



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

COMMITTEE

ON

**PUBLIC UNDERTAKINGS
(2023-26)**

THIRTY FIRST REPORT

(Presented on 8th July 2024)

SECRETARIAT OF THE KERALA LEGISLATURE

THIRUVANANTHAPURAM

2024

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COMMITTEE

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**PUBLIC UNDERTAKINGS
(2023-26)**

THIRTY FIRST REPORT

On

**Kerala State Construction Corporation Limited &
Roads and Bridges Development Corporation of Kerala Limited**

**(Based on the Report of the Comptroller and Auditor General of India for
the year ended 31st March, 2016)**

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COMMITTEE ON PUBLIC UNDERTAKINGS

(2023-26)

COMPOSITION

Chairman:

Shri E. Chandrasekharan

Members:

Shri A.P. Anilkumar

Shri Anwar Sadath

Shri Ahammad Devarkovil

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

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Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla

Legislature Secretariat:

Dr. N. Krishna Kumar, Secretary

Shri Venugopal R., Joint Secretary

Shri Anilkumar B., Deputy Secretary

Shri Mohanan O., Under Secretary

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2023-26) having been authorised by the Committee to present the Report on its behalf, present this 31st Report on Kerala State Construction Corporation Limited and Roads and Bridges Development Corporation of Kerala Limited based on the report of the Comptroller and Auditor General of India for the year ended 31st March, 2016 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Report of the Comptroller and Auditor General of India was laid on the Table of the House on 23.05.2017. 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 (2021-2023) at its meeting held on 04.01.2023, 04.04.2023 and 03.08.2022.

This Report was considered and approved by the Committee (2023-2026) at its meeting held on 04.07.2024.

The Committee place on record its appreciation for the assistance rendered to them 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 PWD Department of the Secretariat, Kerala State Construction Corporation Limited and 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, PWD and Finance Department and the officials of the Kerala State Construction Corporation Limited and Roads and Bridges Development Corporation of Kerala Limited who appeared for evidence and assisted the Committee by placing their views before the Committee.

Thiruvananthapuram,
8th July 2024.

E. CHANDRASEKHARAN
Chairman,
Committee on Public Undertakings.

**REPORT
ON
KERALA STATE CONSTRUCTION CORPORATION
LIMITED and ROADS AND BRIDGES DEVELOPMENT
CORPORATION OF KERALA LIMITED**

**I. Kerala State Construction Corporation Limited (KSCC)
Audit Report (2015-2016)**

3.2 - Sub-contract Management by Public Sector Undertakings

3.2.5 - Execution of civil works on behalf of agencies of GoK

GoK and its agencies executed various civil construction works through PSUs such as SIDCO, Kerala State Construction Corporation Limited (KSCC), Kerala Irrigation Infrastructure Development Corporation Limited (KIIDC), Forest Industries Travancore Limited (FIT), Kerala State Coastal Area Development Corporation Limited (KSCADC) and Roads and Bridges Development Corporation of Kerala Limited (RBDCK). These PSUs received (2013-14 to 2015-16) 166 work orders valuing ₹2,111.67 crore from various departments of GoK for execution of civil works. Out of these, we examined 107 work orders valuing ₹1,718.81 crore in order to ascertain transparency in award of work and efficient execution.

All 107 work orders examined by us were issued to PSUs on nomination basis in violation of the provisions of Kerala Financial Code (KFC). These works were subsequently sub-contracted by the PSUs. Deficiencies noticed in the award of work by PSUs and their execution is discussed below.

3.2.5.1- Award of work to sub-contractors

We noticed violation of codal provisions in award of 69 works to sub-contractors by four PSUs as detailed in Table 3.9.

Table 3.9: Irregularities in award of work to sub-contractors

Sl. No.	Criteria/ Norm	Audit Observation
3	According to Paragraph 217 of Kerala PWD manual, work cannot be started before preparation of estimate and sanction by the competent authority. Administrative Sanction (AS) and Technical Sanction from competent authority shall precede a tender.	KSCC executed (February 2016) extra work in connection with construction of new bridge across river Payaswini (Athanadi Bridge) in Kasargod district before obtaining AS for the extra work.
4	As per CVC direction, limited tenders should be invited from the panel of approved contractors.	All the 55 sub-contracts valuing ₹930.16 crore entered into (during the three years from 2013-14 to 2015-16) by KSCC, which were selected for scrutiny, were awarded to contractors on nomination basis. As against the directions of BoD of KSCC, in the initial empanelment (2011-12), 10 out of 67 contractors did not meet 5 out of the 6 criteria fixed by the BoD for empanelment.
5	According to the guidelines issued (November 2002) by CVC for award of works, it was stated (paragraph 18) that security deposit (Bank Guarantee) of a reasonable amount and valid up to the defect liability period should be obtained from the contractor.	KSCC executed six ¹ works without obtaining Security Deposit from the sub-contractors.

¹ Heavy Maintenance to Ottappalam- Mannarkkad Road, Construction of Academic Block in Medical College campus, Thrissur, Construction of new bridge across river Payaswini (Athanadi Bridge) in Kasargod District, Nettoor-Kundannur Bridge (Parallel) across Nettoor-Kundannurpuzha, Construction of Regulator cum Bridge at Purapallikkavu across Periyar river, Construction of Nanichery Kadavu Bridge across Baliapattanam river in Kannur District.

3.2.5.2 - Execution of civil works by sub-contractors

Issues noticed in execution of civil works by sub-contractors are discussed below:

- There was delay in execution of five civil works sub-contracted by SIDCO and five works by KSCC as detailed in Table 3.10.

Table 3.10: Delay in execution of civil works

Kerala State Construction Corporation Limited						
Sl No.	Name of Work	Name of contractor (Date of award of work)	Awarded cost (₹ in crore)	Scheduled date of completion	Progress as of February 2017 (per cent)	Remarks
6	Construction of new block for nephrology unit and dialysis centre at General Hospital Pala for Public Works Department.	Theruvath Builders (March 2014)	8.04	April 2015	Nil	Due to intervention of the Hon'ble High Court of Kerala, the work was stalled as a writ petition was filed by an individual residing near the construction site alleging that the construction was carried out without providing the required minimum set back of 5 metres - as provided in the site plan- from the petitioner's property. It was also alleged that there was no approved Building Plan for the project. Considering the allegations, the Honourable High Court ordered (April 2016) KSCC to restrain from undertaking the construction.

7	Construction of Nettoor – Kundannur Bridge for Public Works Department	Greenworth Infra Structures Private Limited (October 2013)	26.57	June 2016	53	As per PWD Manual 2012, (Paragraph 2102.1 and 2101.1) after executing the agreement, the site has to be taken over from the Assistant Engineer (PWD) to commence the work immediately and where any delay is anticipated, the matter shall be brought to the notice of the authority who executed the agreement. KSCC did not analyse the site condition before awarding (June 2013 to July 2015) the works which resulted in unnecessary delay due to hindrances at site.
8	Construction of bridge near Mankombu Civil Station across Manimala river for Public Works Department	Contour Constructions Private Limited (March 2014)	24.47	March 2016	42	
9	Construction of Nilambur bypass road for Public Works Department.	Thrimathy Contracting Company (February 2014)	18.34	July 2015	Not commenced	
10	Construction of regulator cum bridge at Purapallikkavu across Periyar River for Irrigation Department	Seguro Foundations and Structures Private Limited (March 2015)	99.86	September 2017	12	

- According to CVC directions (April 2007), payment of mobilisation advance (MA) should be made only if it is clearly stipulated in the tender document. Amount of MA, interest to be charged, recovery schedule, etc., should be stipulated in the tender document upfront. CVC further clarified (February 2011) that in order to enable recovery, MA should be granted only after obtaining Bank Guarantee equivalent to 110 per cent of MA. SIDCO had granted MA of ₹1.51 crore in respect of two work orders², despite there being no such stipulation in the tender document. In both the above cases, MA was granted interest-free, resulting in loss of interest of ₹0.16 crore³. Similarly, KSCC released (October 2013 to December 2015)

2 (Amount of MA in brackets) Construction of District Youth Bhavan at Panamaram, Wayanad at ₹2.21 crore (₹0.50 crore during July-August 2014) and Construction of multi-storeyed industrial estate building at Puzhakkalpadam, Thrissur at ₹10.09 crore (₹1.01 crore in January 2013).

3 Up to March 2016- Panamaram: ₹0.04 crore, Puzhakkalpadam: ₹0.12 crore.

MA of ₹11.43 crore without obtaining required Security Deposit of ₹12.56 crore in respect of five⁴ work orders of Public Works Department (PWD).

GoK accepted (February 2017) the audit observation and stated that the amount paid as MA in SIDCO had since been recovered with interest.

- According to the directions (September 2007) of GoK, PSUs executing civil works on behalf of GoK were eligible for centage/ consultancy charge ranging between five and eight per cent⁵ on the estimated cost or the actual cost of construction, whichever was lower.

[Audit Paragraphs 3.2. contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraphs are given in Appendix II

Discussions & Findings of the Committee

Para 3.2.5.1 - Award of work to sub-contractors

Table 3.9 : Irregularities in award of work to sub-contractors

Sl. No. (3) of Table 3.9

The Committee inquired how the extra work for the new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was initiated before receiving AS and TS. The witness responded that, according to the contract, the last date for completion of the work was 28.02.2016, and during the site visit of the PWD Principal Secretary, local authorities recommended some additional works for the completion of the project. As a result, the length of the approach road was increased to 3650 metres from 260 metres. The witness also replied that AS and TS were obtained before the completion of the job and the work was finished within the agreed time frame.

4 Amount of SD required given in brackets. Heavy Maintenance to Ottappalam Mannarkkad Road (₹1.13 crore), Construction of Academic Block in Medical College campus, Thrissur (₹4.12 crore), Construction of new bridge across river Payaswini (Athanadi Bridge) in Kasaragod District (₹3.85 crore), Nettoor-Kundannur Bridge (Parallel) across Nettoor-Kundannurpuzha (₹1.48 crore) and Construction of Bridge near Mankombu Civil Station across Manimala river in Alappuzha District (₹1.98 crore).

5 ₹5 crore and above- 5 per cent, between ₹3 crore and ₹5 crore – 6 per cent, between ₹50 lakh and ₹3 crore – 7 per cent, less than ₹50 lakh - 8 per cent.

The Committee observed that as the act was done with good intention, no legal action needs to be taken against the officials concerned.

Conclusion/Recommendation of the Committee

1) The Committee observed that the extra work in new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was executed without approving the estimates by the Competent authority and technical sanction for extra work. But the Committee understood that it was performed for the extended construction of approach road in public interest at the behest of the Principal Secretary, PWD. Hence the Committee remarked that though the procedure was irregular it was done with a good intention and urged the authorities to adhere to the rules and procedures in implementing project as far as possible in future.

Sl. No. (4) of Table 3.9

As per the CVC direction, limited tenders should be invited from the panel of approved contractors. Since 10 out of 67 contractors did not meet five out of the six criteria established by the Board of Directors for empanelment, the Committee sought explanation regarding this.

The witness replied that after inviting applications for empanelling the contractors, list of contractors was prepared based on the applications and the Board of Directors which consist of Chief Engineer (Buildings), Chief Engineer (Roads & Bridges), Additional Secretary, Finance Department selected the empanelled contractors. The approved list of private joint venture enterprises was chosen by the Chief Engineer.

The Committee enquired why tender was not invited from the short listed panel of contractors. The project engineer replied that out of the 82 applications received, 76 were shortlisted, 67 were approved, and 10 were added as joint ventures, who were initially disqualified due to low scores. These 10 companies were selected by clubbing the companies with lower points.

The Committee enquired about how 55 contractors were chosen from a list of 67 without holding a short tender for work valued at ₹930.16 crore. The witness responded that the empaneling of contractors was published in the newspapers and the applications received accordingly were shortlisted and given to the Chief Engineer and approved by the Board of Directors. The Witness added that since 2016, the contractors were selected through e-tender.

The Committee was not satisfied with the explanation given by the witness and decided to give strict instructions to the authorities to avoid such irregularities in future.

Conclusion/Recommendation of the Committee

2) The Committee observes that 10 out of 67 contractors selected by the company did not meet five out of the six criteria laid down by the Board of Directors for empanelment. The Committee noticed that works estimated to ₹ 930.16 Crore was entrusted to Sub Contractors on nomination basis without inviting limited tenders from the empanelled contractors. The Committee express its dissatisfaction with the explanation given by the witness and recommend that strict instructions must be given to the authorities to avoid such irregularities in future.

Sl. No. (5) of Table 3.9

The CVC guidelines states that security deposit should be obtained from the contractor in the form of Bank Guarantee or fixed deposit prior to the awarding of work contract, but the company completed the construction of six works without obtaining security deposit from the Sub-Contractors. The committee sought explanation regarding this.

1st Work of Sl. No. (5) of Table 3.9

Heavy Maintenance to Ottappalam- Mannarkkad Road.

KSCC executed works without obtaining security deposit from the sub-contractors in connection with the maintenance of Ottappalam-Mannarkkad Road.

While executing the agreement, it has been decided to recover ₹ 75 lakh as security deposit from the work of Reconstruction of Menonpara Bridge across Korayar River of the same contractor. The PWD Secretary informed the Committee that the said amount could not be recovered because there was an undue delay in receiving payment from the department but the work has been completed, and no damage has been observed so far by clients or the general public. He also admitted that there was a lapse in procedures in the said work and concurred with the Committee's stand and stated that the job is currently being done in accordance with the procedures.

The Committee accepted the reply. Hence no remarks.

2nd Work of Sl. No. (5) of Table 3.9

Construction of Academic Block in Medical College campus, Thrissur.

The Committee accepted the Government's response that ₹10 lakh had been recovered from the payment of the final bill held in reserve as security for the construction of the academic block in the campus of Thrissur Medical College.

The Committee accepted the reply. Hence no remarks.

3rd work of Sl. No. (5) of Table 3.9

Construction of new bridge across River Payaswini (Athanadi bridge)

To a query of the Committee regarding the construction of Athanadi bridge in Kasaragod district across the Payaswini river without obtaining security deposit from sub-contractor, the Managing Director accepted the audit objection and informed the Committee that while executing the agreement, the security deposit amount of ₹70 lakhs was proposed to be adjusted from the payment to the same contractor for the work Neeleswaram-Valiyaparamba road but the amount was not recovered as proposed. He added that the above mentioned security deposit was

later recovered from the outstanding bill payment of the same contractor's work "Sethangoli Puthige Perla road" and the work has been completed and defect liability period is over.

The Committee suggested that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the department. The Managing Director replied that it was done as per the court order that Government should either pay the bill or give permission to carry out the works by adjusting the security deposit from the bill to be paid to them, and based on the High Court order, the Public Works Department issued a circular in 2003.

Conclusion/Recommendation of the Committee

3) The Committee observes that the construction of Athanadi bridge in Kasaragod district across the Payaswini river was carried out without obtaining security deposit from sub-contractor and was later recovered from the outstanding bill payment of the same contractor's work. The Committee also observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.

4th work of Sl. No. 5 of table 3.9

Construction of Nettoor-Kundannur Bridge (parallel) across Nettoor-Kundannurpuzha

The Committee sought explanation regarding execution of work "Construction of Nettoor-Kundannur Bridge" without obtaining Security deposit before work execution. The Managing Director informed that the security deposit amount of ₹75 lakh for the said work was to be collected before the execution of the contract but it was deducted only at the time of issuing the part bill and the defect liability period had not ended even though the work was completed.

Conclusion/Recommendation of the Committee

4) *The Committee offers the same comments as above.*

5th work of Sl. No. 5 of table 3.9

Construction of Regulator cum Bridge at Purappallikkavu across Periyar River

Regarding the work executed for the Construction of Regulator cum Bridge at Purappallikkavu across Periyar River without obtaining security deposit, the Managing Director replied that the security deposit amount of ₹75 lakh for the said work has been recovered from first part of the bill and the work was completed on 10-08-2017. Moreover the defect liability period of the work was also completed.

Conclusion/Recommendation of the Committee

5) *The Committee offers the same remark as in para 3*

6th work of Sl. No. 5 of table 3.9

Construction of Nanichery Kadavu Bridge across Baliapattanam River

To a query of the Committee, the KSCC Managing Director replied that the security deposit amounting to ₹75 lakhs for the said work was directed to be adjusted from the same contractor's Sreekandapuram-Kottumukham-Payavoor road work, but it was not recovered. The Kannur Regional Manager has been instructed to collect that amount from the contractor's project of 'Koomanthodu - Aralam Hill Highway' and the amount would be recovered from the final bill.

The Committee enquired about the current status of work and the procedure for collection of security deposit, the Managing Director, KSCC informed that the work has been completed and direction was given to collect the security deposit from the bill of another work of the same contractor based on a circular of 2003. The Secretary, Public Works Department added that if the concerned department

has given a recovery notice for security deposit during the said period, the amount can be adjusted from the bill to be paid, but if no notice was given, there is no certainty about the recovery of the amount. The Managing Director assured the Committee that he would check whether recovery notice has been issued to the contractor to recover the security deposit for that work.

The Committee enquired about the content of the 2003 circular, The Managing Director informed that the circular was issued on the basis of the Hon'ble High Court's instruction that it was inappropriate to insist for bank guarantee for new works as long as the pending bills for the previous works were not settled and that bills could be considered as a bank guarantee for new works.

The Committee observed that in 2003, the Public Works Department issued a circular based on the order received by those who went to High Court in a special case. The Committee opined that if the agreement of one work was executed, the security deposit should be collected from the bill pending to be settled and no need to wait for the new work.

The Secretary, Public Works Department informed the Committee that, if the recovery notice was issued the amount could be recovered from the next work of the contractor. Then the Committee recommended to initiate legal proceedings against the official concerned.

Conclusion/ Recommendation of the Committee

6) The Committee observes that there was a serious lapse on the part of the KSCC in obtaining Security Deposit from the sub-contractors at the time of execution of contract in all the six works mentioned above. The Committee noticed that in response to a High Court order, a circular was issued in 2003 for treating arrears payable to a contractor as Security Deposit in another work of the same Contractor. Hence the arrears payable to the Contractor was treated as Security Deposit in another work of

the Contractor in all these six works. The Committee insisted on strict adherence to obtaining Security Deposit at the time of awarding of contracts in future.

Audit Para 3.2.5.2 - Execution of civil works by sub-contractors

Table 3.10 : Delay in execution of civil works.

Sl. No. (6) of Table 3.10

The Committee enquired about the circumstances that led to the filing of a suit against the Company in building a new block for the dialysis centre and nephrology unit at Pala General Hospital and to explain the current status of the case. The witness responded that the minimum set back for the said work was 2 metres, but 2.75 metres was provided in this case. The adjacent building owner filed a writ petition claiming that the construction was carried out without providing the required minimum set back of 5 metres, but the court dismissed the petition, allowing the work to resume. The work was completed in January 2019 at the old rate. The Committee enquired whether any extra expenditure was incurred due to the delay in completing the project. The witness informed that the work was completed at the old rate and hence there was no loss to the company.

The Committee further enquired whether any steps had been taken to avoid such delay in future projects. The witness replied that now all works has been awarded after completing all proceedings related to land acquisition.

The Committee accepted the reply. Hence no Comments

Audit Para 3.2.5.2. - Sl. No. (7) of Table 3.10

The Committee inquired about the delay in completion of the work due to the failure of the company to analyse the site condition before awarding the work for the construction of the Nettoor-Kundannur bridge for the Public Works Department. The Witness replied that heavy concrete blocks of old bridge were immersed in mud, that could not be seen outside, which obstructed the piling process and the delay in moving the existing water supply line by the Kerala Water

Authority also resulted in the delay in the completion of the said work. The witness said that these facts were reported to the PWD officials and requested to remove the obstacles for the completion of the project and the project was completed in 2019.

The Committee accepted the reply. Hence no Comments.

Audit Para 3.2.5.2. - Sl. No. (8) of Table 3.10

The Committee enquired about the delay in completing the construction of the bridge near Mankombe Civil Station across Manimala river for the Public Works Department. The witness replied that the work was held up due to the delay in land acquisition. Delay in preparing the new design and delay in disbursing the land value to the land owners also led to this condition. There was also a delay in getting permission from Government for converting the paddy land to purayidam since the area was not entered in the Data Bank. However the land was acquired after submitting a petition to the Minister for Public Works and the work was completed in June 2020.

The Committee accepted the reply. Hence no Comments

Audit Para 3.2.5.2. - Sl. No. (9) of Table 3.10

The Committee enquired about the delay in the construction of Nilambur Bypass Road for PWD. The witness informed that Administrative Sanction was accorded for the first phase of construction of Nilambur Bypass for an amount of ₹35 crores including ₹21 crores for construction and ₹14 crores for land acquisition. But some people protested against land acquisition and only very little land has been acquired and more than two kilometers of land is yet to be acquired. The witness added that after discussion with Roads Division Engineer, it was decided to terminate this work.

The Additional Secretary admitted that there was a slight error in allocating the funds for the construction of the above bypass. The Additional Secretary

assured that the Chief Engineer has submitted a proposal for revised Administrative Sanction for ₹154 crore and if the Finance Department renew the administrative permission, the remaining works can be rearranged and completed either through KSCC or other agencies.

The Committee observed that the cost of the work was raised four times from what it was before and the Committee expressed its strong discontent about the same.

Conclusion/Recommendation of the Committee

7) The Committee criticises both Public Works Department and KSCC for the flaws in executing the work in time. The Committee observes that the cost of the work has risen four times from the estimate. So the Committee recommends to furnish a report detailing the current status of the project.

Audit Para 3.2.5.2. - Sl. No. (10) of Table 3.10

The Committee inquired about the construction of regulator-cum-bridge across the Periyar River at Purapallikkavu for Irrigation Department in Ernakulam district and the failure to analyse the site condition before awarding the work which caused delay in the completion of the work. The witness informed that the completion of the work was delayed due to the delay in receiving the detailed design for the mechanical components of the gate and shutter of the regulator-cum-bridge, it was nevertheless finished ahead of schedule.

The Committee accepted the reply. Hence no Comments

Audit Para 3.5 - Irregular appointment of employees in KSCC Limited

<p>Appointment of employees in violation of existing Government directions and irregular regularisation of temporary employees resulted in failure to ensure transparency and fairness in recruitment.</p>

3.5.3 - Irregular engagement of temporary staff

As per the provisions of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, vacancies⁶ for contract employment exceeding three months were to be notified to the Employment Exchanges. Further, for such employment, Rules for Reservation in Government Service shall be applicable. According to Rule 14 of Rules for Reservation in Government Service, unit of appointment for the purpose of reservation shall be 20, out of which two shall be reserved for persons belonging to Scheduled Castes and Scheduled Tribes, eight for other backward classes and remaining 10 shall be from the open category. We observed that six⁷ PSUs and one department engaged 1686 contract employees, without notifying the vacancies to Employment Exchanges as detailed in Table 3.13.

Table-3.13: Engagement of temporary staff

Sl. No.	Audit findings	Management/ Government Reply
1	KSCC ⁸ Government had directed (March 2013) the Company to make appointments on contract/daily wages/temporary basis only against sanctioned posts. However, the Company appointed 60 employees on temporary basis in various cadres from March 2013 to June 2016, of which 32 were not against any sanctioned post.	Government replied (December 2016) that although sanctioned strength had been fixed, actual requirement would vary depending on the work on hand because the Company was a contracting company. Reply of GoK was contrary to its own standing orders that contract appointments should be only against sanctioned posts.

The replies were only partially acceptable as temporary appointment had to be made from Employment Exchange against sanctioned posts only thereby ensuring transparency, equal opportunity and reservation rules in appointments.

⁶ Does not apply to vacancies in relation to any employment to do unskilled office work.

⁷ SIDCO, Kerala State Construction Corporation Limited, Kerala State Financial Enterprises Limited, Oil Palm India Limited, Kerala State Poultry Development Corporation Limited and Kerala State Industrial Enterprises Limited.

⁸ Kerala State Construction Corporation Limited.

3.5.4 - Irregular regularisation of contract employees

The Hon'ble Supreme Court held (April 2006) in Umadevi Vs. State of Karnataka that 'regularisation' is not and cannot be a mode of recruitment by any State. It was also held that regularisation cannot give permanence to an employee whose services are ad hoc in nature.

As mandated under Article 14 and 16 of the Constitution, fair chances for all eligible candidates should be given in public appointment which can be achieved through public notice/ advertisement, a transparent selection procedure and adoption of reservation policy for weaker sections. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. The passing of orders for continuance tends to defeat the very Constitutional scheme of public employment.

We observed that two PSUs and two departments regularised 476 employees as detailed in Table 3.14.

Table-3.14: Details of temporary staff irregularly regularised

Sl. No.	Name of PSU/ Department	Temporary staff regularised	Month/ Year in which regularised	Audit findings
1.	KSCC	62	March 2013	The employees were regularised considering long years of service and bleak opportunity for alternative appointment

Government also stated (December 2016) that in respect of KSCC, the appointments were made as there were bleak opportunities for further employment to the regularised employees

The replies are not acceptable as the regularisation of temporary employees is against decision of the Hon'ble Supreme Court.

[Audit Paragraphs 3.5. contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraphs are given in Appendix II
Discussion & Findings of the Committee

Audit Para – 3.5.3 - Irregular engagement of temporary staff

The Committee sought explanation regarding the appointment of 60 employees on temporary basis in various cadres from March 2013 to June 2016, of which 32 were not against any sanctioned posts. The Secretary, Public Works Department could not give a precise reply to the audit reference. The Managing Director further informed that there was an irregularity in the recruitment process and that a detailed report would be submitted after investigating the same.

The Committee pointed out that in the Government reply it was stated that possibility of getting experienced and reliable persons from Employment Exchange were remote. Moreover, contract workers hired for a project can be dismissed at any time and they were paid less than those hired through Employment Exchange. The Committee noted that the list for appointment of qualified staff was not requested from the Employment Exchange and the points mentioned in the Government reply were justifications given after the appointments were made.

The Committee pointed out that the procedure for recruitment of candidates through Employment Exchanges should be followed even if the candidates who are experienced, dedicated and skilled are not available through

Employment Exchange and the excuses raised by department is not at all acceptable.

The Committee suggested to give a detailed report regarding whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make appointments on contract basis or whether contract appointments were made with the prior permission of the government by following the procedures.

Conclusions/Recommendations of the Committee

8) *The Committee is of the view that it has become a regular practice of most of the PSUs making contract appointments flouting all the prevailing guidelines of reservation and regularising them after 10-15years of service depriving the chance of the deserved educated youth.*

9) *The Committee recommends to furnish a detailed report on matters such as: whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make the appointment on contract basis or whether contract appointments were made with the prior permission of the Government by following the procedures.*

Discussion & Findings of the Committee

Audit Para – 3.5.4 - Irregular regularisation of contract employees

To a query about regularisation of 62 contract employees, the Managing Director informed that 62 contract employees above 50 years of age in various categories with fixed qualifications were continuously serving the Corporation since 1980. He added that a proposal letter No.cc/R12/89 dated 07-07-2012 has been submitted to the Government to regularise the services of these employees and after detailed examination, the Government has instructed to regularise these employees through G.O.(Ms) No.29/13/PWD dated 14/03/2013. It had been

clarified in the Order that henceforth no appointment should be made to the said posts on contract/daily/temporary basis without creating the post in accordance with the law and with the prior approval of the Government.

The Committee inquired whether temporary appointments are being made through Employment Exchange. The Managing Director informed that at present contract employees were appointed from Employment Exchanges on temporary basis.

The Committee observed that the contract employees appointed in 1980 were regularised in 2013. The Committee opined that regularisation of contract employees was illegal as it denies the opportunity to eligible candidates and hence eligible persons could also be considered along with regularisation of contract employees.

Conclusion/Recommendation of the Committee

10) The Committee vehemently criticises the Public Works Department for regularising the contract employees in 2013 since it is illegal and denies opportunity to eligible candidates. So the Committee recommends that the Government should take appropriate steps including fixing liability to Managing Director and taking disciplinary proceedings against other concerned officials to avoid such malpractices in future.

II . Roads and Bridges Development Corporation of Kerala

Audit Report (2015-2016)

Audit Para 3.2.5 - Execution of Civil works on behalf of agencies of Government of Kerala

Audit Para – 3.2.5.3 - Quality of construction work

We noticed poor quality of construction and violation of codal provisions in respect of six civil works executed by three PSUs as given in Table 3.11.

Table 3.11 : Details of poor quality of construction of civil works

Sl.No.	Name of work sub contracted	Audit finding
Roads and Bridges Development Corporation of Kerala Limited.		
6	Construction of River Bridge at Station Kadavu for PWD awarded (May 2012) to Hope Constructions for ₹16.84 crore.	Failure of the sub-contractor to mobilise resources at site resulted in foreclosure of contract without any risk and cost to the sub-contractor. Retendering of balance work, despite objection from Finance Department resulted in cost increase of ₹6.44 crore.

[Audit Paragraphs 3.2.5.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraph are given in Appendix II

Discussion & Findings of the Committee

The Committee wanted explanation regarding the audit objection. The Additional General Manager, Roads and Bridges Development Corporation of Kerala Ltd informed that the work was awarded before the acquisition of land for the construction of Ernakulam Station Wharf River Bridge. As the entire land was not acquired and handed over during the contract period, the work could not be completed even after the expiry of the contract period and contractor insisted on rate escalation for further work. The contractor refused to continue the work without rate escalation and requested to foreclose the contract by paying for the work already done. A legal opinion was sought for the termination of the contract with risk and cost. As it was suggested for an amicable settlement, the Board of Directors decided to terminate the said contract without any risk and cost and to call for tenders for the remaining work with the approval of the Cabinet, and accorded Administrative Sanction with price escalation for the remaining work. The work was completed in 2018.

To a query of the Committee, the Additional General Manager informed that the rest of the work was tendered for ₹23 crores and completed at ₹18.50 crores. The Committee pointed out that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time.

Conclusion/Recommendation of the Committee

11) The Committee observes that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time. Hence the Committee recommends that strict instructions must be given to the authorities to avoid such irregularities in future.

***Thiruvananthapuram,
8th July 2024.***

***E. Chandrasekharan,
Chairman,
Committee on Public Undertakings.***

APPENDIX – I SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS			
Sl. No.	Para. No.	Department Concerned	Conclusions/Recommendations
1	1	PWD	The Committee observed that the extra work in new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was executed without approving the estimates by the Competent authority and technical sanction for extra work. But the Committee understood that it was performed for the extended construction of approach road in public interest at the behest of the Principal Secretary, PWD. Hence the Committee remarked that though the procedure was irregular it was done with a good intention and urged the authorities to adhere to the rules and procedures in implementing project as far as possible in future.
2	2	PWD	The Committee observes that 10 out of 67 contractors selected by the company did not meet five out of the six criteria laid down by the Board of Directors for empanelment. The Committee noticed that works estimated to ₹ 930.16 Crore was entrusted to Sub Contractors on nomination basis without inviting limited tenders from the empanelled contractors. The Committee express its dissatisfaction with the explanation given by the witness and recommend that strict instructions must be given to the authorities to avoid such irregularities in future.
3	3	PWD	The Committee observes that the construction of Athanadi bridge in Kasaragod district across the Payaswini river was carried out without obtaining security deposit from sub-contractor and was later recovered from the outstanding bill payment of the same contractor's work. The Committee also

			observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.
4	4	PWD	The Committee observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.
5	5	PWD	The Committee observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.
6	6	PWD	The Committee observes that there was a serious lapse on the part of the KSCC in obtaining Security Deposit from the sub-contractors at the time of execution of contract in all the six works mentioned above. The Committee noticed that in response to a High Court order, a circular was issued in 2003 for treating arrears payable to a contractor as Security Deposit in another work of the same Contractor. Hence the arrears payable to the Contractor was treated as Security Deposit in another work of the Contractor in all these six works. The Committee insisted on strict adherence to obtaining Security Deposit at the time of awarding of contracts in future.
7	7	PWD	The Committee criticises both Public Works Department and KSCC for the flaws in executing the work in time. The

			Committee observes that the cost of the work has risen four times from the estimate. So the Committee recommends to furnish a report detailing the current status of the project.
8	8	PWD	The Committee is of the view that it has become a regular practice of most of the PSUs making contract appointments flouting all the prevailing guidelines of reservation and regularising them after 10-15 years of service depriving the chance of the deserved educated youth.
9	9	PWD	The Committee recommends to furnish a detailed report on matters such as: whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make the appointment on contract basis or whether contract appointments were made with the prior permission of the Government by following the procedures.
10	10	PWD	The Committee vehemently criticises the Public Works Department for regularising the contract employees in 2013 since it is illegal and denies opportunity to eligible candidates. So the Committee recommends that the Government should take appropriate steps including fixing liability to Managing Director and taking disciplinary proceedings against other concerned officials to avoid such malpractices in future.
11	11	PWD	The Committee observes that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time. Hence the Committee recommends that strict instructions must be given to the authorities to avoid such irregularities in future.