scrutiny (June 2011) of the records of the Division revealed that the contractor failed to execute the work within the stipulated period of time. Though no time extension had been granted, the contractor continued to execute the work even after 29 weeks from the scheduled date of completion and was paid ₹ 10.31 lakh and ₹ 15.49 lakh in December 2009 and January 2010 respectively after the scheduled date of completion. Subsequently, the contractor left (January 2010) the work midway without assigning any reason after executing work up to WBM Grade²⁰ II and III valued at ₹ 1.34 crore. The contract was rescinded in June 2010 by the EE. The remaining work (valued ₹ 2.14 crore) was not resumed as of February 2013 due to non-response to re-tender. As such, the bituminous work was not executed after WBM-grade II and III on the entire stretch though it was necessary to provide all weather road connectivity under PMGSY. More than three years had lapsed since execution of the WBM work, which was likely to deteriorate with the passage of time. Thus, stoppage of the work midway resulted in unfruitful expenditure of ₹ 1.34 crore.

Further, the EE failed to recover the full amount of LD from the contractor as per the agreement on account of non-completion of the assigned work within the stipulated date of completion. We noticed that the EE irregularly deducted LD of ₹ 2.58 lakh²¹ and forfeited Security Deposit for ₹ 6.72 lakh instead of ₹ 34.80 lakh²² as for delay of more than 10 weeks, at 10 per cent (maximum leviable) of the initial contract price including maintenance cost of the whole work was to be recovered. The short deduction of LD was due to wrong calculation of LD on the value of bills submitted instead of on the initial contract price. This resulted in less recovery of ₹ 25.50 lakh in the shape of LD.

It was further noticed that instead of forfeiting the performance security by encashing the BG in time, the EE accepted (February 2010) a new BG for ₹ 17.50 lakh in place of the lapsed BGs. The genuineness of the new BG was not verified by the EE from the bank, violating the Government orders of January 1991. The EE, after lapse of three months, requested (May 2010) the bank for verification of the BG. The bank intimated (May 2010) that the said BG was not issued by it. As such, the Department could not encash the BG for

²⁰ These are parts of water bound macadam (WBM) in which the size of stone metal utilised are 45 mm to 63 mm and 22.40 mm to 53 mm respectively for Grade II and III

²¹ ₹ 1.03 lakh and ₹ 1.55 lakh (10 per cent of the bill value and not of initial contract price) from 7th and 8th Running Account bills

²² Prescribed time of completion was May 2009. The work not completed up to the last measurement (8th RA bill) i.e. 10 January 2010. Total 29 weeks x one per cent of contract price of ₹ 3.48 crore = ₹ 1.00 crore, limited to 10 per cent of contract price i.e. ₹ 34.80 lakh - ₹ 2.85 lakh LD already deducted and ₹ 6.72 lakh security deposit already forfeited = ₹ 25.50 lakh

₹ 17.50 lakh. Due to failure of the EE to get the BGs revalidated in time, the Department was deprived of ₹ 17.50 lakh.

The matter was reported to the Government (June 2012) followed by reminders issued between July and August 2012. Their reply had not been received (February 2013).

Thus, failure of the EE to initiate timely action according to the provisions of the agreement against the contractor resulted in unfruitful expenditure of ₹ 1.34 crore on the incomplete road which denied the intended benefits to the rural people. Besides, the LD for ₹ 25.50 lakh was also not recovered.

5.3 Failure of oversight/governance

The Government has an obligation to improve the quality of life of the people for which it works, towards fulfillment of certain goals in the areas of health, education, development and upgradation of infrastructure, public service etc. However, Audit noticed instances where the funds released by the Government for creating public assets for the benefit of the community remained unutilised/ blocked and/or proved unfruitful/ unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. A few such cases have been discussed below:

ROAD CONSTRUCTION DEPARTMENT

5.3.1 Blocking of Government money

Advance made to South Eastern Railway in contravention to the codal provision/Government order, without approval/acceptance of estimate of a Road Over-Bridge proposed to be constructed on cost sharing basis resulted in blocking of government money amounting to ₹ 7.37 crore besides loss of interest of ₹ 2.30 crore.

According to Paragraph 7.2 of the Government decision²³ mentioned in Bihar Public Works Accounts (BPWA) Code, as adopted by Jharkhand, no work should be taken up without technical sanction accorded to the estimate. Further, as per para 11 of the fund allotment letter issued (February 2008) by the Government; expenditure was to be incurred after obtaining the technical sanction.

The High Court of Jharkhand, while hearing a Writ Petition²⁴, ordered (December 2005) construction of a Y-Leg Road Over Bridge (ROB) at Dibdih level crossing, Ranchi by the South Eastern Railway (SER) to enable the road users to travel towards MECON²⁵ colony. The work was to be done on a cost sharing basis²⁶ of 50:50 between the Railways and Government of Jharkhand (GOJ).

Scrutiny (December 2009 and April 2011) of the records of the Executive Engineer (EE), Road Division, Ranchi and information collected (May 2012) revealed that administrative approval for the work was accorded (December

²³ Vigilance Department letter no. 948 dated 16.7.1996

²⁴ WP (PIL) No. 6085 of 2002

²⁵ Metallurgical Engineering and Consultants of India Limited

²⁶ Cost sharing basis – Road over/under bridge works are undertaken by Railways in lieu of existing level crossing (LC) on cost sharing basis if the traffic density at the LC is one lakh or more Train Vehicle Units (TVUs). TVU is a unit obtained by multiplying the number of trains to the number of road vehicles passing over the LC in 24 hours. (Policy no. 2007/CE I/LX/90 of Railways)

2007) for ₹ 7.37 crore by the Road Construction Department (RCD), for 50 per cent State share i.e. ₹ 7.37 crore. Scrutiny further revealed that the EE advanced (April 2008) ₹ 7.37 crore to the Financial Advisor & Chief Accounts Officer (FA&CAO), SER, Garden Reach, Kolkata without entering into an agreement and accord of technical sanction (TS) to the estimate which was against the codal provision and Government order.

It was further noticed that the Detailed Estimate²⁷ was prepared and submitted (February 2011) to the RCD by the SER having an estimated cost of ₹ 22.24 crore enhancing the Railways share to ₹ 11.22 crore and State Government's share to ₹ 11.22 crore, which was accepted (April 2011) by the Chief Engineer, RCD after lapse of more than three years of advance. After accepting the estimate, the site inspection was undertaken (June 2011) jointly by a team of engineers of RCD and SER during which it was observed that the additional Y Leg ROB towards MECON would give rise to a point of conflict²⁸. In the inspection note, the Chief Engineer (CE), RCD advised (July 2011) not to connect the additional leg with the existing four lane ROB. On an enquiry made (April 2012) by audit from the SER, it was stated (May 2012) that the ROB would not be constructed as advised (July 2011) by the CE, RCD and the said work had been dropped from the Railway budget. The Department did not pursue with the SER to refund the advance of ₹ 7.37 crore (April 2008) even after the advice of the CE in July 2011 to not construct the proposed ROB.

The Government stated (November 2012) that the proposal for construction of ROB was dropped due to strong possibility of traffic congestion/accident due to conflict point of the ROB. Accordingly, the SER has been requested (October 2012) to refund the advance with interest accrued thereon. Follow up action is awaited (February 2013).

Thus, the sum of ₹ 7.37 crore advanced to the SER in contravention of the codal provision/Government order, without approval/acceptance of the estimate, remained unutilised for more than three years on the proposed ROB which was ultimately found unfit for construction. Besides, there was loss of interest²⁹ of ₹ 2.30 crore at a rate equal to the average borrowing rate of the State Government.

5.3.2 Lack of planning in erection of Bailey bridge

Due to lack of preparedness and planning for erection and assembly of bailey bridges in the event of a disaster, the Department failed to provide connectivity through bailey bridges even after spending a sum of ₹ 6.09 crore.

The Secretary, Road Construction Department submitted (June 2009) a proposal to the Advisory Council³⁰ for purchase of three bailey bridges³¹ to restore traffic in the event of an emergency/a disaster. Accordingly, Road

²⁷ Estimate no. 1478W/2010

²⁸ A conflict point is the point at which a highway user crossing, merging with, or diverging from a road or driveway conflicts with another highway user using the same road or driveway. It is any point where the paths of two through or turning vehicles diverge, merge or cross.

²⁹ At the rate of 7.83 per cent per annum on ₹ 7.37 crore x 4 years.

³⁰ comprising of Advisers to the Governor of Jharkhand

³¹ Bailey bridge is a portable steel bridge which is assembled at site to provide "through" type roadway between two main girders.

Construction Department (RCD), Government of Jharkhand (GoJ) accorded (June 2009) administrative approval for procurement of three bailey bridges for Ranchi, Hazaribag and Dumka Road Divisions at a cost of ₹ 6.89 crore.

During scrutiny of records (April 2011 and April 2012) of the Executive Engineers (EE), Road Divisions, Ranchi, Hazaribag and Dumka, we observed that the RCD nominated (June 2009) M/s Garden Reach Ship Builders & Engineers Limited, Kolkata, a Government of India Undertaking (agency), for supplying the bailey bridges, for which the EEs paid (between January 2010 and March 2011) ₹ 6.09 crore to the agency. The agency supplied the components between March and May 2010 to the EEs of these three Divisions.

We further noticed that the agency, while communicating the price and payment terms, had suggested (October 2009) that the bridges could be erected through their empanelled erectors. However, the Department did not act on this suggestion. We also noticed that the Technical Secretary of Engineer-in-Chief (EIC), RCD instructed (June 2010) the CE (Communication) to arrange training for the officials of the Mechanical Divisions so that the bailey bridges could be assembled within a week in case of need. However, this was not followed up by the CE and the EIC and the officials remained untrained.

Further, there was nothing on record to indicate that the availability of bailey bridges was communicated to all the divisions of RCD, so that the same could be requisitioned by the divisional officers in the event of a disaster.

We further noticed that under the jurisdiction of Dumka Road Division, one span of Gumra Bridge on Dumka-Sahebganj road collapsed in August 2010. The EE, Road Division, Dumka communicated (August 2010) the fact directly to the Secretary, RCD for utilisation of the bailey bridge. However, due to absence of directions regarding installation of the bailey bridge, the traffic was restored (March 2011) by constructing a diversion.

Another bridge over River Dharwa, on the State highway of Jasidih-Deoghar stretch under Deoghar Road Division, collapsed in June 2011. The Superintending Engineer (SE), Dumka Circle, Dumka requested (June 2011) the EIC to issue necessary orders for transfer of components of bailey bridge from Dumka and Hazaribag Road Divisions to the Deoghar Road Division to restore the traffic. However, no orders were issued regarding transfer of the bailey bridges, and the road connectivity was maintained by making a causeway during June-December 2011.

When we pointed this out (September 2012), the CE (Communication), RCD admitted (September 2012) that the erectors have not been empanelled and the Divisions did not have the expertise to assemble the components of the bailey bridges. He further stated that the bailey bridges could not be installed at the site of the damaged Gumra Bridge because the piers were not strong enough to take the load of moving vehicles. In case of the bridge over River Dharwa, the CE stated that initially installation of the bailey bridge was considered but due to the need for construction of piers and abutment, which would take a lot of time, restoration of traffic was started by constructing a causeway. The reply of the CE was not in order as according to the description of the bailey bridge by the supplier, M/s Garden Reach Ship Builders & Engineers Limited

(GRSE), the bailey bridge is so designed that it can be completely erected on rollers on one side of the gap to be bridged and then launched across without the use of any temporary support within the gap. Besides, the Divisions took one to five months for construction of the causeway/diversion for restoration of connectivity in the two damaged bridges, while the bailey bridges were purchased at a cost of ₹ 6.09 crore to restore the traffic in an emergent situation could be assembled within a week were lying unutilised.

Thus, due to failure of the Department to empanel the erector or to get the officials trained in assembling the bailey bridges even 28 months after their procurement, the bailey bridges could not be utilised when the bridges collapsed. This shows lack of preparedness and deficient planning in case of a disaster and resulted in non-achievement of the objective of procuring the bailey bridges even after spending a sum of ₹ 6.09 crore on their procurement.

The matter was referred to the Government (May 2012). Their reply had not been received (February 2013).

5.4 Persistent and pervasive irregularities

An irregularity is considered persistent if it occurs year after year. It becomes pervasive when it prevails in the entire system. Recurrence of irregularities, despite their being pointed out in earlier audits, is not only indicative of non-seriousness on the part of the Executive, but is also an indication of the lack of effective monitoring. This, in turn, encourages wilful deviations from the observance of rules/regulation and results in weakening of the administrative structure. A significant case noticed is described below:

DEPARTMENT OF FOREST AND ENVIRONMENT

5.4.1 Short realisation of penal Compensatory Afforestation and Net Present Value

Short raising of demand for Penal Compensatory Afforestation and Net Present Value led to short realisation cost of Penal Compensatory Afforestation of ₹ 65.34 lakh and Net Present Value of ₹ 80 lakh.

Under the provisions of the Forest (Conservation) Act, 1980, approval for diversion of forest land for non-forest purposes is accorded by the Government of India (GoI) on fulfillment of stipulated conditions, which include payment of Net Present Value (NPV)³², and cost of mandatory compensatory afforestation (CA)³³ and penal CA³⁴ (PCA), wherever applicable. The expenditure on such measures is to be borne by the user agency. Any user agency intending to use forest land for non-forest purposes is required to apply to the Principal Chief Conservator of Forest, who gets the proposal processed in the respective Divisional Forest Offices at various

³² "Net Present Value" means the quantification of the environmental services provided for the forest area diverted for non-forestry uses, as may be determined, by an expert committee appointed by the Central Government from time to time in this regard;

³³ Compensatory afforestation (CA) is to be carried out over equivalent area of land made available by the user agency or double the area of degraded forest land in case land was not made available by the user agency.

³⁴ Penal CA means afforestation work to be undertaken over and above the prescribed compensatory afforestation under the Forest (Conservation) Act, 1980, in lieu of the extent of area over which non-forestry activities have been carried out without obtaining prior approval of the competent authority for which PCA shall be raised two times over double degraded forest land.

stages³⁵, which is sent to GoI for approval. The demand for cost of NPV/CA/PCA etc. is raised after receipt of in-principle approval from GoI and the user agency is required to pay the demand before diversion of land. However, as per Paragraph 3.2 (viii) (d) of the Guidelines and Clarifications of the Forest Conservation Act and Rules, cost of CA is not to be realised in respect of cases of renewal of mining lease. As per order (May 2006) of the Hon'ble Supreme Court of India, the cost of NPV/CA/PCA etc received from the user agency is to be transferred to the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) fund.

Scrutiny (August 2011) of records of Dhalbhum Forest Division, Jamshedpur revealed that GoI, while according (July 2009) in-principle approval for diversion of 225.363 ha of forest land for renewal of Kendadih copper mining lease to M/s Hindustan Copper Limited (user agency), directed to realise the cost of penal CA of two times over double degraded forest land ($48.69 \times 2 = 97.38$ ha.) involved in violation³⁶ of the Forest (Conservation) Act, 1980. However, the DFO while raising the demand calculated (June 2010) the cost of penal CA on 97.38 ha at ₹ 65.34 lakh only instead of the correct sum of ₹ 1.31 crore (two times of 97.38 ha i.e., 194.76 ha). This resulted in short raising of demand for penal CA amounting to ₹ 65.34 lakh.

Further, out of 225.363 ha of forest land, diversion of which was approved in-principle, GoI directed (July 2009) to realise NPV for the land diverted which comes to ₹ 11 crore (for 48.69 ha of surface area mining at the rate of ₹ 8.03 lakh per ha and for remaining 176.673 ha of underground mining at the rate of 50 *per cent* of ₹ 8.03 lakh per ha). However, the Division while raising the demand, calculated the NPV amounting to ₹ 10.20 crore for 205.473 ha only (48.69 ha surface area mining and 156.783 ha for underground mining) which resulted in short raising of NPV of ₹ 80 lakh.

The DFO, Dhalbhum Forest Division in his reply (September 2012) stated that as per direction³⁷ (July 2009) of GoI, it was clear that the penal CA shall be raised and maintained at the cost of the user agency two times over double degraded forest land involved in violation of the Forest Conservation Act 1980, which worked out to $48.69 \times 2 = 97.38$ ha. Accordingly, demand was raised for 97.38 ha. The DFO was, however, silent about short raising of NPV, amounting to ₹ 80 lakh.

The reply of the DFO was not in order as the above mentioned letter refers to penal CA raised at two times over double degraded forest land. The DFO has raised demand for double of degraded forest only i.e for 97.38 ha whereas the demand should have been two times of 97.38 ha, i.e. twice the cost of afforestation of 97.38 ha.

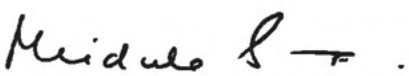
³⁵ GoI accords approval for diversion of forest land for non-forest purposes in two stages i.e. In-principle approval and Final approval

³⁶ The surface area of the forest land has been broken by the user agency without GoI permission.

³⁷ Letter no. F. No. 8-26/1997-FC dated 30th July 2009 of Govt. of India, Ministry of Environment & Forest (FC Division).

The matter was reported (June 2012) to the Government followed by reminders between August and November 2012. Their reply had not been received (February 2013).

Ranchi,
The


(MRIDULA SAPRU)
Principal Accountant General (Audit)
Jharkhand

Countersigned

New Delhi,
The


(VINOD RAI)
Comptroller and Auditor General of India