

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

EIGHTY SECOND REPORT
(Presented on 16th December, 2014)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2014**

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**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

EIGHTY SECOND REPORT

on

**Action Taken by Government on the Recommendations contained in the
80th Report of the Committee on
Public Accounts (2004-2006)**

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Smt. A. K. Shaila, Deputy Secretary

Shri G. P. Unnikrishnan, 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 eighty second Report on Action Taken by Government on the Recommendations contained in the 80th Report of the Committee on Public Accounts (2004-2006).

The Committee considered and finalised this Report at the meeting held on 9th December, 2014.

Thiruvananthapuram,
16th December, 2014.

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 80th Report of the Committee on Public Accounts (2004-2006).

The 80th Report of the Committee on Public Accounts (2004-2006) was presented to the House on 27th July, 2004. The Report contained six recommendations relating to Public Works Department. Government was addressed on 9th September, 2004 to furnish the statement of Action Taken on the recommendations contained in the Report and the final copies were received on 14th February, 2014.

The Committee considered the Action Taken Statements at its meetings held on 6-1-2009, 4-8-2010 and on 30-4-2014. The Committee was not satisfied with the Action Taken by Government on the recommendation in Para No. 18 and decided to pursue it further and its recommendation, reply furnished thereon and further recommendation of the Committee are included in Chapter I of this Report.

The Committee decided not to pursue further action on the remaining recommendations on para Nos. 16, 17, 19, 20 and 21 in the light of the replies furnished by Government. The recommendations of the Committee and the Action Taken by Government are included in Chapter II of this Report.

CHAPTER I

RECOMMENDATION IN RESPECT OF WHICH ACTION TAKEN BY GOVERNMENT ARE NOT SATISFACTORY AND WHICH REQUIRE REITERATION

PUBLIC WORKS DEPARTMENT

Recommendation

(Sl. No. 3, Para No. 18)

1.1 During discussion on the defective construction of the RCC Bridge across Nellipuzha river in Mannarkad, the Secretary informed that there was a vigilance enquiry into the alleged irregularities and that the files relating to the bridge construction were with the Vigilance Department. The Chief Engineer (R&B) assured that the details of Action Taken against the officers responsible by the department prior to the initiation of vigilance case would be furnished to the Committee. The details of the Action Taken by the department may be furnished at the earliest. Present position of the vigilance enquiry may also be intimated.

Action Taken

1.2 On the allegation of misappropriation of an amount of ₹ 83,520 in the construction work of Nellipuzha Bridge across Nellipuzha River at Mannarkad, a vigilance case was registered by the Vigilance and Anti Corruption Bureau, Palakkad. The investigation of the case (VC 15/97 PKD) was completed and charge sheet filed before the Court of the Enquiry Commissioner and Special Judge, Kozhikode on 31-12-2007 against the following accused excluding Shri M. Radhakrishnan, formerly Superintending Engineer:

- (1) Shri N. K. Kamaludeen, Former Assistant Executive Engineer, Buildings Subdivision, Palakkad
- (2) Shri T. Raju Thomas, Former Executive Engineer, Buildings Division, Palakkad
- (3) Shri Joseph Thomas @ Babu Thomas, PWD Contractor
- (4) Shri Andavan, Former Overseer, Building Section, Mannarkad
- (5) Shri K. K. Appukuttan, Former Assistant Executive Engineer
- (6) Shri S. M. Mohammed Koya, Former Executive Engineer.

The Enquiry Commissioner and Special Judge, Kozhikode returned the charge sheet observing that there was evidence to show that Shri M. Radhakrishnan was also involved in the criminal conspiracy.

Thereupon Shri M. Radhakrishnan, filed W.P. (C) No. 15750/2008 before the High Court of Kerala against the above decision of the Enquiry Commissioner and Special Judge.

Later a fresh charge sheet has been filed before the Court of Enquiry Commissioner and Special Judge, Thrissur on 19-5-2011 against the above persons including Shri M. Radhakrishnan, Former Superintending Engineer. As Shri S. M. Mohammed Koya expired on 3-8-2010 he was not included in the array of accused. A separate report is being submitted by Vigilance and Anti Corruption Bureau to the Court for abating the charge against him.

Regarding action taken against the officers responsible by the Department prior to the initiation of Vigilance enquiry, it is submitted that out of the five officers responsible, Shri M. Radhakrishnan, the then Superintending Engineer and Shri T. Raju Thomas, the then Executive Engineer had already been retired from service. The other three officers viz. Shri N. K. Kamaludeen, Assistant Executive Engineer. Shri P. K. Mohammed, Assistant Engineer and Shri K. Andavan, Overseer were placed under suspension pending further detailed enquiry and disciplinary action vide G.O. (Rt.) No. 1226/94/PW&T dated 23-6-1994. Of the three officers placed under suspension, Shri N. K. Kamaludeen, Assistant Executive Engineer challenged the suspension order before the Hon'ble High Court in O.P. No. 9995/94-M and the Court in the interim order in CMP No. 17715/94 in the O.P. directed to reinstate the petitioner in service and accordingly he was reinstated in service as per G.O. (Rt.) No. 1587/94/PW&T dated 27-8-1994. Subsequently the other two officers viz. Shri P. K. Mohammed, Assistant Engineer and Shri K. Andavan, Overseer were also reinstated in service as recommended by the Chief Engineer without prejudice to the disciplinary action against them vide G.O. (Rt.) No. 15/95/PW&T dated 3-1-1995.

Since the Vigilance Department has ordered an enquiry on the issue, the disciplinary action proposed against the accused officers of Government was kept in abeyance. The investigation of the case has revealed that the accused persons in furtherance of common intention committed criminal misconduct and caused a total loss of ₹ 1,23,57,290 (Rupees One Crore Twenty Three Lakh Fifty Seven Thousand Two Hundred and Ninety only) to the Government.

The case VC 15/97/PKD is now under trial before the Court of Enquiry Commissioner and Special Judge, Thrissur as CC 35/11 and the case was formally posted to 28-10-2013. Petition No. CrI. MP. No. 1203/13 filed by one of the accused in this case is pending before the Hon'ble High Court and all the records in this case was forwarded to Hon'ble High Court as directed by the Court. Hence further proceedings before the Enquiry Commissioner and Special Judge, Thrissur will start only after the disposal of the petition pending before the Hon'ble High Court.

Further Recommendation

1.3 The Committee recommended that the Department should file an advance petition for vacating the stay and expedite the case pending before the High Court.

CHAPTER II

RECOMMENDATION IN RESPECT OF WHICH THE COMMITTEE DO NOT
DESIRE TO PURSUE ACTION IN THE LIGHT OF THE REPLIES
FURNISHED BY GOVERNMENT
PUBLIC WORKS DEPARTMENT

Recommendation

(Sl. No. 1, Para No. 16)

2.1 The Report of the Comptroller and Auditor General of India containing this para was presented to Legislature on 31-3-2000. As per provisions in the Handbook of instruction, Remedial Measures Taken Statements on audit paras have to be furnished to the Committee within a period of 3 months from the presentation of the Report to the Legislature. No replies except to sub paras 4.11.8 and 4.11.10 had been received from the Government till the date of examination of the audit para. The Committee considers this as a serious lapse on the part of the department and reminds the department that such lapses would be taken up very seriously in the future.

Action Taken

2.2 The delay in submitting reply to the Committee occurred due to delay in Collecting details from Subdivisions, Divisions and Circles of PWD. In future, the Committee's directions will be strictly complied with in all cases of Report of the Comptroller and Auditor General of India.

Recommendation

(Sl. No. 2, Para No. 17)

2.3 The Committee observe that large-scale upgradation of roads into major roads category may have a negative impact on the well maintenance of roads. Therefore, the department should evolve a proper mechanism to ensure that the maintenance and repairs of existing roads do not suffer when new roads are considered for upgradation.

Action Taken

2.4 Large-scale upgradation of roads have been dispensed with due to paucity of funds. Traffic safety measures, maintenance and repairs of roads are given more emphasis in PWD at present. The budget allocation for the last 3 years reflects this fact. The allocations for previous 3 financial years were:—

2005-06—₹ 210.69 crore

2006-07—₹ 315.70 crore

2007-08—₹ 318.68 crore

As per G.O. (Ms.) No. 52/09/PWD dated 14-8-2009 Government have accorded sanction to retain about 7385 km. of converted MDRs in PWD (in 1551 Nos.) and all other roads are ordered to be as ODRS.

The Committee's recommendations will be given utmost importance, while taking future decisions on upgradation of roads.

Recommendation

(Sl. No. 4, Para No. 19)

2.5 Regarding the present position of the construction of the approach road to Ulanthy Bridge over Kuttamperoor river near Mavelikkara mentioned in the audit para, the Secretary, PWD informed the Committee that the approach road had been completed by the Panchayat authorities. A similar case of delay in land acquisition for the link road connecting Enathu Town with State Highway I (MC Road) was brought to the notice of the officials and the Chief Engineer assured that the latest position of the works would be intimated to the Committee. As the reply has not been furnished till date, the Committee directs the Secretary to furnish the reply without further delay.

Action Taken

2.6 Link road connecting Enathu Town with State Highway I (MC Road) is nearing completion, Tarring work will be done within 2 months.

Recommendation

(Sl.No. 5, Para No. 20)

2.7 During the examination of the audit para, the CE answered that the list of the works awarded by the Department without administrative sanction and technical sanction during the last five years would be submitted to the Committee. As the list has not been obtained so far, the Committee recommends that the list be furnished at the earliest.

Action Taken

2.8 Only one work was awarded without AS i.e., "construction of a small bridge near Koothattukulam in MC road". This was a very urgent work to ensure flow of traffic through MC road and hence arranged. During execution AS obtained from Government. No work was awarded without T.S.

Recommendation

(Sl. No. 6, Para No. 21)

2.9 The witness justified the construction of the site office for the Peruvamoozhi Bridge at Kakkanad 24 km. away from the bridge, stating that the decision for the work was taken by the Chief Engineer on account of an immediate necessity for a building to accommodate many officers of the department, which had to be vacated to make room for the construction of the High Court Complex. The Committee is not impressed by the explanation offered by the witness. The Committee reminds the department that rules and regulations are there to be observed and not to be sidelined under any circumstances.

Action Taken

2.10 There was a lump sum provision in the original sanctioned estimate to construct a site office. During course of construction of the Peruvamoozhi Bridge, it was directed to vacate the building in which Division Office was functioning at Ram Mohan Palace, Ernakulam to facilitate the construction of High Court Complex. As there was no suitable Government building to accommodate the division office, and also due to the demand of exorbitant rent by private building

owners. It was proposed to construct the site office and lab building in the vast extend of PWD available near Collectorate at Kakkanad. Hence detailed estimate was prepared and sanctioned by CE with his powers of acceptance i.e. within 35% excess over estimate. Since the original sanctioned estimate includes LS provision the expense towards site office and lab building was included in the revised estimate. At that time, CE is competent to sanction up to 35% above original sanctioned estimate amount. The percentage excess is quite reasonable and hence the work was carried-out through the contractor of the bridge work. The work has already been completed and the payment made only to actual executed work.

Thiruvananthapuram,
16th December, 2014.

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

APPENDIX

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusion/ Recommendation</i>
1	1.3	Public Works	The Committee recommended that the Department should file an advance petition for vacating the stay and expedite the case pending before the High Court.

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