

©
Kerala Legislature Secretariat
2024

KERALA NIYAMASABHA PRINTING PRESS.



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2023-2026)**

SIXTEENTH REPORT
(Presented on 1-2-2024)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2024

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2023-2026)**

SIXTEENTH REPORT

On

**The action taken by Government on the Recommendations contained in the
Eighty Ninth Report of the Committee on Public Undertakings (2019-2021)
relating to Kerala State Electricity Board Limited based on the
Report of the Comptroller and Auditor General of India
for the year ended 31st March, 2014**

CONTENTS

	<i>Page</i>
Composition of the Committee ..	v
Introduction ..	vii
Report ..	1
Chapter I Replies furnished by the Government on the recommendations of the Committee which have been accepted by the Committee with remarks ..	2

COMMITTEE ON PUBLIC UNDERTAKINGS
(2023-2026)

COMPOSITION

Chairman :

Shri E. Chandrasekharan.

Members :

Shri A. P. Anil Kumar

Shri Anwar Sadath

Shri Ahammad Devarkovil*

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

Shri D. K. Murali

Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla.

Legislature Secretariat :

Shri Shaji C. Baby, Secretary-in-charge

Shri Venugopal R., Joint Secretary

Smt. Jayasree M., Deputy Secretary

Shri Mohanan O., Under Secretary.

*In the vacancy of Shri K. B. Ganesh Kumar sworn in as Transport Minister w.e.f. 16.01.2024.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2023-2026) having been authorised by the Committee to present the Report on their behalf, present this 16th Report on the Action Taken by Government on the Recommendations contained in the Eighty Ninth Report of the Committee on Public Undertakings (2019-2021) relating to Kerala State Electricity Board Limited based on the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2014.

The Statement of Action Taken by the Government included in this Report was considered by the Committee at its meeting held on 16-8-2022.

This Report was considered and approved by the Committee at its meeting held on 26-8-2023.

The Committee place on record their appreciation for the assistance rendered to them by the Accountant General (Audit), Kerala who was present during the examination of the Action Taken Statements included in this Report.

Thiruvananthapuram,
1st February 2024.

E. CHANDRASEKHARAN,
Chairman,
Committee on Public Undertakings.

REPORT

This Report deals with the action taken by the Government on the recommendations contained in the Eighty Ninth Report of the Committee on Public Undertakings (2019-2021) relating to Kerala State Electricity Board Limited based on the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2014.

The Eighty Ninth Report of the Committee on Public Undertakings (2019-2021) was presented to the House on 18th June, 2019. The Report contained two recommendations and the Government furnished replies to these recommendations.

The Committee considered the replies received from the Government at its meeting held on 16-8-2022.

The Committee accepted the replies to the recommendations in Para No. 1 and 2 with remarks. These recommendations, the replies furnished by the Government and remarks of the Committee forms Chapter I of this Report.

CHAPTER - I

REPLIES FURNISHED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE WHICH HAVE BEEN ACCEPTED BY THE COMMITTEE WITH REMARKS

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations	Action Taken by the Government
(1)	(2)	(3)	(4)	(5)
1	1	Power	The Committee criticizes the Board for not executing agreement with Electroteknica Switchgear Private Limited (ESPL) within the validity period according to the provisions in purchase order in the purchase of 32 11 KV 10 panel sets. The Committee recommends that KSEBL should follow the rules and regulations of the tender process as per the Stores Purchase Manual in future. The Committee also insists KSEBL should not implement their projects on the basis of assumption.	Two part tenders were invited in July 2010 for the procurement of 32 Nos. of 11 KV indoor VCB 10 Panel sets with spares for the requirement of the planned work as per Purchase plan 2010-12. The tender was invited strictly in accordance with the Stores Purchase Manual conditions and standard tender conditions approved by the Board. As per the purchase committee decision dated 31-5-2011, 2 Nos. purchase orders were placed with the L1 bidder, Ms Electroteknica Switchgear Private Limited for 32 Nos.

			<p>of 11 KV indoor VCB 10 Panel sets with spares, by splitting the quantity ie, vide P.O dated 4-6-2011 for 4 Nos. of 11 KV indoor VCB 10 Panel sets with spares for the requirement based on 100 days programme declared by the Government of Kerala and for 28 Nos. of 11 KV indoor VCB 10 Panel sets with spares for the requirement based on planned work as per purchase plan on 4-7-2011 respectively. But the firm hadn't complied the purchase order condition framed as per the store purchase manual. They had'nt remitted the required security deposit and not submitted the agreement documents for executing the contract agreement, even after repeated requests/reminders made from the concerned office.</p> <p>Approval was issued for the drawings submitted by the firm M/s ESPL on 1-8-2011. Instead of offering the item for inspection as the next step, the firm had requested on 10-8-2011, for delivery period extension</p>
--	--	--	--

(1)	(2)	(3)	(4)	(5)
				<p>stating the reason that they had to place order for bought out items like relays, CTS & PTs etc. It may please be noted that this reason seems to be flimsy as the firm could have placed the order for the same at the time of P.O. itself since the ‘ approval of makes' of the above accessories was already confirmed while issuing P.O. itself. Further to the above, on 12-11-2011 the firm had informed that they were facing extreme financial stringency and not in a position to remit the security deposit and execute the agreement by absorbing further loss on executing this order and further informed that they would be able to execute the agreement only if, price escalation for the item as per IEEMA price variation clause was accepted by KSEBL. But the demand of the firm for price escalation was not acceptable as it was</p>

				<p>violation of tender condition. KSEBL had taken earnest efforts to finalize the tender and placed the P.O. within validity period for achieving the targets of 100 days' programme. But since the firm had been asking for higher price against the tender clause, without executing the agreement, the only option left with KSEBL was to invite fresh tender by blacklisting the firm for next five years and to forfeit the EMD remitted by the firm.</p> <p>In this scenario, KSEBL had taken adequate steps as per the Stores Purchase Manual to terminate the P.O. and to black list the firm as well as to arrange alternate purchase at their risk and cost. In this context, it is informed that no violation of tender conditions and no lapse occurred from KSEBL side in complying the Stores Purchase Manual.</p>
--	--	--	--	--

(1)	(2)	(3)	(4)	(5)
2	2	Power	<p>The Committee reprimands KSEBL officials for the delay occurred to issue purchase order in time according to purchase procedures, letting the defaulted Supplier (ESPL) to evade from the liabilities and thereby incurring an extra expenditure of Rs.3.36 crore. The Committee recommends to take effective measures to recover the liabilities from the defaulted supplier and report the same to the Committee.</p>	<p>Generally, the validity of the tender is 6 months. The item 11 KV indoor VCB 10 Panel sets, involves large scrutiny of the bids in respect of technical parameters of various components/accessories including sophisticated relays etc. and Type test reports, to fulfill the technical requirement and thereafter, obtaining further clarification/ missing documents/corrections. Moreover, the tender process requires remarks of the Financial Adviser of the Board, decision of the two Apex Committees, Pre-qualification Committee and Purchase Committee as well as the decision from Full Board prior to the awarding of contract, which requires about 4-6 months. Hence, the bids are processed within the reasonable time limit and bids are also having sufficient validity during the process. Generally, most of the suppliers will comply the KSEBL's purchase order conditions and effect the supply within the time limit.</p>

				<p>In this case, after awarding the P.O., M/s ESPL unnecessarily demanded for delivery extension as well as price escalation against the tender conditions and purchase order conditions, which resulted in loss of precious time of KSEBL in completing the procurement process. Within the legal frame of the tender conditions, the P.O. was cancelled and blacklisted the firm and also arranged alternate purchase at the risk and cost of the firm as per rule, which was the only option left with KSEBL to safeguard the interest of the organization for timely completion of the projects.</p> <p>The firm, M/s ESPL, was intimated to remit the risk and cost amount of Rs.3.36 Cr towards the additional financial burden incurred for arranging alternate purchase by terminating the P.O. issued. However, the firm hadn't remitted the same so far. Then legal opinion obtained, RR action couldn't be proceeded against the firm, since there was</p>
--	--	--	--	---

(1)	(2)	(3)	(4)	(5)
				<p>no valid contract agreement signed between KSEBL & M/S ESPL. Hence, the EMD amount of Rs.5 Lakhs remitted by the firm was forfeited to the Boards' account and blacklisted the firm. The matter was again taken up with the O/o LA&DEO, KSEBL on 9-7-2021 to explore the possibility of initiating legal action against the bidder, M/S ESPL for recovering the risk & cost amount. The opinion received vide LA&DEO letter dated 15-7-2021 was that since there is no concluded contract with the LI bidder, KSEBL cannot proceed further to take legal action against the bidder except forfeiture of EMD. The General conditions of contract specifically prescribe this action also.</p> <p>From the above facts, it is clear that there was no lapses occurred from KSEBL side and none of the tender conditions as per the Store Purchase Manual was violated during the procurement process. The firm M/S ESPL had intentionally violated the</p>

				<p>tender as well as P.O. condition for the sake of their own vested interests, being profit motive and not showing any commitment to KSEBL by this order already agreed by them by accepting the tender conditions. Materials are purchased in KSEBL by inviting e-tenders as per provisions contained in the Procurement Manual 2017 and the provisions adopted from Stores Purchase Manual of Government of Kerala from time to time. Also, any directives of from Government of Kerala/Government of India /Other Central Agencies in connection with the public procurement and duly adopted by KSEBL are binding to all procurement in KSEBL.</p> <p>KSEBL is working as a corporate entity on commercial principles as per the provisions of Electricity Act, 2003 under the regulatory environment. In regulatory environment, performance of KSEBL is being scrutinized at every level especially providing good quality service to the public which needs materials availability in time.</p>
--	--	--	--	---

Remarks:

The Committee observes that delay in finalising purchase order after inviting tender led to price escalation of the project in this case. The Committee suggests that purchase order should be issued in time bound manner and recommends that the agreement should be executed within 15 days of issuing purchase order, to avoid such lapses in future.

Thiruvananthapuram,
1st February, 2024.

E. CHANDRASEKHARAN,
Chairman,
Committee on Public Undertakings.