

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

ONE HUNDRED AND SIXTEENTH REPORT

(Presented on 18th February, 2016)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2016**

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ONE HUNDRED AND SIXTEENTH REPORT

on

**Action Taken by Government on the Recommendations contained in the
120th Report of the Committee on
Public Accounts (2008-2011)**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 116th Report on Action Taken by Government on the Recommendations contained in the 120th Report of the Committee on Public Accounts (2008-2011).

The Committee considered and finalised this Report at the meeting held on 15th February, 2016.

Thiruvananthapuram,
18th February, 2016.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the 120th Report of the Committee on Public Accounts (2008-2011).

The 120th Report of the Committee on Public Accounts (2008-2011) was presented to the House on 20th July, 2010. The Report contained 20 recommendations relating to Information Technology and Labour and Rehabilitation Departments. The Report was forwarded to the Government on 28-7-2010 to furnish the Statement of Action Taken on the recommendations contained in the Report and the final reply was received on 15-5-2014.

The Committee examined the Statements of Action Taken received from the Government in its meeting held on 15-5-2012, 17-10-2012 and 29-12-2014.

The Committee decided not to pursue further action in the light of the replies furnished by the Government. Such recommendations and Action Taken by Government are incorporated in this Report.

INFORMATION TECHNOLOGY & LABOUR DEPARTMENT

Recommendation

(Sl. No. 1, Para No. 11)

The Committee understands that due to poor foresight and planning, the computerisation of Professional and Executive Employment Exchange (P&EEE), Thiruvananthapuram which is the only exchange of its kind under the control of the Director of Employment and Training set-up for the registration, renewal, selection etc. of job seekers could not materialise even after huge monetary investments and lapse of considerable man-hours. The Committee notes with dismay that despite spending ₹ 3.83 lakh for purchase and installation of 4 sets of computers, they became out of order and subsequent rectification process consumed another ₹ 2.5 lakh and an insurmountable 5 years. The Committee wants the Department to furnish a report on the present position of the computerisation of the Professional and Executive Employment Exchange.

Action Taken

The scenario at present in the Professional and Executive Employment Exchange, Thiruvananthapuram is entirely different from the time of remarks passed by PAC. The Computerisation process has progressed to a great extent. The erstwhile State level Professional and Executive Employment Exchange, Thiruvananthapuram was trifurcated to form 3 Offices i.e., Professional and Executive Employment Exchange, Thiruvananthapuram, Regional Professional and Executive Employment Exchange, Ernakulam, Regional Professional and Executive Employment Exchange, Kozhikode. In all these three offices, manual data has completely been digitized using 'Thozhil' software developed by NIC, Kerala Unit during 2002-03. This software was built on Server-Client Technology and is exchange based. Now the following functions of the Employment Exchanges are completely handled through computer:

- (1) Registration and Renewal Activities
- (2) Selection Activities
- (3) Lapsing Activities
- (4) Query
- (5) Reports
- (6) Administration Module

However, the data needs to be edited and updated.

Recommendation

(Sl. No. 2, Para No. 12)

The Committee criticises the inscrutable reasons attributed by the Department such as the non-compatibility of the Pentium Computers with the Windows Software and later on the lack of training given to the staff towards the malfunctioning of the system and the subsequent failure of the project. The Committee laments the lack of proper co-ordination amongst the Department staff,

the absence of any agreement or Memorandum of Understanding (MoU) with specific time frame which resulted in the failure of the timely delivery of the software. The Committee ridicules the flimsy and baseless reasons put forth by the Department and the incompatibility of software with hardware resulted in the failure of software. The Committee also remarks that there were much complicated software which were previously developed by the Department and in this case the Department failed miserably in developing a system which not at all possessed complex calculations or high memory or hardware capacity. The Committee expresses its strong dissatisfaction over the lethargic and irresponsible attitude exhibited by the Department officials in developing a project for helping the unemployed people of the State and on top of that the Department is unnecessarily blaming NIC for the failure instead of taking the onus themselves.

Action Taken

As the Department had no IT division or computer experts, it had to depend on NIC for all solutions regarding hardware and software issues. Now the problems have been solved and the software is successfully running. Sufficient training has also been provided to the staff under the State Training Policy (STP) through the Institute of Management in Government (IMG) to enable them to work on the software efficiently. As such, all the issues mentioned in Para 12 have been solved and the computerisation of Professional and Executive Employment Exchanges has been completed. The "Thozhil" software developed by NIC is used for the day-to-day registration, renewal and selection works in these offices.

Recommendation

(Sl. No. 3, Para No. 13)

The Committee finds in Professional and Executive Employment Exchange, Thiruvananthapuram where online works were completed, there were chunks of erroneous data which underlines the lack of proper validations or revalidation of the same. The Committee stresses that there should have been a Memorandum of Understanding which stipulated a time limit for the project which the Department never looked into.

Action Taken

Presence of erroneous data due to lack of validation pointed out by the Committee has been rectified to some extent. The data was verified and validated by the department staff and selection list is being successfully generated from this database.

Recommendation

(Sl. No. 4, Para No. 14)

As a whole the Committee is dissatisfied with the lackadaisical approach adopted by the Department in understanding a simple but very important project and dragging it for years which could have been finished in few months time. The Committee condemns the lack of commitment on the part of departmental officials and reiterates that before venturing into similar projects, one should have clear-cut ideas and has to know what exactly the requirements are. The Committee also understands that though this project to computerize the Employment Exchange kick started in the year 1995, it could not achieve the intended results due to lack of co-ordination between hardware procurement and software development, lack of co-ordination in formulating a strategic IT plan, non-formation of a Committee to oversee the progress of the project etc. which languished almost 5 valuable years of time.

Action Taken

In Professional and Executive Employment Exchange, all manual data has completely been digitized using 'Thozhil' software developed by NIC, Kerala unit. The software was built on Server-Client Technology and is exchange based. Functions like registration, renewal and addition of qualification etc. are being done through the computer.

Recommendation

(Sl. No. 5, Para No. 15)

As a measure to complete the computerisation of the Employment Exchanges all over the State in the stipulated time the Committee recommends the

Government necessary fund should be allotted for the purpose at the earliest and that no lapse should occur in the process of total computerisation of Employment Exchanges.

Action Taken

All the 84 Employment Exchanges in the Department have been computerised using plan funds of State. Manual data has been digitized and select list is being prepared from the digitized data. Registration, renewal, addition of qualification etc. are being done through computer. Moreover, the Department has entrusted Kerala State IT Mission for developing a web enabled software for the Department. On launching this software, the services of the Department would be made available online to all citizens and the services would be more transparent.

Recommendation

(Sl. No. 6, Para No. 24)

The Committee understands that for establishing a Satellite Earth Station at Technopark, Thiruvananthapuram with Central assistance, the State Government decided to entrust the job to Technopark and released the whole amount of ₹ 3 crore (Loan-₹ 2.10 crore; Grant-₹ 0.90 crore) with 13% interest for the loan portion. The Technopark in turn entered into an agreement with STPI, a Central autonomous body and transferred the entire amount of ₹ 3 crore to them as interest-free loan under a simple condition that STPI should repay the loan out of the surplus revenue generated from the establishment of SES. The Committee vehemently deplores this decision of Technopark to transfer such a huge sum without any proper agreement or a MoU and without the permission from the Government. Making the situation murkier, the STPI failed to repay the loan and the subsequent liability of Technopark mounted to ₹ 6 crore including interest and penal interest. Moreover one acre of prime land handed over by Technopark to STPI for setting up of the SES is also lying unutilized. The Committee condemns such detrimental acts of the Department and strictly wants to know the Department/Officer who gave such an order without properly studying or without proper documentation.

Action Taken

Three Acres of land in Electronics Technology Park (Technopark) was handed over to the Department of Electronics, Government of India for constructing the Electronics Regional Test Laboratory Building (ERTL) in Technopark as per G.O. (Ms.) No. 28/91/ID dated 6-3-1991 (copy enclosed as Annexure I). The one acre of land is now completely utilized by C-DAC, Trivandrum by constructing a 200000 sq.ft. building. C-DAC has started their operation in Technopark on 11-11-2011 and STPI moved to Thejaswini Building in Technopark and started operation from 10-10-2011.

The Project Implementation Board at its 10th meeting held on 1-10-1992 as per Agenda Item No. 3 authorized the Chief Executive Officer to transfer the amount to Department of Electronics. The Board opined that in case the amount is not recovered, the same shall be contained in the total project cost.

Recommendation

(Sl. No. 7, Para No. 25)

The Committee finds the explanation given by the witness were focusing more on the situations and condition that necessitated the establishment of such a facility. The Departmental officials never gave an answer to the question as to who exactly gave an order or took decision to transfer the onus of the work. Even though the Committee reiterates to know the body who transferred the ownership of the work, the Department was fiddling with the history and background of starting an SES which the Committee finds as very appalling. When the Committee stood adamant on getting a satisfactory answer, the CEO, Technopark said he would produce the reply after studying the file. The Committee scorns the indifferent and irresponsible response of the CEO and demands the Department officials to furnish the required details immediately.

Action Taken

Technopark Project Implementation Board (PIB) took the decision to transfer the onus of the work and Chief Executive Officer implemented the decision of the Board.

Recommendation

(Sl. No. 8, Para No. 26)

The Committee is totally dissatisfied with the wavered replies given by the Department officials and remarks that since Government and bureaucracy being an ongoing process, the witness ought to have thorough knowledge about the facts and figures. The Committee laments on the callous attitude exhibited by the department officials in appearing before the Committee without doing proper preparation. During the examination of audit paragraph the Committee desired to know the authority who communicated with Government for taking the decision to transfer the money and land to STPI, that the loan needed to be repaid out of the surplus revenue generated, whether approval of Government was sought, latest position of the matters, the methods that could be adopted in order to get the money back etc. The Committee understands from the report submitted by the Department that the consent of the Government was not sought before taking the decision to transfer money and land to STPI.

Action Taken

It is agreed to the conclusions of the Committee that the consent of Government was not sought before taking the decision to transfer money and land to STPI.

Recommendation

(Sl. No. 9, Para No. 27)

The Committee supports the views of the officials on the fact that the Department should maintain a good rapport with STPI since new and upcoming IT responsibilities are entrusted to them even though the relevance of this particular project got diminished at the present time.

Action Taken

Setting up of Satellite Earth Station at Technopark was a prime requirement for attracting software companies to Technopark at that time and any delay in getting this facility in Trivandrum would have led to companies looking at other locations like Bombay and Bangalore.

LABOUR & REHABILITATION DEPARTMENT

Recommendation

(Sl. No. 10, Para No. 48)

The Committee finds it very distressing, the inordinate delay of seven years on the part of the Department in framing corresponding Rules in Kerala State even though the Child Labour (Prohibition and Regulation) Act came into force in India in the year 1986 itself. On top of this, after framing the Rules, complete elimination of Child Labour in hazardous sector, constitution of Child Labour rehabilitation-cum-welfare fund, effective functioning of the monitoring system etc., were also not implemented. The above mentioned flaws add to the woes of the Committee on the fact that such indifference is shown in a State where human rights values and welfare of labourers are always given top priority. The Committee also blames the existing system for framing Rules which takes 2-3 years of dragging and at the end of it, after it is issued, a ratification is always needed. The Committee stresses on the necessity of a system which could be implemented such that the Secretaries of Law and concerned Administrative Departments discussing the draft Rules along with the Minister concerned and making rules which would be very effective for avoiding delay and a ratification later. The Committee also suggests that a State Level Committee should be constituted for enforcing the Child Labour (Prohibition and Regulation) Rules, 1993.

Action Taken

On the basis of the Judgement delivered by the Hon'ble Supreme Court in WP(C) No. 465/1986, the Government have constituted Core Committee and State Level Monitoring Committee on Child Labour vide G.O. (Rt.) No. 3226/07/LBR and G.O. (Rt.) No. 3227/07/LBR dated 31-10-2010 for the welfare of children and their rehabilitation.

In addition to this, there are Monitoring Cells under the chairmanship of Additional Labour Commissioner (E) at State Level, Regional Joint Labour Commissioners at regional levels and District Labour Officers (E) at district levels.

These Committees are functioning well at all levels and therefore it is not considered necessary to frame Rules separately for the implementation of child labour abolition in the State.

Recommendation

(Sl. No. 11, Para No. 49)

The Committee remarks that even though the survey made by Government of India infers more Child Labour in the domestic sector, the Department is never keen in inspecting similar areas and detecting them despite having many officers and staff strength. The Committee laments the District Labour Officers do not focus on curbing the exact problem but tacitly supporting the interest of the employees of child labour. The Committee feels the inaction on the part of the officials is tantamount to pushing poor children towards the dark clutches of the tender labourhood. The Committee criticizes this dastardly act of the indifferent officials and suggests stringent action against the delinquent ones.

Action Taken

The Government of India vide its S.O. 1029 (E) dated 10th July, 2006 added the employment of children as domestic workers or servants in dhabas, restaurants, hotels, tea shops, resorts, etc. the Child Labour (Prohibition and Regulation) Act, 1986 and thereby prohibited these employments.

There are restrictions to the Labour Officers to conduct inspections to identify child labour among domestic servants. However, inspections are being conducted with the help of Police, Social Welfare Department, Residents Associations, Child Lines etc., on the basis of the information received.

The Government initiated steps to eradicate child labour from all labour sectors. As part of this, Director of Public Instructions has issued necessary directions (on the basis of the request made by Labour Commissioner) for reading the messages for eradication of the child labour in the school assembly and instructed the children to intimate any instances of child labour noticed by them to their teachers. The teachers can pass on this information to the Officers of Labour Department for taking further steps in this regard.

Recommendation

(Sl. No. 12, Para No. 50)

The Committee is very particular in clearly defining 'Hazardous Work' in the Rule and stresses that the State Government has the duty to exercise the provisions conferred upon by the Act of 1986 in adding the various areas prone to child labour based on the atmosphere and conditions prevailing in each State. In Kerala the most probable child labour is detected in Hotels, Restaurants, Dhabas, Recreation Centres and even in Rock Quarries. The Committee endorses any initiative from the part of the Department in making amendments in the Rule which will help preventing child labour.

Action Taken

The Government of India vide its S.O. 1029 (E) dated 10th July, 2006 prohibited Child Labour as domestic servants in dhabas, restaurants, hotels, motels, tea shops, resorts, spas and other recreational centres. The Departmental Officers are keeping vigil to prevent the engagement of children for works of hazardous nature.

Recommendation

(Sl. No. 13, Para No. 51)

The Committee condemns the failure on the part of the Department in taking constructive action against the huge number of cases identified in districts of Thrissur, Thiruvananthapuram and Kollam where child labour was detected in various institutions. The Committee blames the inability of the Department in proving that the age of children in the identified cases were below 14, owing to which such cases went unpunished. The Committee deplores the lazy attitude exhibited by the Department in getting age certificate and remarks that the officials should have taken the pain and strain to fetch the certificate through proper application or by bringing the children to a doctor if the same was not available with them. Though the Committee does not discard the revelation of the

Department that most children were interstate migrants having no age certificates, they lament the lackadaisical attitude of the Department which failed in effectively framing charges resulting in acquittal of offenders in most of the cases registered.

Action Taken

As per the provisions of the Child Labour (Prohibition and Regulation) Act, children above 14 years can be engaged for non-hazardous occupations. If any violations are detected during Inspections, stringent action is being initiated against the persons/Institution concerned. The concerned officers issue notices to the offenders and inspects registers and records to ascertain the facts.

In case of children above 14 years engaged in labour of hazardous nature, they are released and handed over to Child Welfare Committee under Social Welfare Department. If it is proved that the child is below 14 years, stringent action is being taken against the employers.

Recommendation

(Sl. No. 14, Para No. 52)

The Committee is surprised to note the findings of the Department that only 23 cases of child labour could be detected all over Kerala in violation of the Rules and remarks that one could find thousands of children, in hotels, assisting in road works and in pilgrimage sites. The Committee is disappointed over the fact that the Department is not doing an intensive search in child labour prone areas like the one mentioned above and also in the domestic sector. The Committee asks the Department officials to take necessary steps so as to include those areas which do not come in the ambit of the "Shops and Commercial Establishments Act" such as pilgrimage centres, religious institutions, carnival places apart from domestic sectors in their inspection for detecting child labour. The Committee urges the Department to intensify and strengthen their mechanism to detect children from such locales.

Action Taken

The Labour officers conduct Inspections in institutions which comes under the labour laws and take action against any offence related to Child Labour. They are also taking proper care to prevent Child Labour at pilgrimage centres, religious institutions, carnival places etc.

Recommendation

(Sl. No. 15, Para No. 53)

The Committee notes with concern that the Department miserably failed to collect the fine of ₹ 20,000 per child in the cases where hazardous child labour was involved, there by ignoring the Honourable Supreme Court direction in one of its earlier judgment of the year 1996. The Committee views this as a grave lapse and mistake on the part of the Department and recommends that the Department should take immediate and stringent action against the delinquent ALOs. The Committee do not accept the lame and silly explanations given by the Department that there was no Government prescription for enforcing the Rules and stresses that it is the duty of the Labour Department to collect the fine amount of ₹ 20,000. The Committee also directs the Department should prescribe recovery procedure immediately after which the same should be incorporated in the Rules.

Action Taken

Government as per G.O. (Ms.) 58/09/LBR dated 14-5-2009 and G.O. (Ms.) 110/2010/LBR dated 8-9-2010 issued necessary guidelines for imposing a fine of ₹ 20,000 on the offenders of Child Labour (Prohibition and Regulation) Act. Hence at present there are clear directions to impose fine as per the directions of Hon'ble Supreme Court of India.

Recommendation

(Sl. No. 16, Para No. 54)

The Committee notes with disappointment that the Rules of Procedures are still not formulated. The Committee laments that despite the Department called for sealing further lapses and strengthening the processes, the recovery procedure of

civil compensation from offending employers are neither complied with nor the modality of recovery specified. The Committee criticizes such irresponsible acts of the Department in failing to prescribe the procedures clearly and urges the Department to take immediate steps to get this done. Regarding the age of the children, the Committee urges that the employer should bear the onus to find and reveal the exact age of the child. On the other hand the concerned ALOs are also not earnest in getting certificate proving the exact age of the child. By seeing all these the Committee is forced to think that the dog is set to watch the geese since the ALOs were helping employers instead of checking child labour.

Action Taken

Any children detected and released as child labour is produced before the Child Welfare Committee (having powers of a second class magistrate) and the Committee issues the report regarding the age of the children. Hence there is no negligence on the part of the officers of Labour Department.

Recommendation

(Sl. No. 17, Para No. 55)

The Committee stresses on the implementation of the Migrated Labour Act which focuses on the Protection and Welfare of migrated children and labourers as it is the primary responsibility of the Government. Since migrated labour is becoming a major issue in the State, the Committee is very vocal in strengthening and strictly enforcing this Act for curbing this issue. The Committee expresses its unhappiness over the lazy approach of the enforcement wing which undertook casual inspections as a result of which the cases registered got very low even though the staff deputed for the job got increased.

Action Taken

The children are also coming along with the interstate migrant workers. But these children are usually not child labourers. The Officers of Labour Department are ensuring that these children are not getting engaged as Labourers.

Recommendation

(Sl. No. 18, Para No. 56)

Even though the Committee directed the Department officials to submit a detailed report as to whether the Kerala Child Labour (Release, Rehabilitation and Welfare) Ordinance, 2000 promulgated for the constitution of State Council for Rehabilitation and Welfare of Children was replaced and whether any action was taken based on the Ordinance, it was not complied with. The Committee views this as a grave negligence on the part of the officials and urges strict action against the defaulters. The Committee also urges the Department to take necessary steps to bring a legislation with the provisions contained in the Kerala Child Labour (Release, Rehabilitation and Welfare) Ordinance, 2000. It is also suggested that the desired report should be submitted without further delay.

Action Taken

The Labour Department examined the proposal to make a new legislation for prohibiting child labour in the State in consultation with Law Department. The Law Department has opined to reconsider the proposal for enacting a new legislation in the State for Child Labour, as Child Labour (Prohibition and Regulation) Act, 1986 and the Juvenile Justice (Care and Protection of Children) Act, 2000 are existing in the State for the well-being of the Children. On the basis of this, it was decided that separate legislation for the purpose is not required.

Recommendation

(Sl. No. 19, Para No. 57)

The Committee notes with dismay that there is huge difference in the figures of Annual Administration Report (AAR) and the figures sent to the Government of India with regard to the conduct of inspections and identifications of child labour and the subsequent follow-up actions. One among the data indicated the number of child labour detected as NIL which meant the Department did not detect any case at all. Expressing much concern at the glaring mistake committed by the Department, the Committee opines that the Department officials purposefully sent such a bogus report to Government of India. The Committee severely criticises

such acts of the Department which swept the actual figures under the carpet thereby not allowing the Government of India on International Labour Organisation to get a clear picture of the situation. The Committee seeks explanation from the Department for this grave error and also urges an enquiry be conducted in this regard. The Committee also asks the Department to furnish the latest position of the report on the inspections conducted for identifying child labour and the follow-up actions.

Action Taken

On examining the reports furnished by the DLOs, the Labour Commissioner has detected that there is huge difference in the details in Annual Administrative Report and the details sent to Government of India. After verification, he has reported that the report sent to Government of India is the legitimate one.

Recommendation

(Sl. No. 20, Para No. 58)

The Committee remarks that though 38 child labourers were identified and 19 cases filed during 1997-2004, due to lack of good reporting system no case of child labour was detected during the above mentioned period. The Committee stresses the need of a good reporting system on war-footing. Even though the Department tried to come up with explanation stating the authenticity of the data on the Reports, the Committee discards this argument. The Committee urges the necessity of convening conference of District Level Officers and ALOs and that the Additional Labour Commissioner should himself convene meetings in all districts. The Committee views seriously the absence of concerned officers in State Level Monitoring Committee meetings and urges the Chief Secretary to give quick directions to ensure that all the officers are taking part in the subsequent monitoring committee meetings. The Committee also warns the officials against any clumsy or indifferent action which prevents such meetings convened on a timely basis. The Committee strictly recommends that the Labour Secretary along with all officers down the hierarchy should conduct inspections on all the institutions based on the surveys and reports on a random basis in order to bring a sense of seriousness and credibility to the whole process.

Action Taken

The Labour Commissioner and Additional Labour Commissioner (E) are monitoring the works of ALOs and DLOs. All members are participating in the State Level Core Committee and Monitoring Committee. Hence at present, there is a proper reporting system to tackle the issue. The recommendation of the Committee regarding the conduct of inspections by all officers including Labour Secretary in order to bring a sense of seriousness and credibility to the whole process is noted as a guiding principle in the matter.

Thiruvananthapuram,
18th February, 2016.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

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