

**THIRTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2011-2014)**

**TWENTY EIGHTH REPORT**

(Presented on 12th February, 2013)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2013

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2011-2014)**

**TWENTY EIGHTH REPORT**

**On**

**Action taken by Government on the Recommendations  
contained in the Fifteenth Report of the  
Committee on Public Accounts  
(2001-2004)**

## CONTENTS

	<i>Page</i>
Composition of the Committee	.. v
Introduction	.. vii
Report	.. 1-9
Appendices :	
I. Notification No. 9983/Leg. A2/Law dated 5-1-2009	.. 10-17
II. Circular No. 12/87	.. 18-19

COMMITTEE ON PUBLIC ACCOUNTS (2011-2014)

*Chairman:*

Dr. T. M. Thomas Isaac

*Members:*

Shri Kodiyeri Balakrishnan

- ” Benny Behanan
- ” C. Divakaran
- ” C. Mammotty
- ” C. P. Mohammed
- ” C. K. Nanu
- ” K. Radhakrishnan
- ” Roshy Augustine
- ” M. V. Sreyams Kumar
- ” M. Ummer.

*Legislature Secretariat :*

Shri P. D. Sarangadharan, Secretary  
,, K. Mohandas, Special Secretary  
,, T. Manoharan Nair, Deputy Secretary  
Smt. M. R. Maheswari, Under Secretary.

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Twenty Eighth Report on Action Taken by Government on the Recommendations contained in the Fifteenth Report of the Committee on Public Accounts (2001-04).

The Committee considered and finalised this Report at the meeting held on 7th February 2013.

Thiruvananthapuram,  
12th February, 2013.

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

## **REPORT**

This Report deals with the action taken by Government on the recommendations contained in the Fifteenth Report of the Committee on Public Accounts (2001-04).

The Fifteenth Report of Committee on Public Accounts (2001-04) was presented to the House on 14th March 2002. The Report contains 6 recommendations relating to Taxes Department. Government were addressed on 25th March 2002 to furnish the Statements of Action Taken on the recommendations contained in the report and the final replies were received on 26th November 2010.

The Committee examined the Statements of Action Taken at its meetings held on 18-11-2009 and 25-1-2011 and decided not to pursue further action on the recommendations in the light of the replies furnished by Government. Such recommendations and Government replies are incorporated in this Report.

### **Recommendation**

*(Sl. No.1, Para No. 9)*

From the action taken notes on audit paragraph as well as from evidence tendered before the Committee, the Committee apprehend some sort of irregularities and foul play between the owner of the building where the District Lottery Office, Kollam, is housed and the officials of Lotteries Department. Questions such as (i) whether there had been any provision for accepting a conditional consent, (ii) what were the reasons for allowing a rate above the rate demanded by the owner, (iii) why the Department had not initiated any action to vacate the building as ordered by Government, and (iv) whether any sanction had been obtained from Public Works Department, for payment at enhanced rate remained without any convincing answer. The Committee express their strong dissatisfaction over the negative attitude of the Department in initiating any action for shifting the office to a smaller building as admissible as per norms. The Committee urge that in future the guidelines for hiring a private building for official purposes should be strictly adhered to and recommend that Government should enquire into the circumstances that led to the recurring liability and avoidable extra expenditure in this deal in violation of norms and take action against the officers found responsible for the irregularities as a deterrent measure.

**Recommendation***(Sl. No. 2, Para No. 10)*

The Committee notice with serious concern that certain detailed reports/ information required to be furnished to the Committee, which the officers who appeared before the committee had promised at the time of examination of departmental witness, have not been received yet. Without these details the Committee cannot make an assessment of the exact position that occurred in this issue. The Committee desire that the details called for should be made available to the Committee, at the earliest.

**Action Taken***(Common to Para Nos. 9 & 10)*

Recommendation in 9 & 10 is about the excess expenditure of rent fixed for the building in which District Lottery Office, Kollam was housed. The office was shifted to a private building in September 1989. The owner of the building had agreed to lease out the area for one year at PWD rates. The PWD fixed ₹ 1,173 for the building in 1992. Being dissatisfied with this the owner sought for special rate of rent of ₹ 2.50 per sq.ft. Government as per G.O.(Rt.) 191/03/TD dated 18-3-1993 sanctioned payment of rent at the rate of ₹ 2.20 per sq.ft. for the period from 22-9-1989 to 31-3-1993. It was found out in an audit by AG that an excess payment of ₹ 0.81 lakh occurred due to this payment as the rate was very high when compared to PWD rates. Besides the area occupied was in excess of what was allowed as per norms. The C & AG in his report for the year ended 31-3-1995 included this as an audit para and finally the PAC has recommended that Government should enquire into the circumstances that led to the recurring liability and avoidable extra expenditure in this deal in violation of norms and take action against the officers found responsible (Para 9). Committee also observed that the details promised at the time of examination of departmental officers has not been made available and desired that it should be made available at the earliest (Para 10).

As per the above recommendation and enquiry was conducted by the Director of State Lotteries through the Finance Officer of the Lotteries department. The following officers are found responsible for the loss sustained to Government and the Director of State Lotteries has sent proposals to Government for recovery of the same from them equally.

- (i) Shri K. P. Mohammed—then Director of State Lotteries
- (ii) Shri G. Krishnan Nair—then Joint Director of State Lotteries.
- (iii) Shri P. N. Vijaya Kumar—then Superintendent, Establishment Section.

All the above officers have retired from service on 31-8-1993, 30-4-1995 and 31-5-2005 respectively. The share of each will be ₹ 26,892.

The entire issue was examined in the light of the report of Director of State Lotteries and the connected disposals in Government in Taxes Department. The circumstances that led to fixation of special rent at the rate of ₹ 2.20 per sq.ft. is as follows.

The District Lottery Office was shifted from a private building owned by Shri A. Abdul Jaleel when he demanded to vacate the building for his own residence purpose. Shri K. K. Swaminathan, owner of Shines Shopping Complex agreed to let out 1500 sq.ft. in his building @ ₹ 2.50 per sq.ft. vide his letter dated 14-7-1989 M/s. SMS & Brothers, owner of Ushas Building, Main Road, Kollam also informed their willingness to let out space @ rent fixed by PWD in his letter dated 2-8-1989. Shri Swaminathan agreed to the rent fixed by PWD for a period of 1 year. Further in his letter dated 18-8-1989 he informed that the period of agreement could be made for 3 years from the date of occupancy with annual increase of 5%. Both the buildings were inspected by the then Joint Director and he had found the space in the Shines Complex more convenient. The office was shifted to the Shines Complex on 22-9-1989. The rent of the building was fixed by the PWD after a lapse of 2½ years, with direction to obtain sanction for the excess area occupied from competent authority before disbursing the rent, since the allowable area as per norms fixed by PWD based on staff strength was 85 sq.mts. where as the plinth area occupied by the office comes to 147 sq.mts. In letter No. Estt.5/6474/88/DSL dated 13-5-1992 the Director of State Lotteries sought Government sanction for excess carpet area occupied by District Lottery Office, Kollam and for the payment of rent @ ₹ 1,173 per month fixed by PWD. This letter was returned by Government for retransmission with necessary certificates from competent authority, consent letter of the owner and pro forma duly filled in, in case a special rent vide endt. No. 15399/HI/92/TD dated 26-5-1992. The required details and pro forma were furnished by the Director of State Lotteries vide letter dated 19-6-1992 requesting to treat the rent of ₹ 1,173 per month as special rent for the area of 147 sq.m. which is within the sanctioned limits. He had also reported that considering the total number of staff (2 gazetted + 18 non-gazetted) and the special nature of the department and in terms of G.O.(Ms.) 199/73/PWD dated 26-9-1973 and G.O. (Ms.) 25/87/PW&T dated 27-2-1987 there was eligibility for 160 sq.m. but has occupied only 147 sq.m. which is within the sanctioned limits. The owner of the building had been in the meantime pressing to settle his claim.



In his letters dated 3-9-1991 and 18-11-1991 the owner had informed the department that the rent fixed by the PWD was not acceptable to him due to the time lag in the fixation of rent and the steep escalation in general price index and lending rate of bank. But in the letter dated 15-6-1992 which was forwarded to the directorate vide letter dated 23-6-1992 of the District Lottery Officer, Kollam, he had informed that he was willing to negotiate to settle for rent fixed by PWD for the first term of three years if the department agrees to a monthly rate of ₹ 2.20 per sq.ft. + 25% enhancement with effect from 22-9-1992. He also pointed out that the Export Promotion Agency, a Government of India undertaking housed in the same building was paying rent @ ₹ 2.20 per sq.ft. fixed by the Central PWD with provision for 25% enhancement after every 5 years and the LIC of India was paying ₹ 3 per sq.ft. in the same building. On receipt of this letter Director of State Lotteries, requested Government to sanction rent @ ₹ 2.20 with effect from 22-9-1992 after obtaining and scrutinizing copy of the agreement executed by the Export Promotion Agency.

Government returned the pro forma forwarded in letter dated 19-6-1992 for rectification of certain defects vide letter dated 27-8-1992. The details were once again forwarded to Government vide letter No. 6474/92/88/DSL dated 23-9-1992. In this letter the Director of State Lotteries revised his earlier proposal to sanction for payment of rent fixed by PWD and requested Government to accord sanction for payment of rent of ₹ 3,950 per month i.e. @ ₹ 2.50 per sq.ft. stating that this was reasonable rate of rent. The proposal for rent at the rate of ₹ 2.50 sq.ft. was strongly recommended by the administrative department in file as follows and placed before the rent committee. "The rent recommended by the Executive Engineer at 74 Ps. per sq.ft. in the heart of Quilon town for this building is ridiculously low and does not stand to reason. The rate of ₹ 2.50 sq.ft. now recommended is quite reasonable as compared to similar other cases coming up before Government". Though the rent Committee accepted that allowable area as per staff strength is 160 sq. mt. for staff strength of 20, it did not recommend the special rent sought for, but directed to negotiate to bring down the rent considerably or arrange to locate a less expensive building. As per letter No. 18156/H1/92/TD dated 11-3-1993, Government directed to negotiate with the owner of the building to reduce the rent considerably. Reply was received the same day itself that the matter was discussed with the owner and it was reported that he was not willing to reduce the rent below ₹ 2.50 per sq.ft. However considering the long pendency Government sanctioned rent at the rate of ₹ 2.20 per sq.ft. with effect from 22-9-1989 to 31-3-1993. The demand for revision of

rent after three years was not allowed vide G.O.(Rt.) 191/93/TD dated 18-3-1993 Government subsequently accorded sanction for the payment of rent at the same rate from 1-4-1993 onwards vide G.O.(Rt.)No. 5/94/TD dated 3-1-1994. Based on the orders in the Government Orders dated 18-3-1993 and 3-1-1994 the department drew and disbursed rent at the rate of ₹ 2.20 per sq.ft. i.e. ₹ 3,414 per month from 22-9-1989 onwards.

On a perusal of the disposal leading to the Government order sanctioning the Special rate of rent, it is seen that:

(i) The letter addressed by the owner to the Director of State Lotteries enclosing a copy of his letter dated 15-6-1992 expressing consent for PWD rates of rent for the first 3 years is seen marked to Government also and the same is available in Government file. The special rent at the rate of ₹ 2.20 sq.ft. was sanctioned by Government after considering his request and being convinced that PWD rates are quite low.

(ii) The Central PWD has fixed rent at the rate of ₹ 2.20 for the 3<sup>rd</sup> floor of the same building in 18-7-1989 and LIC of India was paying rent at the rate of ₹ 3 sq.ft. Besides while forwarding the proposal for special rent to the Rent Committee the administrative department had strongly recommended the rate of ₹ 2.20 sq.ft. as reasonable.

(iii) The rent committee had agreed that the allowable area as per staff strength is 160 sq. m. where as only 147 sq.m. was occupied. Hence no excess area has been occupied in violation of norms.

(iv) Orders sanctioning special rent were issued after taking orders of the then Minister (Fin.), Minister (PWD).

(v) The condition regarding enhancement of rent at 25% after every 3 years was not accepted. The building is being occupied at the same rate fixed way back in 1993 i.e. ₹ 2.20 per Sq.ft. It is an undisputed fact that there has been drastic hike in the rent of private buildings. Had the office been shifted to some other buildings in the same locality definitely rent would have been much higher. Therefore by availing the building which is situated in a prime locality in Kollam town even now at the rate fixed for 1989 whatever loss caused to Government has been nullified.

From the above it is clear that:

- (i) The rent paid for the building wasn't as excessive as it was made out to be.
- (ii) Excess area was not occupied and the area occupied was well within the eligible limit as per norms.
- (iii) Government before allowing the rent at the rate of ₹ 2.20 per sq.ft. had examined the proposal and was convinced of its reasonableness.
- (iv) Procedural formalities were observed and orders were issued after placing before the Rent Committee taking approval of the then Minister (Finance) and Minister (PWD).
- (v) The building is being occupied at the same rate fixed in 1989.

In the circumstances it seems not fair to put the blame on the officers of the Lotteries Department. If the entire facts that led to the fixation of rent were brought to the notice of AG, the audit objection could have been dropped then and there.

#### **Recommendation**

(Sl. No. 3, Para No. 22)

The Committee understand that three types of benefits viz. monthly compensatory allowance ranging from ₹ 125 to ₹ 190 sealing charge @ ₹ 4 per bundle of thousand tickets sealed and compensatory leave for holiday duty are allowed to the staff of Lotteries Department for attending normal duties causing an extra expenditure of ₹ 7.55 lakh per annum. The Committee could not find any justification for the payment of different types of benefits simultaneously other than the payment of risk allowances. The Committee desire that Government should explore the possibility of framing some norms for regulating the payment of different types of benefits for normal functions of the Lotteries Department based on a work study and intimate the result of such study.

#### **Action Taken**

1. *Dearness Allowance for attending draw duty.*—As per G.O.(Rt.) No. 3971/69/Fin. dated 23-8-1969, Daily Allowance (DA) is allowed for those attending draw duty at various places of draw. The drawal of prize and preparation of prize list with full drawn out prizes is done at the places of draw itself. The result as well as the complete list of drawn out numbers are prepared, typed, verified, stenciled and despatched to all District Offices and to the information centres like Public Relation Department, C-DIT etc., at any time of the day itself. Then only the work of those assigned for draw duty ends.

The conduct of draw starts at 2.30 p.m only. So the time for the completion of all the works cannot be limited to 5.15 p.m. nor the persons claim any expense related to it as per Travelling Allowances Rules since the place of draw is mostly within 8 Kms. The extra DA allowed for attending draw duty at various places is in the nature of a special duty allowance as explained in the Government order.

2. *Sealing of tickets.*—Government have permitted class IV employees of the department to seal the tickets out the office hours and paid the sealing charges as fixed from time to time. These charges are being paid for the manual work of affixing the office seal on the back of the lottery tickets. Genuineness of the tickets of Kerala State Lotteries is verified by matching the office seal while making prize payments. An average of 40 lakh tickets are sold every week. The office seal has to be fixed on each and every ticket and it is a time consuming work. Hence the payment of sealing charge is justified. However recently on an experimental basis sealing is dispensed with and instead the ticket number is printed along the portion where the counterfoil and the ticket meet. This method has been adopted in Sports Bumper Lottery and “Santhwanam” Bumper Lottery. It has been decided to adopt this method to weekly lotteries also. Thus the practice of sealing will thus be completely discontinued.

3. *Attending office on holidays.*—The compensation leave allowed for holiday duty is as per general rules of service. Time bound closing of lottery tickets have to be done prior to the draw even when it is a holiday. Hence the staff who are deputed for holiday work is given compensatory leave as per rules.

4. *Compensatory allowance.*—This is being paid considering the special nature of work in department. All the 30 to 40 lakh tickets had to be verified to ensure the correctness of the tickets number, series, lottery number, date of draw and amount of prize. This work is done by the staff out of office hours. Along with this consolidation work of the sales of all District Lottery Office is done every day evening in the Directorate Accounts of each day has to be consolidated. So the connected staff members have to remain in the office during late hours. Huge number of prize-winning tickets also come in for verification and payment. Compensatory allowance was allowed after studying and assessing the special nature of work and Commercial nature of the department.

#### **Recommendation**

(Sl. No. 4, Para No. 23)

The Committee observed that the rules do not permit the Director of State Lotteries or Government to order the sale of unsold tickets/counterfoils for conversion into pulp instead of its destruction. The Committee are of the view that the present practice of destruction by burning without considering the revenue loss in this regard requires reconsideration. The Committee recommends necessary amendments in the rules with adequate security against probable risk of tampering.

**Action Taken**

It may be mentioned that the effect pointed out by the PAC has been cured while framing the Kerala Paper Lotteries (Regulations) Rules 2005. As per Rules 7(7) of the said rules, the unsold tickets and counterfoils of lottery tickets shall be disposed of as per orders issued by the Government. As per Government directions, a portion of the unsold tickets and unused counterfoils is now being given to Kerala Khadi and Village Industries Boards as per their requirements and the balance sold by the Director of State Lotteries following tender procedure.

**Recommendation**

*(Sl. No. 5, Para No. 24)*

The Committee are unhappy to note that there has not been any sincere effort on the part of the State Lotteries department in launching the Kerala Lottery Agent's Welfare Fund Schemes successfully. It is evident that there has been lack of vision and foresight on the part of the Department to make the scheme more attractive. The Committee feels that there is no justification for the deployment of the staff specifically sanctioned for the scheme for other purposes and the high establishment expenditure incurred for this purpose. Therefore, the Committee recommends that the problems plaguing the scheme should be identified and solved quickly so to make the scheme more attractive.

**Action Taken**

The scheme has been revamped and made more attractive by enacting the Kerala State Lottery Agents and Sellers Welfare Fund Act 2008 (Notification No. 9983/Leg.A2/08/Law dated 5-1-2009). Copy of the same is enclosed—Appendix II.

**Recommendation**

*(Sl. No. 6, Para No. 32)*

The Committee understand that the delay in initiating judicial proceedings against the delinquent official in July 1991, resulted in a loss of revenue of ₹ 7.30 lakh. Even though the irregularities were reported to Board of Revenue as early as in March 1985, the charge sheet was prepared and forwarded only in December 1992 and further, the Board of Revenue, could do nothing till July, 1993. The Committee find lapses on the part of the department to initiate disciplinary action against the delinquent official, in time. The Committee further observe that the wilful negligence on the part of the Deputy Commissioner (Intelligence) in submitting the preliminary report in time was the main reason for the loss of revenue sustained by Government. Therefore, the Committee recommend that cases involving disciplinary action should be reviewed monthly and action should be initiated expeditiously and in a time bound manner.

**Action Taken**

The recommendation is noted for future guidance. Timely disciplinary action is taken invariably in all cases of loss of revenue. Only minor irregularities are let off with a warning. To safe guard State Revenue Circular instructions are issued to all officers warning them that disciplinary action will follow in cases of detection of lapses (copy of Circular No. 12/87 enclosed)—Appendix III.

Thiruvananthapuram,  
12th February 2013.

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

10

APPENDIX I

GOVERNMENT OF KERALA

**Law (Legislation-A) Department**

NOTIFICATION

No. 9983/Leg. A2/2008/Law. Dated, Thiruvananthapuram, 31st January, 2009  
11th Magha, 1930.

In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Gazette of the following translation in English Language of the Kerala State Lottery Agents' and Sellers' Welfare Fund Act, 2008 (2 of 2009).

By order of the Governor,

K. JOHN BRITTO,  
*Special Secretary (Law).*

[Translation in English of “2008-ലെ കേരള സംസ്ഥാന ഭാഗ്യക്കുറി ഏജന്റുമാരുടെയും വിൽപനക്കാരുടെയും ക്ഷേമനിധി ആക്ട്” published under the authority of the Governor.]

ACT 2 OF 2009

THE KERALA STATE LOTTERY AGENTS’ AND SELLERS’  
WELFARE FUND ACT, 2008

*An act to provide for the constitution of a Fund for promoting the welfare of and to grant relief to the Paper Lottery Agents and to the Paper Lottery Sellers of the Government of Kerala in the State of Kerala and for other matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for the constitution of a Fund for promoting the welfare of and to grant relief to the Paper Lottery Agents and to the Paper Lottery Sellers of the Government of Kerala in the State of Kerala and other matters connected therewith or incidental thereto.

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala State Lottery Agents’ and Sellers’ Welfare Fund Act, 2008.

(2) It shall be deemed to have come into force on the 12th day of July, 2008.

2. *Definitions.*—In this Act unless the context otherwise requires,—

(a) “Board” means the Kerala State Lottery Agents’ and Sellers’ Welfare Fund Board constituted under sub-section (1) of section 6;

(b) “Identity Card” means the Identity Card issued to the lottery agents/sellers from the Board;

(c) “Chief Executive Officer” means the Chief Executive Officer under sub-section (5) of section 6;

(d) “Contribution” means the amount payable to the Fund under sub-sections (1) and (3) of section 4;

(e) “Director of Lotteries” means the Director of the Kerala State Lotteries Department;

(f) “District Lottery Officer” means the District Lottery Officer of the Kerala State Lotteries Department for the concerned Revenue District;

(g) “District Welfare Officer of Lottery” means the officer being appointed under section 11 and officially designated for the District level administration of the Scheme;



(h) “Family” means, wife or husband, minor son and unmarried daughters of a lottery agent/seller and includes in it his father, mother, mentally or physically disabled children who are dependent on the lottery agent/seller and in the absence of such dependents, major son and married daughter;

(i) “Fund” means the Kerala State Lottery Agents’ and Sellers’ Welfare Fund established under section 3;

(j) “Government” means the Government of Kerala;

(k) “Lottery Agent” means an individual to whom an agency has been issued by the District Lottery Officer in the State of Kerala for the sale of paper lottery of the Government of Kerala and is holding a valid identity card issued under the Scheme and does not include in it a company, a firm, an association of individuals or a co-operative society;

(l) “Lottery Seller” means, a person who sells paper lottery tickets of the Government of Kerala;

(m) “Member” means a lottery agent or lottery seller enrolled as a member in the Fund and is holding a pass book issued under the Scheme;

(n) “Notification” means a notification published in the Kerala Gazette;

(o) “Paper Lottery” means any lottery other than on-line lottery, conducted by the Government of Kerala in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (Central Act 17 of 1998);

(p) “Prescribed” means prescribed by the Rules made under this Act;

(q) “Scheme” means the Kerala State Lottery Agents’ and Sellers’ Welfare Fund Scheme framed under section 3;

(r) “Specified” means specified in the Scheme;

(s) “State Welfare Officer of Lottery” means the officer appointed under section 11 to assist the Chief Executive Officer;

(t) “Year” means the financial year.

3. *The Kerala State Lottery Agents’ and Sellers’ Welfare Fund Scheme.*—(1) As soon as after the commencement of this Act, the Government shall by notification in the Gazette, frame a Scheme to be called the “Kerala State Lottery Agents’ and Sellers’ Welfare Fund Scheme” and after the framing of the Scheme constitute a Fund to be called the “Kerala State Lottery Agents’ and Sellers’ Welfare Fund” in accordance with the provisions of this Act and the Scheme.

(2) Subject to the provisions of this Act, the Scheme may provide for all or any of the matters specified in the Schedule.

(3) Those lottery agents and sellers who sell Kerala State Lottery tickets at least for the prescribed minimum amount in a month shall alone be, eligible to become a member of the Fund.

*Explanation:—*While calculating the amount of Kerala State Lottery tickets to be sold by the lottery agents and sellers for continuing as a member in the Fund, the tri-monthly average of the said amount shall be taken into account.

(4) The following shall be credited to the Fund, namely:—

- (a) contributions under in section 4;
- (b) the amount borrowed by the Board under section 12;
- (c) grants or advances given by the Government or an Institution;
- (d) any kind of donation or amount remitted;
- (e) any amount raised by the Board from other sources to augment the resources of the Fund;
- (f) any fee levied under the Scheme;
- (g) any other amount available on the date of constitution of the Fund under the provisions of the Scheme as provided in the Kerala State Lottery Agents Welfare Fund Scheme, 1991;
- (h) any other amount to be credited to the Fund under the provisions of the Scheme,

(5) The Fund shall vest in the Board and be administered by the Board.

(6) The Fund may be utilized for all or any of the following purposes, namely:—

(a) for the payment of pension to the members who had completed fifty-five years of age and had remitted contribution for not less than ten years.

*Explanation:—*Those persons who had completed sixty years of age and was a lottery agent or seller for at least five years before the commencement of this Act and if he remits contribution for a period of one year as member under the provisions of the Scheme, he will become eligible for a special pension.

(b) for the payment of family pension on the death of a member who had remitted contribution for not less than ten years;

(c) for the payment of financial assistance on the death of a member due to illness or accident;

(d) for the repayment of the contribution amount remitted by the members with interest as may be prescribed, to those who suffer from permanent physical disability incapacitating him to do work or on the cessation of membership in the Welfare Fund;

(e) for the payment of financial assistance to meet the expense towards medical treatment of the members affected with serious disease;

(f) for the payment of financial assistance for the purpose of marriage of the members and daughters of the members and for the maternity purpose of the female members;

(g) for the payment of financial assistance or loans or advances to the members for the purpose connected with their employment, or for the construction of dwelling house or for the maintenance or renovation of the house or for the purchase of land for the construction of house or for the purchase of land and building and for the education, including higher education of the children of the members;

(h) for the payment of special relief to the members who suffers from physical disability;

(i) any other purpose specified in the Scheme;

(j) for the day to day administrative expenses of the Board.

(7) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Scheme, the Scheme shall, thereafter have effect only in such modified form, so however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Contribution to the Fund.*—(1) Every Lottery Agent and Lottery Seller, as the case may be, who is eligible to become a member shall subscribe rupees fifty per month as contribution to the Fund.

(2) The Government may, by notification in the Gazette, from time to time revise the rate of contribution referred to in sub-section (1) taking into account the amount required for the management of the Scheme.

(3) The Government shall contribute one per cent of the total sale proceeds of lottery tickers collected through the Kerala State Lotteries Department to the Fund every year. The rate of contribution of the Government may be modified from time to time and may recommend the due appropriation in the budget proposals.

(4) The contribution shall be paid to the Chief Executive Officer or other officer authorised in this behalf in the manner specified in the Scheme.

(5) The non-payment of contribution by any member for a continuous period of six months will result in the loss of membership *suo moto*:

Provided that the Board shall, for reasons appears to be reasonable to the Board, have the power to restore the membership.

5. *Modification of the Scheme.*—(1) Government may by notification in the Gazette add or amend the Scheme framed under this Act, either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid as soon as may be, after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be.

6. *Constitution of the Board.*—(1) The Government may, by notification, with effect from such date as may be specified therein, for the administration of the Fund and for the management of the Scheme and to supervise and to implement the connected activities constitute a Board to be called the “Kerala State Lottery Agents’ and Sellers’ Welfare Fund Board”.

(2) The Board shall be a body corporate by the name “Lottery Agents’ and Sellers’ Welfare Fund Board” having perpetual succession and a common seal and shall by the said name, sue and be sued;

(3) The Board shall consist of four official members representing the Government and seven non-official members representing the beneficiaries of the Scheme as may be nominated by the Government as hereinafter provided:—

- (a) The Secretary to Government, Taxes Department;
- (b) The Director of State Lotteries;

(c) A representative from the Finance Department not below the rank of a Joint Secretary nominated by the Government;

(d) A representative from the Labour Department not below the rank of a Joint Secretary nominated by the Government;

(e) Seven non-official members representing the Lottery Agents and Sellers nominated by the Government.

(4) Government shall nominate a member from among the members of the Board as its Chairman.

(5) The Director of State Lotteries shall be the Chief Executive Officer.

(6) The Board shall administer the Fund vested in it in such manner as may be specified in the Scheme.

(7) The Board may with the previous approval of the Government, delegate to the Chairman or to the Chief Executive Officer such of its powers and functions under this Act or the Scheme as it may consider necessary, for the effective management of the Fund, subject to such restrictions and conditions, as it may deem fit.

*7. Meeting of the Board.*—(1) The Board shall meet at least once in three months to transact its business.

(2) Six members of the Board including at least two official members shall form the quorum for a meeting of the Board.

(3) The Chairman or in his absence, a member elected from among the members present at the meeting, shall preside over the meeting of the Board.

(4) Any matter coming up before a meeting of the Board shall be decided by a majority of the members present and vote at the meeting and, in the case of any equality of votes, the Chairman or the member presiding over the meeting shall have right for a casting vote.

*8. Term of office of members of the Board.*—(1) The non-official members appointed under sub-section (3) of section 6 shall hold office for a period of three years with effect from the date of the notification constituting the Board.

(2) Any non-official member may resign his membership by giving notice in writing to the Government, but shall continue to hold office until his resignation is accepted by the Government.

(3) Government may at any time, for reasons to be recorded in writing, remove from office any official member, if the Government are of the opinion that, in public interest, it is not fair to allow such member to continue in office.

9. *Disqualification and removal of non-official members.*—(1) The Government may remove any non-official member of the Board from office,—

(a) if he is of unsound mind;

(b) if he is adjudged as insolvent;

(c) if he has, without the permission of the Board, been absent in three consecutive meetings; and

(d) if in the opinion of the Government, he is not suitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as such member detrimental to public interest:

Provided that before removing a member under this sub-section he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A non-official member of the Board removed under clause (c) of sub-section (1), shall be disqualified for re-appointment as a member of the Board for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official member of the Board removed under clause (d) of sub-section (1) shall not be eligible for re-appointment until he is declared by an order of the Government to be no longer ineligible.

10. *Travelling and daily allowance to members of the Board.*—The nominated members of the Board shall be eligible to get sitting fee, travelling allowance and daily allowance at such rate as may be prescribed.

## CIRCULAR No. 12/87/TX

*Sub:*—Audit of Receipt 1985-86 Omission and lapses pointed out in audit—Remedial measures to avoid recurrences relating to Agricultural Income Tax—Instructions issued.

In the various circulars cited suitable instructions have been issued to the assessing authorities to make adequate assessments avoiding omissions and lapses noticed at various level. The Controlling Officers have also been instructed to ensure that the assessing authorities are following the instructions scrupulously and also to issue suitable further instructions. But in spite of all these instructions and warning the audit report for 1985-86 received shows that the assessing authorities and controlling officers have not adhered to the instructions and the same mistakes are repeated. In the Audit Report for 1985-86 the following categories of mistakes are pointed out viz., omission to utilise informations available in the assessing office and to utilise informations furnished by the Intelligence Wing of the Department, income escaping assessment, incorrect renewal of registration of firms, short levy due to incorrect appointment of income among sub partners, failure to club income, incorrect computation of income granting inadmissible deduction, irregular allowance of deduction, short levy due to non clubbing of income from individual and joint properties, omission to revise assessment, application of incorrect rate of tax non-levy of tax due to delay in finalisation of assessment, non-levy of penalty, non-production of records to audit for scrutiny and failure to settle outstanding audit objections.

In the audit report it has been pointed out that local audit reports relating to 1973-74 onwards are pending settlement and as on 30th September, 1986 there are 384 reports with 2479 paras involving a money value of Rs. 899.64 lakh. It has also been specifically pointed out that in the Agricultural Income Tax Office, specially pointed out that in the Agricultural Income Tax Office, viz., Kumily, Hosdurg and Manantoddy, 24 reports containing 304 paras having a money value of Rs. 70.98 lakh are pending settlement for the last 14 years. It is distressing to note the assessing authority have not furnished even the first replies which are due to the Accountant General within 4 weeks from the date of receipt of report. The audit has also pointed out that no action has been taken by the Agricultural Income Tax and Sales Tax Officer, Kumily on a short levy of Rs. 1,35,632 due to under-valuation pointed out in April 1982. So also in the Agricultural Income Tax Office, Hosdurg escapement of income with tax effect Rs. 58,608 pointed out in December 1980 has not been settled. The Deputy Commissioner are requested to examine the entire outstanding audit reports and ensure that the defects pointed out are settled fixing a time bound programme. The Deputy Commissioners, Idukki and Cannore are requested to examine the cases pointed out in the Agricultural

Income Tax and Sales Tax Office, Kumily and Hosdurg and to ensure that the defects are settled and final report forwarded within fortnight. The officers responsible for the failure to furnish first replies in time should be called upon to explain the lapses and suitable action is taken against them. A detailed report in this regard should reach the Board before 31st July, 1987.

In Para 3-16 of audit report 1985-86 it has been pointed out that 1800 audit file in 48 officers were not made available to audit and out of this 1232 files involved 297.68 lakh of rupees. The reasons stated that the files are not readily available are not convincing. The officers should trace out all such files and make available to audit. In this connection attention of all assessing authorities are drawn to the Board's Circular No. 2/87, dated 17th January, 1987 and requested to bear in mind that non-production of records for audit without sufficient reason is a serious lapse and disciplinary action will be taken against those involved.

The total number of defects pointed out in the audit for 1985-86 is 444 and the amount involved is 117.27 lakh. This shows that the assessing authorities are careless in finalising assessment and in demanding tax legitimately due to Government. All Deputy Commissioners and Inspecting Assistant Commissioners are requested to analyse the cases pointed out in audit and ensure that such mistake are not repeated by the assessing authorities. They are also requested to take disciplinary action in cases where major irregularities leading to loss of revenue have been noticed. The assessing authorities are also requested to bear in mind that lapses due to carelessness will be dealt with severely and hence every effort should be made to avoid lapse and omissions and to demand tax legitimately due.

---