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**TWELFTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2006-2008)**

**FIFTY THIRD REPORT**

(Presented on 17th March, 2008)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2008

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**On**

**Action taken by Government on the Recommendations  
contained in the Seventy Eighth Report  
of the Committee on Public  
Accounts (1998-2000)**

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## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf present the Fifty Third Report on Action taken by Government on the Recommendations contained in the Seventy Eighth Report of the Committee on Public Accounts (1998-2000).

The Committee considered and finalised this Report at the meeting held on March 11, 2008.

Thiruvananthapuram,  
17th March, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## **REPORT**

This Report deals with the action taken by Government on the recommendations contained in the Seventy Eighth Report of the Committee on Public Accounts (1998-2000).

The Seventy Eighth Report of the Committee on Public Accounts (1998-2000) was presented to the House on December 23, 1999. The Report contains six recommendations relating to Public Works Department. The Government were addressed on January 13, 2000 to furnish the statement of action taken on the recommendations contained in the Report and the final reply was received on 27-4-2006.

The Committee examined the statement at its meeting held on 19-8-2002 and 13-9-2006. The Committee further obtained certain clarifications on 13-11-2002 and 17-12-2003 while taking evidence on audit paras relating to PWD. The Committee was not satisfied with the statement of action taken by Government on recommendations No. 1 (Para No.3), No. 2 (Para No. 12), No. 4 (Para No. 21), No. 5 (Para No. 25) and No. 6 (Para No. 26) and decided to pursue it further. The recommendations, its reply and the further recommendations are included in Chapter I of this Report.

The recommendation which the Committee do not desire to pursue in the light of reply furnished by Government and the evidence tendered before the Committee at the meeting held on 17<sup>th</sup> December, 2003 are included in Chapter II of this Report.

## CHAPTER I

**Recommendations in respect of which the action taken by Government are not satisfactory and which requires reiteration**

## PUBLIC WORKS DEPARTMENT

**Recommendation***(Sl. No. 1, Para No. 3)*

1.1. The Committee notice that the improvement works of Unniyal-Murivazhizkka Road in Malappuram District was tendered at a time when there was a ban imposed by Government on new works. As such the Committee feel that the S.E. should have tendered the work only after obtaining special sanction from Government. Further the Committee note that the S.E. sought special sanction for the work in relaxation of the ban, in May 1984. But this was accorded by Government only on 23<sup>rd</sup> January 1985 i.e., after a period of 8 months. Government's plea that they were unaware of the fact that the tender was firm and was valid only up to 7<sup>th</sup> February, 1985 is not at all tenable. Moreover, the special sanction accorded by Government on 23<sup>rd</sup> January 1985 was endorsed to the S.E. by the C.E. only on 1<sup>st</sup> February 1985. It is more serious that the communication endorsed by the C.E. was despatched from the C.E.'s office only on 20-2-1985. The Committee cannot appreciate the attitude of the Government that the delay in the C.E.'s Office was due to administrative reasons. The Committee feel that if the Government and the C.E. had acted in a prudent manner the loss sustained by Government to the extent of Rs. 5.04 lakhs could have been avoided. The Committee recommend that stringent action should be taken against those responsible for the loss sustained by Government.

**Action Taken**

1.2. Even though the work was tendered in October 1984 in anticipation of special sanction the work was sanctioned to be taken up only by 23-1-1985 on receipt of required sanction. The liability of Rs. 5.04 lakhs estimated is due to non acceptance of a lowest offer received in the tender for a work for which the essential sanction was not in existence. The sanction was issued and communicated only after the expiry of three months out of the firm period fixed for the tender. The remaining period was less than a month during which the communication had to be routed through various levels after observing the administrative and official procedures by which the firm period was expired. While handling the correspondence relating to the communication, the incumbents may not be aware of the marginal period remaining for expiry of the

validity of the tender. Since the initial offer received in the tender was before 8 months of the said date the contractor may not have come forward to extend the firm period.

1.3. As the tender in question was for a work for which there was no sanction during  $\frac{3}{4}$  of the period of the validity of the tender, the stringent attitude for taking action against the incumbents responsible may please be got reviewed and the decisions in the recommendations may be dropped.

#### **Further Recommendation**

1.4. The Committee opine that loss occurred to Government because of the delay in tendering the work. The Committee recommend that necessary amendments should be made in the Manual for not repeating such instances in future. The Committee also reiterate that action should be taken against those officers responsible for the loss before retiring from service.

#### **Recommendation**

*(Sl. No. 2, Para No. 12)*

1.5. The Committee find that the department had not conducted a detailed study about the nature of soil and sub soil as required in the provisions contained in the Department Manual. Its bearing capacity has not been ascertained based on soil tests before commencement of the work eventhough they were quite aware of the fact that the building was to be constructed in the vicinity of a river. Flowing away of fine sand and soil erosion resulted in the development of cracks to the building which resulted in an additional expenditure of Rs. 2.34 lakhs. The Committee find serious lapse on the part of department and opine that lack of proper investigation is the main reason for incurring such loss to the exchequer. Therefore the Committee recommend that proper investigation and soil test should be conducted as stipulated in the Rules before entrusting the work. Responsibility should be fixed on the officers responsible for the faulty investigation and action taken against them to prevent similar instances in future. The Committee also recommend that the department should evolve measures if necessary, by setting up of independent units having unified command for soil testing and investigation at Thiruvananthapuram, Kochi and Kozhikode to avoid delay in investigation.

#### **Action Taken**

1.6. Kerala Engineering Research Institute, Peechi had conducted soil studies at the same compound within about 100 metres of the site in question in the year 1981 and found that the soil met with, is having a safe bearing capacity

of 13.4 Mt/m<sup>2</sup>. As the preliminary work for the construction of the building was started in the year 1982, there was no necessity for conducting another scientific soil test as other than that already conducted by Kerala Engineering Research Institute, Peechi, the foremost Government Institute dealing with all soil investigation, and tests. The result of 13.40 Mt./m<sup>2</sup> as Safe Bearing Capacity (SBC) had been arrived at by the above agency. Based on the S.B.C. the estimate was prepared and the plan and estimate were approved by Superintending Engineer, Buildings, North Circle, Kozhikode vide C.R. No. 61/83-84. Further, all the inspections after carrying out the works have revealed that cracks developed in the foundation were due to movement of water, soil and sand under the bed. So even if soil test at this point was done, the cracks would have developed due to these movements. As Safe Bearing Capacity of the soil and movement of the soil are two entirely different entities or characteristics, there was nothing abnormal in the design and no single officer can be held responsible for this as the cracks were not due to lack of investigation and soil test.

1.7. Nevertheless departmental action was taken against the officers responsible for the faulty investigation for the above work. As per G.O.(Rt.) 626/2000/PWD. Dated 28-6-2000 (enclosed as APPENDIX II) Government have also finalised the disciplinary action against 3 officers and ordered to recover amounts from the DCRG of the said persons as given below, and the recoveries have already been effected from their pensionary benefits.

Sri A. N. Sivarama Pillai, EE—Rs. 19950

Sri T. R. Ajayan, then AEE—Rs. 22470

Sri P. Haridas, then AE—Rs. 24660

1.8. With regard to the forming of 3 Soil Testing & Investigation Units, it is worthy to note that at present the soil testing and investigation works are done through the KHRI, Thiruvananthapuram, LBS Centre, Thiruvananthapuram and the various Government Engineering Colleges in the State by paying them testing charges. This system is going on well. Hence the forming of 3 independent Soil Testing and Investigation Units at Thiruvananthapuram, Kochi and Kozhikode as proposed by the PAC actually involves creation of posts, meeting of recurring salary expenditure, cost of testing machinery to be installed etc. In view of the financial difficulties experienced by the State, it appears that the formation of these new units is not economical and the continuance of the existing system is more desirable and advantageous.

### **Further Recommendation**

1.9. The Committee opine that if investigation is not done properly the liability is to be recovered from the officers who did the investigation and action should be taken against them.

### **Recommendation**

*(Sl. No. 4, Para No. 21)*

1.10. The Committee find that there is clear violation of the provisions of PWD Manual with regard to the awarding of work by including conveyance cost in the estimate. The Chief Technical Examiner had observed in 1986 that no appreciable load was involved in the conveyance by head load at the quarry and called for the financial implication of having included this element in the estimates prepared. In the two cases, referred to in the Audit Para eventhough the estimates were prepared in July 1985 and March 1986, the works were awarded only in November 1986 and February 1987 respectively. The additional commitment could have been avoided had the allowance on account of conveyance of materials at the time of preparation of estimates been reviewed with reference to the actual condition prevailing at the quarry site. The Committee recommend that the loss sustained by the Government shall be made good from the persons responsible for this omission.

### **Action Taken**

1.11. Following officers were found responsible for the loss sustained by Government towards additional commitment involved in connection with the construction of internal roads in Medical College Campus, Mulamkunnathukavu, Thrissur and extension of Mens' Hostel in Engineering College, Thrissur.

1. Sri Ayyappan, Assistant Executive Engineer (Rtd.)
2. Sri Joseph Francis, Executive Engineer (Rtd.)
3. Sri H. P. M. H. Farook, Superintending Engineer (Rtd.)

Show Cause Notices had been issued to the following officers for the recovery of liability.

1. Sri Ayyappan, Asst. Executive Engineer (Rtd.)—Rs. 67,200
2. Sri H. P. M. H. Farook, Superintending Engineer (Rtd.)—Rs. 67,200

1.12. Sri. Joseph Francis, Executive Engineer who was involved in both the works retired on 31-1-1990. Since he expired during 2000, the question of waiving off his liability of Rs. 33,600 is being examined.

**Further Recommendation**

1.13. The Committee recommend that provision is to be made to recover the liability from the family of the accused officer who expired. If not possible, action should be taken against the officers who caused delay in the investigation.

**Recommendation**

*(Sl. No. 5, Para No. 25)*

1.14. The Government had issued an order in 1972 on the basis of the High Court verdict which empowers the department to initiate action within one year in the event of a contractor leaving the work incomplete. It was deposed before the Committee that the loss could be assessed only after the work has been rearranged and after the completion of the entire work. The Committee suggest to consider the possibilities for assessing the loss according to the scheduled at the time of termination of work or to consider the rate of similar contracts signed during that particular quarter or a month. The Committee also recommend that average of the percentage at which similar abandoned works are rearranged should be taken into account to fix the liability of the contractor and directed to include provisions to this effect in the PWD Manual or else, necessary provisions are to be included in the agreement to recover the additional expenditure incurred by the department from the first contractor himself, if the work was abandoned by him and completed by another contractor.

**Action Taken**

1.15. Assessment of loss according to the schedule of rate at the time of termination of contract or to consider rate of similar contract signed during a particular quarter or a month will not be feasible and it will lead to prolonged litigation. Specific condition can be incorporated in the agreement to recover the additional expenditure incurred by the department from the first contractor of the work if willfully abandoned by him and got completed by another contractor.

**Further Recommendation**

1.16. The Committee opine that if the tender is to be cancelled it should be done and necessary steps have to be taken to re-tender the work within one year and provision should be made in the Manual to recover the amount of loss from the officers who caused delay in taking action.

**Recommendation**

*(Sl. No. 6, Para No. 26)*

1.17. The Committee observe that Revenue Recovery Proceedings against the contractor could not be initiated for want of assets in his name and explanation has not been called for from the officers responsible. The Committee recommend to find out a permanent solution to such problems and to issue orders so as to avoid recurrence of similar irregularities in future. The Committee also direct to take serious note of the audit objections.

**Action Taken**

1.18. There are manifest anomalies in the present system of registration of contractors and awarding works thereon. 'A' class contractors who deposit 1lakh rupees are to take up works without any monetary limit. 'B' class contractors depositing Rs. 50,000 can tender for works upto 55 lakhs. There is neither effective mechanism to verify the financial stability of the contractor nor it is insisted upon. The defaulted contactors have nothing to loose but the security deposit of the work or a debarment. In the absence of sufficient collateral security the loss sustained to Government cannot be realised. The Committee may consider that in future, for registration of contractors, in addition to each deposit, the contractors may be asked to furnish sufficient collateral security.

**Further Recommendation**

1.19. The Committee recommend that while executing work agreement, at least 5% of the total amount of the work is to be deposited by the contractor as collateral security.

## CHAPTER II

**Recommendations which the Committee do not desire to pursue in the light of the reply furnished by Government**

## PUBLIC WORKS DEPARTMENT

**Recommendation***(Sl. No. 3, Para No. 16)*

2.1. Public Works Department Manual stipulates that when doubt arises with regard to the amount, the amount written in words should only be taken into account. The Committee notice that deliberate attempts had been made to cheat the department in this case. The Committee recommend to incorporate necessary provision in the P.W.D. Manual to initiate action against such fraudulent deeds of some contractors.

**Action Taken**

2.2. As per the proposed revised edition of Kerala P.W.D. Code 1997, steps have been taken to plug loop holes in the tendering system.

2.3. The following provisions have been incorporated in the proposed revised edition of the Kerala P.W.D. Code, "If there is difference between the rates quoted in figures and in words the rates quoted in words will alone be considered for tabulation and the officer will note in the tender in his own hand the rate to be considered for evaluation of tender". In future such deliberate attempt to cheat the department will not materialise once the revised code comes into effect.

2.4. The Committee obtained clarification from the officers of the Public Works Department at its meeting held on 13<sup>th</sup> November 2002 and 17<sup>th</sup> December 2003 while taking evidence on audit paras. At the meeting held on 17<sup>th</sup> December 2003, the concerned Secretary to Government informed that the department had already initiated extensive study for a thorough revision of Public Works Code.

2.5. In the light of the evidence tendered by the concerned Secretary to Government, the Committee decided not to pursue the recommendation further.

ARYADAN MUHAMMED

Thiruvananthapuram,  
17th March, 2007.

*Chairman,  
Committee on Public Accounts.*

## APPENDIX I

**Summary of main conclusions/Recommendations**

<i>Sl. No.</i>	<i>Para No.</i>	Department Concerned	Conclusion/Recommendation
1	1.4	Public Works Department	The Committee opine that loss occurred to Government because of the delay in tendering the work. The Committee recommend that necessary amendments should be made in the Manual for not repeating such instances in future. The Committee also reiterate that action should be taken against those officers responsible for the loss before retiring from service.
2	1.9	„	The Committee opine that if investigation is not done properly the liability is to be recovered from the officers who did the investigation and action should be taken against them.
3	1.13	„	The Committee recommend that provision is to be made to recover the liability from the family of the accused officer who expired. If not possible, action should be taken against the officers who caused delay in the investigation.
4	1.16	„	The Committee opine that if the tender is to be cancelled it should be done and necessary steps have to be taken to re-tender the work within one year and provision should be made in the Manual to recover the amount of loss from the officers who caused delay in taking action.
5	1.19	„	The Committee recommend that while executing work agreement, at least 5% of the total amount of the work is to be deposited by the contractor as collateral security.

## APPENDIX II

## GOVERNMENT OF KERALA

**Abstract**

**Public Works Department—Irregularities in the work of construction of  
New Block for Government College, Chittoor—Disciplinary action against  
Shri T. R. Ajayan, formerly Assistant Executive Engineer (Retired)  
and Shri Haridas formerly Assistant Engineer  
(Retired)—Finalised—Orders issued**

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PUBLIC WORKS (F) DEPARTMENT

G.O. (Rt.) No. 626/2000/PWD          Dated, Thiruvananthapuram 28th June, 2000.

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- Read :*
1. Inspection report No. 22394/FIW.C2/87/Fin. dated 16-9-1989 from the Finance (Inspection Wing—Technical) Department.
  2. Memo of Charges No. Vig.3-41419/88 dated 21-2-1991 served on Shri T. R. Ajayan formerly Assistant Executive Engineer and Shri P. Haridas, formerly Assistant Engineer (Retired).
  3. G.O. (Rt.) No. 1691/94/PW&T dated 22-9-1994.
  4. Letter No. Vig.6/41419/91 dated 18-11-1999 and 12-6-2000 from the Chief Engineer (Administration) PWD, Thiruvananthapuram.
  5. Show Cause Notice No. 55180/F3/89/PWD dated 18-4-2000 served on Shri T. R. Ajayan formerly Assistant Executive Engineer and Shri P. Haridas formerly Assistant Engineer.
  6. Reply dated 18-5-2000 to the Show Cause Notice filed by Shri T. R. Ajayan formerly Assistant Executive Engineer.
  7. Replay dated 24-5-2000 to the Show Cause Notice filed by Shri P. Haridas formerly Assistant Engineer.

## ORDER

Based on an allegation petition regarding irregularities in the work of construction of the New Block for Government College, Chittoor, Finance (Inspection Wing-Technical) Department conducted an inspection which revealed that there were serious irregularities in the construction of the above work and Government had sustained a loss of Rs. 1,65,402 in this work. The following Officers were identified responsible for the irregularities.

- (i) Shri P. N. Sivarama Pillai, the then Executive Engineer (Retired as Superintending Engineer).

- (ii) Shri T. R. Ajayan, Assistant Executive Engineer.
- (iii) Shri P. Haridas, Assistant Engineer.

Disciplinary action against Shri T. R. Ajayan formerly Assistant Executive Engineer and Shri P. Haridas formerly Assistant Engineer was initiated by the Chief Engineer (Administration), Public Works Department. Accordingly they were charge sheeted by the Chief Engineer as per Memo of charges read as 2nd paper above. As Shri P. N. Sivarama Pillai formerly Executive Engineer was involved in the case it was later decided that disciplinary action against the accused officers may be taken at Government level. The disciplinary action against Shri P. N. Sivarama Pillai formerly Executive Engineer was finalised as per Government Order read as 3rd paper above by ordering recovery of an amount of Rs. 19,959 being this proportionate share of loss from his DCRG.

Shri T. R. Ajayan formerly Assistant Executive Engineer and Shri P. Haridas, formerly Assistant Engineer have filed their defence statement in the matter. Government have examined their contentions in detail on consultation with Chief Engineer (Administration) PWD. It is revealed that the actual thickness of the raft slab is 10 cms as against 15 cms recorded in the M.Book. There was also short usage of cement. The enquiry report of the Chief Technical Examiner had revealed that there were supervisory lapse on the part of the officers who were in charge of execution of the work. The Assistant Executive Engineer and Assistant Engineer ought to have observed the difference in the thickness of the raft slab at the time of recording the measurement in the M. Book/check measurement. This was not done by Shri T. R. Ajayan, Assistant Executive Engineer and Shri P. Haridas, Assistant Engineer. It was also noticed that they have thoroughly failed to execute the work as per specification. Had there been no inspection, the irregularities and consequent loss might have gone unnoticed. Therefore it was tentatively decided to recover the proportionate share of liability from their DCRG under Rule 3 Part III KSRs. The total loss sustained by Government on this account was assessed as Rs. 56,166 and the proportionate share of liability of Shri T. R. Ajayan formerly Assistant Executive Engineer was assessed as Rs. 22,470 and that of Shri P. Haridas formerly Assistant Engineer as Rs. 24,660. Accordingly they were served with Show cause notice to state as to why their proportionate share of liability should not be recovered from their DCRG as stipulated under notes 2 & 3 and Ruling 3; Rule 3, Part III, KSRs.

Shri T. R. Ajayan, formerly Assistant Executive Engineer and Shri P. Haridas, formerly Assistant Engineer in their replies to the Show Cause Notice read as 6th and 7th paper above have not put forward any valid arguments warranting any review of the tentative decision taken by Government.

In the above circumstances Government confirming the tentative decision taken in the matter order that an amount of Rs. 22,470 and Rs. 24,660 be recovered from the DCRGs of Shri T. R. Ajayan Executive Engineer (Retired) and Shri P. Haridas, Assistant Engineer (Retired) under provisions of note 2 and 3 Ruling; Rule 3 part III KSRs. The Chief Engineer (Administration), Public Works Department will forward necessary proposals to the Accountant General, Kerala, Thiruvananthapuram/Thrissur for effecting the recovery from the DCRGs of the retired officers.

By order of the Governor

T. K. GOMATHY,  
*Joint Secretary to Government.*

To

The Chief Engineer (Administration), PWD, Thiruvananthapuram.

The Accountant General (A&E) (Audit), Thiruvananthapuram.

Shri T. R. Ajayan, Executive Engineer (Retired), Joshila, West Yakkara, Palakkad-678 001.

Shri P. Haridas, Assistant Executive Engineer (Retired), V/705, 'Dheepdhin', Ramanathapuram, Palakkad-678 001.

The Chief Technical Examiner (vide U.O. 10187/FIW,C2/99/Fin. dated 22-12-1999.

The Public Works (A) (B) Department.

Stock file/O.C.

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