



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

TWENTY SIXTH REPORT
(Presented on 9th March, 2017)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2017**

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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PUBLIC UNDERTAKINGS
(2016-2019)**

TWENTY SIXTH REPORT

On

**Roads and Bridges Development Corporation of Kerala Limited
(Based on the Report of the Comptroller and
Auditor General of India for the year
ended 31 March, 2014)**

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COMMITTEE ON PUBLIC UNDERTAKINGS (2016-2019)

COMPOSITION OF THE COMMITTEE

Chairman:

Shri C. Divakaran

Members:

Shri T. A. Ahammed Kabeer

Shri K. B. Ganesh Kumar

Shri C. Krishnan

Shri S. Rajendran

Shri Thiruvanchoor Radhakrishnan

Shri P. T. A. Rahim

Shri Raju Abraham

Shri Sunny Joseph

Shri C. F. Thomas

Shri P. Unni.

Legislature Secretariat:

Shri V. K. Babu Prakash, Secretary

Smt. P. K. Girija, Additional Secretary

Shri P. B. Suresh Kumar, Deputy Secretary

Smt. Deepa V. Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2016-2019) having been authorised by the Committee to present the Report on its behalf, present this Twenty Sixth report on Roads and Bridges Development Corporation of Kerala Limited, based on the report of the Comptroller and Auditor General of India for the year ended 31 March, 2014 relating to the Public Sector Undertakings of the State of Kerala.

The Report of the Comptroller and Auditor General of India for the year ended on 31st March, 2014 was laid on the Table of the House on 23-3-2015. The consideration of the audit paragraphs included in this report and the examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings constituted for the years 2014-2016.

This Report was considered and approved by the Committee (2016-2019) at its meeting held on 2-3-2017.

The Committee places on record its appreciation for the assistance rendered by the Accountant General (Audit) Kerala, in the examination of the audit paragraphs included in this report.

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

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT
ON
ROADS AND BRIDGES DEVELOPMENT
CORPORATION OF KERALA LIMITED

AUDIT PARAGRAPH 3.5 (2013-14)

3.5 Loss of interest

Loss of interest of ₹ 16.23 lakh due to dilution of tender conditions

Roads and Bridges Development Corporation of Kerala Limited (Company) is engaged in construction of Highways, Roads, Bypasses, Bridges, Over-bridges etc. The Company invited (January 2010) tenders for the work of construction of Road Over Bridges (ROBs) at Parappanangadi, Palakkad Town, Kainatty, Payyannur and Mulankunnathukavu and the work was awarded (April 2010) to GPT Infra Projects Ltd. at the agreed Probable Amount of Contract (PAC) of ₹ 53.36 crore. The terms and conditions of tender provided for payment of 10 per cent of contract price as mobilisation advance bearing simple interest at 14 per cent per annum. Accordingly, the Company released (August 2010) ₹ 5.34 crore as mobilisation advance to the contractor. The rate of interest is a cost factor which affects the quote of bidders. CVC guidelines require that contract specifications should not be modified to the benefit of the contractor after award of contract.

Audit noticed that subsequent to the award of contract, based on the request (June 2010) of the contractor, the Company reduced (July 2010) interest rate to 11 per cent on mobilisation advance which resulted in loss of interest to the tune of ₹ 13.25 lakh. Similarly, another contractor* also requested (March 2012) for reduction of interest rate against 14 per cent specified (September 2010) in tender to which Company agreed which resulted in loss of interest of ₹ 2.98 lakh.

Thus, dilution of tender conditions after awarding the contract in an arbitrary manner which resulted in loss of interest of ₹ 16.23 lakh.

* Cheriyan Varkey Construction Company (P) Ltd. For construction of ROBs at Ponnurini, Anayara, Thirunavaya, Devdhar and Cheruvathur.

The Management stated (November 2014) that rate of interest on mobilisation advance was reduced to make it comparable with market rates as the interest on loans availed by the Company had come down.

The reply of the Company is not acceptable since the tender condition stipulated levy of interest on mobilisation advance at 14 per cent per annum which was not subject to any change depending on market rate of borrowings.

Thus reduction of interest rate on mobilisation advance in violation of tender conditions after awarding the contracts resulted in loss of interest of ₹ 16.23 lakh.

The matter was reported (October 2014) to Government and reply is awaited (November 2014).

[The Audit Paragraph 3.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2014.]

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

1. The Committee enquired how the Company against the guidelines of CVC could reduce the interest rate on mobilisation advance after awarding the contract. The witness replied that the Board reduced the rate of interest on the basis of the request of the contractors in a prebid meeting which was conducted to ensure good participation of the contractors in tender process. Since the Board of Directors had decided to reduce the interest rate after tendering the work, the Company could not incorporate it in the tender condition.

2. The Committee was not at all satisfied with the reply and remarked that by reducing the interest rate on mobilisation advance in violation of tender condition, the Company had suffered a loss of interest of ₹ 16.23 lakh and the Company had diluted the tender condition to the benefit of the contractor. The Committee opined that if the Board had taken the decision for reducing the interest rate after processing the tender then, it had to be made applicable only from the next tender onwards and the Committee sought explanation in this regard.

The witness disclosed that they had ratified the previous decision of the Board and while awarding the work, interest rate came down subsequently in the market also and in such a situation if the Board had not reduced the interest rate, nobody would have come forward as bidders. He added that in the previous tender when the interest rate was very high, the participation of local contractors were very poor and competition could be ensured only when the rate of interest was reduced. The Committee did not accept the explanations instead viewed the unfair activities on the part of the Company seriously. The Committee was of opinion that the lapse was a serious one. It also firmly stated that such illegal practices should not be repeated in future.

Conclusions/Recommendations

3. The Committee finds that the Company has, in contravening the guidelines of the CVC, diluted the tender conditions blatantly by reducing the interest rate on mobilisation advance. The Committee, therefore suggests that the Company should be meticulous in complying with all tender conditions.

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATIONS

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department Concerned</i>	<i>Conclusions/Recommendations</i>
(1)	(2)	(3)	(4)
1	3	Public Works Department	The Committee finds that the Company has, in contravening the guidelines of the CVC, diluted the tender conditions blatantly by reducing the interest rate on mobilisation advance. The Committee, therefore suggests that the Company should be meticulous in complying with all tender conditions.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPHS

Sl. No.	Audit Paragraph	Reply furnished by Government
1	2	3
1	3.5	<p>RBDCK was formed in the year 1999 as a fully owned public limited company with the objective of massive development of infrastructure facilities in the State of Kerala. For this purpose, Government allowed the company to borrow from public financial institutions and construct the projects entrusted to it without completely depending on Government finance. These borrowings are envisaged to be repaid by the company using funds received from Government/Governmental agencies and also by way of user fee collection from completed projects.</p> <p>Accordingly the company availed loan from HUDCO and Banks, issued non convertible bonds and invested funds in construction of infrastructure projects during the period 2001-2005. But as originally envisaged the company could not gather funds from Government or other funding agencies and also could not collect user fee from many of the projects completed, leading to acute financial crisis by the year 2005. As a result, the company could not proceed with construction of bridges already started and also defaulted in repayment of borrowals and interest there on. The recovery action on the company was initiated by funding agencies and the company was not able to sustain without support from Government.</p>

5

1	2	3
		<p>During the initial periods, leading contractors of the country participated in the tenders invited by the company and the company made advantage of the situation by way of healthy competition and quality work. But by the year 2005-2006, many of the contractors put forward additional claims and started litigation against the company to recover their claims. After the year 2005-2006, up to the year 2009-2010, the company could invite only few tenders for construction of bridges and even in these tenders reputed contractors did not participate. Only limited number of local contractors participated in tenders causing increase in cost of work.</p> <p>During the year 2009-10, the Government sanctioned a restructuring package to the company so as to strengthen its capital base, repay all the old liabilities and to take up new projects. Before inviting tenders for the new projects, the company convened a meeting of leading national level contractors of the country on 10-12-2009 at Ernakulam to explain the situation to them and make them understand the new strength attained by the company and also to invite them to participate in the tenders proposed to be floated by the company shortly. During the meeting, the participants shared their views regarding invitation of tender and addition of conditions helping the company to take policy decisions in this regard. The major suggestions that came up in the meeting was to club ROB works in lots of five as far as possible, so that big contractors from other states can come in and quote for the work. The other suggestion that came up was to bring down the rate of interest on mobilization advance from the earlier rate of 14% so as to make it comparable with prevailing market rates. The company offered the contractors that their suggestions as above will be considered as far as possible. On the assurance given by the company, major contractors participated in the bid for the construction of five ROB's namely Parappanangadi, Palakkad Town, Kainatty, Payyannur and Mulankunnathukavu.</p>

1	2	3
		<p>While awarding work, since the company could not get board approval to reduce the interest rate from the earlier 14%, it executed agreement with showing the interest rate at 14%. Later on the company have placed the matter before the Board of Directors on 24-7-2010, in their 44th meeting and the Board decided to reduce the rate of interest to be charged for mobilization advance in future including the contract with GPT to 11% per annum. The company fixed the earlier rate of 14% at a time when the rate of interest for HUDCO was only 13.75%. But as on date of decision the rate being charged by HUDCO was only 10.75%, and it is fair to charge from contractors on mobilization advance, only the rate at which the Company getting funds.</p> <p>This was done with a view to upholding the credibility of the company and to honour its commitments during the meeting referred above. Usually good contractors quote for the work considering all the cost factors including cost of money required for the construction activities. The company invited good contractors, offering reduced rates for mobilization advance before submitting tenders by them and convincing them about the healthy financial position of the company. The Company could obtain competitive rates for work compared to tenders invited by the company during 2005-2009. Interest rates charged for mobilization advance will act as a factor of cost of the work and will be charged to the employer by way of increase in rates by contractors. In short the rate of interest whatever the company charge is indirectly being borne by the company. Also the company cannot justify charging of higher rate of interest than that prevailing in the market from contractors engaged in our work.</p>

1	2	3
		<p>Even though the rate of interest on mobilization advance was reduced after executing the agreement, it cannot be termed as subsequent change in tender conditions in favour of the contractor, as the reduction in interest rate was already discussed before tendering of the work. Only procedural formalities was delayed and the company could not implement the reduction before approval of the board.</p> <p>Hence it is clear that the company was actually not suffered any loss in this account and benefited from the decision to charge comparable interest rate for mobilization advance as above, by way of reduced contract rates, speedy execution of projects without any claim for enhanced rates or additional compensation and subsequent litigations.</p>

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