



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2019-2021)**

EIGHTY SEVENTH REPORT

(Presented on 18th June, 2019)

SECRETARIAT OF THE KERALA LEGISLATURE

THIRUVANANTHAPURAM

2019

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On

KERALA STATE MINERAL DEVELOPMENT CORPORATION

**(Based on the Report of the Comptroller and Auditor General of India for the
year ended 31st March, 2014 & 2015)**

CONTENTS

	<i>Page</i>
Composition of the Committee ..	v
Introduction ..	vii
Report ..	1
Appendix I :	
Summary of main Conclusions/Recommendations ..	9
Appendix II :	
Notes furnished by Government on the Audit paragraphs ..	11

COMMITTEE ON PUBLIC UNDERTAKINGS (2019-2021)

COMPOSITION OF THE COMMITTEE

Chairman:

Shri . Divakaran.

Members:

Shri . B. Ganesh Kumar

Shri Krishnan

Shri iruvanchoor Radhakrishnan

Shri T. A. Rahim

Shri Rajendran

Shri uju Abraham

Shri nny Joseph

Shri F. Thomas

Shri . Ummer

Shri Unni.

Legislature Secretariat :

Shri / K. Babu Prakash, Secretary

Shri / B. Suresh Kumar, Joint Secretary

Shri . Harish, Deputy Secretary

Smt teji D. O., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2019-2021) having been authorised by the Committee to present the Report on its behalf, present this Eighty Seventh Report on Kerala State Mineral Development Corporation based on the Reports of the Comptroller and Auditor General of India for the years ended 31st March 2014 & 2015 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid report of the Comptroller and Auditor General of India for the year ended 31st March 2014 & 2015, were laid on the Table of the House on 23-3-2015 and 28-6-2016 respectively. The consideration of the audit paragraphs included in this Report and the examination of the departmental witness in connection thereto was made by the Committee on Public Undertakings constituted for the years 2016-2019 at its meeting held on 11-4-2018.

This Report was considered and approved by the Committee (2019-2021) at its meeting held on 8-5-2019.

The Committee places on record its appreciation for the assistance rendered to it by the Accountant General (Audit), Kerala in the examination of the Audit Paragraphs included in this Report.

The Committee wishes to express its thanks to the officials of the Industries Department of the Government Secretariat and Kerala State Mineral Development Corporation for placing the materials and information solicited in connection with examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government Industries and Finance Departments and the officials of the Kerala State Mineral Development Corporation who appeared for evidence and assisted the Committee by placing their views before it.

C. DIVAKARAN,

Chairman,

Committee on Public Undertakings.

Thiruvananthapuram,
8th May, 2019.

REPORT

ON

KERALA STATE MINERAL DEVELOPMENT CORPORATION LIMITED

AUDIT PARAGRAPH 3.3 (2013-14) & 3.7 (2014-15)

AUDIT PARAGRAPH 3.3 (2013-14)

The Kerala State Mineral Development Corporation Limited

3.3 Illegal payment of ₹1.09 crore as Nokkukooli²²

As per Rule 51 of Kerala Financial Code, expenditure on behalf of the Government shall be incurred after entering into contract for supply of stores or for the execution of work. Contracts so executed should be in the form of a written agreement. Further, as per Rule 173 of the Code, work should be started only after proper estimate of the work had been prepared and sanctioned by the Competent Authority.

Section 6 of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002, stipulates that no worker shall individually or jointly commit any unlawful practices in connection with or relating to or ancillary to the purposes included in the Act. The unlawful practice has been defined in the Schedule to the Act which includes intentionally putting an employer in fear of any injury or damage to goods, intimidation demanding or claiming or receiving any amount without executing any work or for the work done by others, etc.

The Kerala State Mineral Development Corporation Limited (Company) is engaged in the work of exploring, mining, processing, selling etc. of minerals and mineral substances in the State. In view of the scarcity of construction grade sand in Kerala, Government of Kerala (GoK) directed (December 2009) the Company to propose the technology and modus operandi to desilt the Malampuzha Dam. Based on the proposal, GoK accorded²³ (January 2010) sanction to the Company

22 Nokkukooli is the amount demanded by head load workers of an area when a person or organisation loads material on to or unloads from a vehicle without their help.

23 G.O.(Rt.) No. 124/2010/WRD dated 27-1-2010.

for sand mining at Malampuzha Dam under the monitoring and supervision by a Core Committee chaired by the District Collector, Palakkad. The operations including loading of sand were to be carried out in a mechanised way. Subsequently, the work relating to the desilting of sand in Chulliar and Walayar dams was also entrusted (February/March 2010) to the Company.

The work, relating to desilting of sand and its transportation at dam sites which included its loading and unloading, was awarded by the Company to a contractor for ₹100 per cubic meter of sand excavated. The work was commenced in February 2010.

On scrutiny of records relating to work, i.e. desilting of sand, including loading and unloading, Audit noticed that during excavation of sand, the Company had engaged 316 head load workers at Malampuzha (192), Chulliyar (72) and Walayar (52) dam sites on daily wages at the rate of ₹300 per day for laying of sand bags on the outer side of the bund, construction of temporary bund, removal of light jungle and vegetation from the site and disposal at suitable places etc. They were engaged, based on the directions of GoK, as the head load workers obstructed (29 March 2010) the mechanised lifting of sand from the site demanding manual loading of sand in trucks instead. The Company had reported²⁴ to GoK that though said workers were engaged for the work, they were not ready to work as per directions of the Company and were demanding Nokkukooli.

The Company did not change the terms of contract to get the desilting work done manually instead of using mechanised method when GoK directed them to engage head load workers.

The Company paid ₹1.35 crore to head load workers during the years 2010-11 and 2011-12 which was booked under 'desilting dam expenses' in the Company's books of accounts. Out of this, ₹ 1.09 crore was paid as *nokkukooli* as reported by the Managing Director before Core Committee meeting held on 28th July 2011.

²⁴ Letter containing detailed report regarding activities related to desilting work dated Nil.

Audit observed that head load workers were engaged against financial rules i.e. Rule 51 and 173 of the Kerala Financial Code and Section 6 of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002.

Thus, the engagement of the head load workers and payment of *nokkukooli* was illegal²⁵ and irregular and resulted in excess expenditure of ₹1.09 crore.

The Company stated (September 2014) that though there was a demand for *nokkukooli* no *nokkukooli* was really paid to the workers and acquittance roll and vouchers did not specify to any payment of *nokkukooli*. The reply of the Company is not tenable due to following reasons.

- The then MD who authorised the cash vouchers himself admitted before the Core Committee headed by District Collector that an amount of ₹1.09 crore was paid as *nokkukooli*.
- The Vigilance and Anti-Corruption Bureau report²⁶ that an amount of ₹20.51 lakh was spent by the Company for paying *nokkukooli* at Chulliyar dam buttressed the audit findings.
- The Company while forwarding the remarks on vigilance enquiry to the Government agreed (August 2013) with Vigilance report and assured to take required corrective action on payment of *nokkukooli*.

Thus, the engagement of the head load workers and payment of *nokkukooli* to them in violation of Kerala Financial Code and Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002, resulted in illegal and irregular payment of ₹1.09 crore.

The matter was reported (August 2014) to Government; their reply is awaited (November 2014)

[The Audit Paragraph 3.3 contained in the Report of the C& AG for the year ended 31st March 2014]

25 The State Police Chief issued a circular (March 2012) observing collecting *nokkukooli* as offence similar to robbery which attracts provisions of criminal law.

26 No. VE/09/11/PKD dated 29-10-2012.

AUDIT PARAGRAPH 3.7 (2014-15)

Kerala State Mineral Development Corporation Limited

Loss of revenue

Failure of the Company to provide adequate security and storage for excavated sand resulted in loss of sand worth ₹6.42 crore and consequent loss of revenue to Government.

3.7 Kerala State Mineral Development Corporation (Company) is engaged in exploring, mining, processing, selling, etc., of minerals and mineral substances in the State. Government of Kerala (GoK) engaged (January to March 2010) the Company to desilt and dispose sand from three dam sites, i.e. Malampuzha, Chulliyar and Walayar to tide over the scarcity of construction grade sand in Kerala. The purpose of desiltation exercise was to sell sand at reduced rate⁴⁴ to general public, mainly BPL families and to the beneficiaries of EMS/MN housing scheme. Sale proceeds were to be remitted to the Government. A Core Committee⁴⁵ was to monitor and supervise the operations. The Company was responsible for ensuring proper storage, security and movement of sand, etc.

As per initial planning, the Company was to identify the land for stockyard and security for the stockyard by outsourcing security personnel. District Collector and the Company were to take steps to recruit required personnel for site supervision, accounting, transportation, etc. The Company was also responsible to set up necessary infrastructure like check posts, site office, etc.

During February to May 2010, the Company excavated and filtered three lakh Cubic Meter (cu.m) of sand. Desiltation of sand was carried out through contractors engaged at the rate of ₹180 per cu.m of sand excavated. Out of excavated sand, 1.35 lakh⁴⁶ cu.m was sold until August 2011, leaving a stock of 1.65 lakh cu.m of sand.

44 ₹ 1200/cu.m in February 2010, ₹990 in May 2010 and ₹ 600 in January 2011.

45 The Core Committee headed by District Collector, Palakkad has members from the Company, Irrigation, Forest, Revenue, Police, Taxes departments and experts from Centre for Earth Science Studies and Centre for Water Resources Development and Management.

46 0.85 lakh by direct sale and 0.5 lakh by sale to Government agencies.

As there were allegations (August 2011) of discrepancies in the claim of sand excavated, GoK ordered (September 2011) a vigilance enquiry at the instance of the Core Committee. Vigilance Enquiry Report (December 2012) though did not find any discrepancy in the quantity of sand excavated, recommended that the then Managing Director of the Company should not be appointed in any other PSUs or Corporations under GoK for the official misconduct on his part as Managing Director when he did not record correct measurement of sand excavated.

There was no desiltation and sale of sand during the vigilance enquiry. At the time of resumption (April 2013) of sales activities, the available stock of sand was found to be just 0.58 lakh cu.m. A quantity of 1.07 lakh⁴⁷ cu.m of sand worth at least ₹6.42 crore⁴⁸, was washed away stolen due to lack of proper storage/security. The Company reported the theft of sand to the police. The objective of the sand desiltation was also not achieved as the Company had failed to transport the sand to other districts as directed (May 2010) by a Cabinet sub-committee on Reservoir Desiltation.

Audit noticed that there was possibility of sand being stolen, owing to high price variation between market rate (₹1750 per cu.m - ₹2777 per cu.m) and Government rate (₹600 per cu.m - ₹1200 per cu.m) warranting heightened security arrangement. Moreover, the Company did not have any storage facility of its own and the excavated sand was stored at dam sites. Yet, the Company had failed to ensure proper security of the available stock because:

- The desilting of sand was carried out without an estimate of likely sale and capacity of the Company for storing and transporting the unsold sand, resulting in large accumulation of sand.
- The Company had a manpower of only five as on March 2010. Though GoK permitted the Company to recruit site supervisors, accountants and personnel and to outsource security personnel after the commencement of desiltation process, the Company had failed to do so. There was also lack of proper transportation arrangement to carry sand to other districts. Obstruction by local people and rain also affected sale/transfer of sand.

47 Difference between 1.65 lakh and 0.58 lakh.

48 At the rate of ₹600 per cu.m as fixed by GoK for sale to beneficiaries of EMS/MN housing scheme.

Thus, failure of the Company to perform the duties assigned to it by GoK, namely, provision of sufficient security to the excavated sand and transportation of sand to other places, resulted in loss of revenue of ₹ 6.42 crore to the Government and non-achievement of the envisaged objective of the project as the sand could not be distributed to the general public at reasonable price as envisaged by GoK.

The Company replied (October 2015) that against 2.71 lakh cu.m of sand excavated, the Company sold 1.74 lakh cu.m and 0.97 lakh cu.m was available in stock as of November 2015. Therefore, there was no shortage of sand and that quantity of sand estimated to be washed away was subsequently found spread over a broad area near the reservoir. GoK endorsed (December 2015) the reply of the Company.

The reply was not acceptable since as per the detailed report of Managing Director sent to GoK in November 2010 and July 2012, the excavated and filtered sand was three lakh cu.m. It was also concurred by GoK. Out of the excavated quantity of three lakh cu.m of sand, the Company had sold only 1.74 lakh cu.m of sand so far. The fact that the Company could not dispose of the remaining sand at concessional rate of ₹600 per cu.m as per direction (March 2014) of GoK, further proved that sand had been lost and could not be salvaged.

Since the Company has now (since November 2014) been assigned with desilting operations at Pazhassi Dam and proposal for desilting at another dam site (Chamravattom) is pending with the Government, it is recommended that the Company should ensure proper storage of excavated sand by providing protection against seepage and theft. Adequate security arrangements should also be made.

[The Audit Paragraph 3.7 contained in the Report of the C & A.G. for the year ended 31st March 2015]

The notes furnished by the government on the Audit Paragraph are given in Appendix-II.

Discussion and Findings of the Committee

The Committee observed that in 2010-11, 2011-12 the Company had paid 1.35 crore to the head load workers as expenses for desilting dam sites and out of this 1.09 crore was paid in the name 'of nokkukooli' as reported by the then Managing Director of the Company before the Core Committee meeting. The Committee probed into the loss of ₹1.09 crore incurred by the Company through this payment of 'nokkukooli.'

The witness failed to give a satisfactory reply to the queries of the Committee. The Committee opined that the Company commenced functioning with great expectations and aims to explore the sand in dam premises and to sell the mineral sand excavated.

The Committee enquired about the present functioning of the company. The witness clarified that the company has its headquarters in Thiruvananthapuram and possesses only two vehicles for transportation of sand. He shared his expectation that by appointing sufficient staff the company can function properly. The Committee observed that at present the Company is suffering from scarcity of staff, with the result that it was not in a position to prevent effectively the theft of sand from the dam sites.

The Committee stated that there appeared no need to function the Company in loss and urged to prepare a project report to execute a long term agreement with Public Works Department in order to supply sufficient quantity of sand for its construction works.

Recommendations

1. The Committee severely criticizes the Company for the illegal payment of ₹ 1.09 crore to head load workers in the name of 'Nokkukooli'. The Committee strongly recommends to take stringent action against the officials responsible for the payment of ₹ 1.09 crore and to take remedial action to rectify the irregularities pointed out in the vigilance report regarding this. The Committee also recommends to recover the amount paid as Nokkukooli.

2. The Committee observes that due to the scarcity of staff the Company is unable to prevent the theft of sand from dam sites. The Committee recommends to take urgent measures to appoint sufficient staff and adequate vehicle support be made available for the proper and efficient functioning of the Company.

3. The Committee recommends to ensure adequate security and storage facility in order to avoid loss of excavated sand.

4. Considering the deplorable condition of the Company, the Committee recommends to prepare a suitable project report and submit the same to government to revive the Company again.

5. The Committee expresses displeasure over the vigilance enquiry report on the allegations of discrepancies in the quantity of excavated sand submitted in December 2012. The Committee recommends to conduct vigilance enquiry afresh on the alleged theft of sand at the three damsites and to furnish the report before the Committee.

6. Expressing its dissatisfaction on the continuous loss incurred by the Company, the Committee recommends to enter into a long term agreement with Public Works Department in order to supply sufficient quantity of sand for its construction works, so that the excavated sand can be utilized in an effective manner.

Thiruvananthapuram,
8th May, 2019.

C. DIVAKARAN
Chairman,
Committee on Public Undertakings.

APPENDIX- I
SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl No.	Para No.	Department Concerned	Conclusions/ Recommendations
1	2	3	4
1	1	Industries	The Committee severely criticizes the Company for the illegal payment of ₹ 1.09 crore to head load workers in the name of 'Nokkukooli'. The Committee strongly recommends to take stringent action against the officials responsible for the payment of ₹ 1.09 crore and to take remedial action to rectify the irregularities pointed out in the vigilance report regarding this. The Committee also recommends to recover the amount paid as Nokkukooli.
2	2	Industries	The Committee observes that due to the scarcity of staff the Company is unable to prevent the theft of sand from dam sites. The Committee recommends to take urgent measures to appoint sufficient staff and adequate vehicle support be made available for the proper and efficient functioning of the Company.
3	3	Industries	The Committee recommends to ensure adequate security and storage facility in order to avoid loss of excavated sand.
4	4	Industries	Considering the deplorable condition of the Company, the Committee recommends to prepare a suitable project report and submit the same to government to revive the Company again.
5	5	Industries	The Committee expresses displeasure over the vigilance enquiry report on the allegations of discrepancies in the quantity of excavated sand submitted in December 2012. The Committee

1	2	3	4
			recommends to conduct vigilance enquiry afresh on the alleged theft of sand at the three damsites and to furnish the report before the Committee.
6	6	Industries	Expressing its dissatisfaction on the continuous loss incurred by the Company, the Committee recommends to enter into a long term agreement with Public Works Department in order to supply sufficient quantity of sand for its construction works, so that the excavated sand can be utilized in an effective manner.

APPENDIX - II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPHS
(AUDIT REPORT 2014-2015)

Sl No	Audit Paragraph	Reply furnished by Government																														
1	2	3																														
1	3.7	<p>On verification of the available records sand de-silted sold and stock as on 31.03.2015 are given below.</p> <table border="1"> <tbody> <tr> <td>Total Sand Desilted</td> <td></td> <td>300000</td> </tr> <tr> <td>Sale of sand from Malampuzha, Chulliyar and walar</td> <td>95913</td> <td></td> </tr> <tr> <td>Issued to various Government Agencies</td> <td></td> <td></td> </tr> <tr> <td>Kalavara(D.C ,PKD)</td> <td>280</td> <td></td> </tr> <tr> <td>Gramalaxmi Mudralaya (D.C,PKD)</td> <td>32029</td> <td></td> </tr> <tr> <td>D.C (EKM)</td> <td>4459</td> <td></td> </tr> <tr> <td>SIDCO</td> <td>13141</td> <td>49909</td> </tr> <tr> <td>Sand use for filling sand bags</td> <td></td> <td>871</td> </tr> <tr> <td>Stock of filtered sand</td> <td></td> <td>40002</td> </tr> <tr> <td>Stock at different stages (WIP)</td> <td></td> <td>60222</td> </tr> </tbody> </table>	Total Sand Desilted		300000	Sale of sand from Malampuzha, Chulliyar and walar	95913		Issued to various Government Agencies			Kalavara(D.C ,PKD)	280		Gramalaxmi Mudralaya (D.C,PKD)	32029		D.C (EKM)	4459		SIDCO	13141	49909	Sand use for filling sand bags		871	Stock of filtered sand		40002	Stock at different stages (WIP)		60222
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1	2	3								
		<table border="1"> <tr> <td>Total</td> <td></td> <td></td> <td>2469917</td> </tr> <tr> <td>Difference</td> <td></td> <td></td> <td>53083</td> </tr> </table> <p>Actual Shortage of sand seems to be 53083 Cu.M. The sand was spread over a broad area in the reservoir due to heavy rains from 2009 onwards. More over the corporation have not made any payment to contractors towards de-silting expenses other than sand filtered and sold/ issued to various government agencies as per Government orders.</p>	Total			2469917	Difference			53083
Total			2469917							
Difference			53083							

R. Vijay
 Director
 Corporation
 Bangalore

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