



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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

NINETY SECOND REPORT

(Presented on 18th June, 2019)

SECRETARIAT OF THE KERALA LEGISLATURE

THIRUVANANTHAPURAM

2019

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ON
PUBLIC UNDERTAKINGS
(2019-2021)**

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On

**The Action Taken by Government on the Recommendations contained in the
Thirty Eighth Report of the Committee on Public Undertakings
(2006-2008) relating to Kerala State Cashew Development
Corporation Limited, based on the Report of the
Comptroller and Auditor General of
India (Commercial) for the year
ended 31st March 2003**

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COMMITTEE ON PUBLIC UNDERTAKINGS(2019-2021)

COMPOSITION

Chairman:

Shri C. Divakaran

Members:

Shri K. B. Ganesh Kumar

Shri C. Krishnan

Shri Thiruvanchoor Radhakrishnan

Shri P. T. A. Rahim

Shri S. Rajendran

Shri Raju Abraham

Shri Sunny Joseph

Shri C.F. Thomas

Shri M. Ummer

Shri P. Unni.

Legislature Secretariat :

Shri V. K. Babu Prakash, Secretary

Shri P. B. Suresh Kumar, Joint Secretary

Shri G. Harish, Deputy Secretary

Smt. Reji 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 their behalf, present this Ninety Second Report on the Action Taken by Government on the Recommendations contained in the Thirty Eighth Report of the Committee on Public Undertakings (2006-2008) relating to Kerala State Cashew Development Corporation Limited, based on the Report of the Comptroller and Auditor General of India (Commercial) for the year ended 31st March, 2003.

The Statement of Action Taken by the Government included in this Report was considered by the Committee constituted for the year (2016-2019) at its meetings held on 30-11-2016 & 10-10-2018.

This report was considered and approved by the Committee at its meeting held on 15-5-2019.

The Committee place on record its appreciation for the assistance rendered to them by the Accountant General (Audit), Kerala, Officials of Industries Department and Kerala State Cashew Development Corporation who were present during the consideration of the Action Taken Statements included in this Report.

Thiruvananthapuram,
15th May, 2019.

C. DIVAKARAN,
Chairman,
Committee on Public undertakings.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the Thirty Eighth Report of the Committee on Public Undertakings (2006-2008) relating to Kerala State Cashew Development Corporation Limited based on the Report of the Comptroller and Auditor General of India (Commercial) for the year ended 31st March 2003 .

The Thirty Eighth Report of the Committee on Public Undertakings (2016-2019) was presented to the House on 19th September 2007. The Report contained 4 recommendations from Para No. 4 to 7 for which the Government had furnished Action Taken Statements. The Committee (2016-2019) considered the Action Taken Statements furnished by the Government at its meetings held on 30-11-2016 & 10-10-2018 .

The Committee accepted the replies to the recommendations from Para No. 4 to 6 without remarks and Para No. 7 with remarks.

CHAPTER I

*on the recommendations of the committee*REPLIES FURNISHED BY THE GOVERNMENT WHICH HAVE BEEN ACCEPTED BY THE COMMITTEE
WITHOUT REMARKS

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations	Action Taken by the Government
1	2	3	4	5
1	4	Industries	The Committee finds that Kerala State Cashew Development Corporation Ltd. had constructed permanent building at the factory at Neduvathur and conducted modernisation and renovation work in its factories at Ezhukone and Kallambalam spending nearly Rs. 29.99 lakhs, during the intervening period between the judgment of the High Court of Kerala restoring the ownership of these factories to its owners and confirmation of the decision by the Division Bench, ignoring the fact that these factories were under orders of transfer.	Kerala State Cashew Development Corporation has 34 Cashew Factories. Of these 10 are owned factories and the rest 24 factories are leasehold requisitioned Cashew Factories. The factories in question which are under requisition, were returned to the owners in line with the orders of the Hon'ble High Court and Hon'ble Supreme Court. The Factories of the Corporation were taken over from private processors during the period 1970-1974. At the time of taking over itself the sheds

				<p>were very old and majority of them were thatched. The Factories mentioned in the report were owned by late Shri.Thangalkunju Musliar who had functioned this for several years and leased out to Kerala State Cashew Development Corporation in 1970-1974 periods. Due to old age, the sheds become duplicated, causing threat to the safety of the Workers. Like wise the compound walls in most of the factories were fallen in the heavy rain. The expenses noted in the committee's report also includes the amount expended for the reconstruction of modern latrine complexes for the purposes of hundreds of women workers, which were in pathetic condition.</p>
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In order to upkeep the factories in working condition, essential repairs

1	2	3	4	5
				<p>were undertaken in all the 34 factories irrespective of the fact whether it is owned or leased out. Without necessary construction it become difficult to run the factory. Godowns were required for safe stocking of the raw nuts worth lakhs of rupees, which is the raw material of the factory, otherwise it will deteriorate and make heavy loss to the corporation. The construction was also required to make foreign buyers accept the condition of the factory which is competing in the International market with private entrepreneurs in the sale of cashew kernels.</p> <p>It may also be noted that the factories were, returned to the owners on 1-4-2002 as per Court Orders along with existing employees, the owners of Neduvatoor and Ezhukone has not re-opened the factories so far ie. for the last 8 years the employees were left</p>

			<p>unemployed leaving them in hardship and distress. Therefore Government as per Order No. G.O.(Ms.) No. 172/2010/ID dated 10-8-2010 and G.O.(Ms.) No. 173/2010/ID 10-8-2010 have issued orders for acquiring these factories.</p> <p>The Cashew Special Officer, Kollam was entrusted to take possession of all the properties and documents vested in the Government by the above Government orders after the expiry of the said period. WP(C)26911 of 2010 was tiled by the present proprietor Sree Lekshmi Cashew Company Ezhukone Factory to quash the Government Order No. G.O.(Ms.) No. 172/2010/ID dated 10-8-2010.</p> <p>WP(C)26913/2010 was filed by Shahal Hassan Musaliar against Government</p>
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1	2	3	4	5
				<p>order G.O.(Ms.) No. 173/2010/ID dated 10/08/2010 against acquiring FY No. Ku 55 Neduvatoor. In both the WP(C) the Hon'ble High Court quashed the orders and ordered that the petitioner is entitled to start function of the Cashew Factory on receipt of factory license as directed in WP(C) 29275/2010.</p> <p>It is informed that WP(C) NO.29275/2010 was filed by Sree Lekshmi Cashew Company against the Joint Director of Factories and Boilers for transfer of factory license.</p>
2	5	Industries	<p>The Committee finds that the works amounting to nearly Rs. 30 lakhs, including the construction of permanent building at Neduvathoor, was undertaken to benefit the private owners. The Committee desires to be informed of the officials responsible for taking decision in this matter and recommends that strong disciplinary action should be taken against the concerned person.</p>	<p>Board of Directors of the Corporation in their 399th meeting held on 6-6-2000 decided to take up modernisation works in the Factories as follows:</p> <p>"The Board decided to construct compound wall in the factories where there is no compound wall at present and also to construct compound wall in road side of the factory replacing the existing</p>

				<p>barred wire fencing. It was further decided to construct permanent sheds replacing the existing thatched sheds. It was also decided to install computerized weighing machine in other factories also".</p> <p>In line with the above decision modernisation/ renovation work in all the factories were carried out irrespective of the fact whether it was owned factory or leased out factory. As per the above decision the Board has resolved to carryout the modernization/ renovation works in all the factories as the processing work is carried out in all the factories in similar manner and crores of rupees worth products has to be kept safe and protected from theft etc. the officials who are obliged to implement the decision of the Board has taken follow-up action. Therefore it may please be noted that it was the decision of the Board of Directors of the Corporation to carry</p>
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1	2	3	4	5
				<p>out the modernization work in all the factories and the decision was not taken by any official. The Official who were obliged to implement the decision of the board had taken follow up action are shri George Mathai Tharakan, the Managing Director and shri Mammen Philip, Materials Manager. As these two employees retired from service disciplinary action as recommended cannot be initiated by the Government. The only way to recover the amount is by filing a Civil Suit under Rule 116 (6) Part III KSR. It may be relevant to note in this context that the Government had issued orders for acquiring these two factories, as per G.O.(Ms.)No.172/10/ID dated 10-8-2010 and G.O.(Ms.)No.173/10/ID dated 10-8-2010.</p> <p>It may also be noted that the factories were returned to the owners on 1-4-2002 as per Court Orders along with existing employees, the owners of Neduvatoor and Ezhukone has not re-opened the factories for 8 years the employees were left unemployed</p>

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				<p>leaving them in hardship and distress. In that circumstances Government have issued orders for acquiring these factories as per Order No.G.O.(Ms.)No.172/2010/ID dated 10-8-2010 and G.O.(Ms.)No.173/2010/ID dated 10-8-2010. have issued orders for acquiring these factories so as to protect the interest of the employees who were left unemployed.</p> <p>The Cashew Special Officer, Kollam was entrusted to take possession of all the properties and documents vested in the Government by the above Government Orders after the expiry of the said period. WP(C)26911 of 2010 was filed by the present proprietor Sree Lekshmi Cashew Company Ezhukone Factory to quash the Government Order No.G.O.(Ms.)No.172/2010/ID dated 10-8-2010. WP(C)26913/2010 was filed by Shahal Hussan Musaliar against Government</p>
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1	2	3	4	5
				<p>Order No. G.O.(Ms.)No.173/2010/ID dated 10-8-2010. against acquiring FY No. Ku 55 Neduvatoor.</p> <p>In both the WP(C) the Hon'ble High Court quashed the orders and held that the petitioners are entitled to start functioning Cashew factories on receipt of factory license as directed in WP(C) 29275/2010.</p> <p>As mentioned in the previous paras the two factories were returned to their respective owners on 1-4-2002 as per the order of Honorable Supreme Court of India., Subsequently KSCDC had filed petitions for claiming the cost of improvements made in the above factories through the following civil suits.</p> <ol style="list-style-type: none"> 1. OS 155/2003 - Ezhukone for Rs.13,99,327 2. OS 154/2003 - Neduvatoor for Rs.23,21,074

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			<p>In OS 155/2003 the Honorable Sub Court Kottarakkara ordered against KSCDC and an appeal was filed before the Honorable High Court of Kerala by KSCDC as RFA which is still pending.</p> <p>In OS 154/2003 the Honorable Sub Court Kottarakkara ordered against KSCDC and an appeal was filed by KSCDC in the Honorable High Court of Kerala as RFA 485/2011 which still pending.</p> <p>Further more it is also informed that as per Board of directors meeting held on 6-6-2000 decided to take up modernisation works in the above two factories. Thus the disciplinary action against the then officials may be dropped.</p>
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1	2	3	4	5
3	6	Industries	<p>The Committee also finds that in the order of the High Court in the writ appeal, it was specifically directed that for the improvements made the company can seek remedy in the appropriate Court of Law and is entitled to claim compensation from the owners towards the improvements made in the factories.</p>	<p>Regarding the realization of the cost for the improvements made in these factories it may be noted that, during the hearing of the writ appeal company had appraised this fact before the Hon. High Court, convincing the position the Hon. High Court in the judgment disposing the writ appeal ordered that the company can seek remedy in the appropriate court of law. Accordingly the company had filed suits before the sub courts of Attingal, Kottarakkara, ie., the factories under the respective jurisdiction of court; against the owners is the three cashew factories returned for claiming compensation.</p>

CHAPTER II

REPLY FURNISHED BY THE GOVERNMENT ^{on the recommendations of the committee} WHICH HAS BEEN ACCEPTED BY THE COMMITTEE WITH REMARKS

Sl. No.	Para No.	Department Concerned	Conclusion/Recommendation	Action Taken by the Government
1	2	3	4	5
1	7	Industries	The Committee desires to be informed of the action taken in this regard, and whether the claims for compensation was awarded in favour of the company.	<p>The KSCDC had filed suits before the Sub Courts of Attingal, Kottarakkara, ie. the factories under the respective jurisdiction of Court against the owners of 3 returned cashew factories-claiming compensation.</p> <p>Out of the above three suits, the suit filed against the owner of Kallambalam factory claiming compensation before the sub court, Attingal has been disposed in favour of KSCDC Ltd. The court ordered to pay Rs.5,14,512 with 6% interest to the company vide judgment dated, 11-7-2007.</p>

1	2	3	4	5
				<p>The owner has filed an appeal before the Hon. High Court against the judgment and decree of Sub Court, Attingal and the same is still pending. The cases filed against the other owners are yet to start trial. Further action will be taken on the receipt of Court verdict in appeal pending and in other cases.</p>

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Remarks : The Committee desires to be informed about the current status of the pending cases in the High Court.

Thiruvananthapuram,
15th May, 2019.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

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