

## Chapter-III

### COMPLIANCE AUDIT OF PRIs

#### 3.1 Misappropriation in Birsing Jarua Anchalik Panchayat

*An amount of ₹8.54 lakh was misappropriated by the Executive Officer, Birsing Jarua, Anchalik Panchayat by withdrawing the amount through self cheque without recording it in the Cash Book.*

Sub-rule 4(e) under Rule 8 of the Assam Panchayat (Financial) Rules, 2002 provided for preparation of separate memorandum to be recorded in the last page of each month of the Cash Book showing reconciliation of bank account which shall be signed with date by the Executive Officer (EO) of the Anchalik Panchayat (AP). Further, Rule 95 of the Assam Financial Rules (AFR) provides that Drawing and Disbursing Officer (DDO) is personally responsible for accounting of all money received and disbursed and for the safe custody of cash.

Test check (December 2014) of records of the EO, Birsing Jarua AP, Dhubri revealed that the incumbent EO during the period from 6.2.2006 to 28.9.2007 recorded transactions of Indira Awas Yojana (IAY), in the Cash Book maintained for IAY, till 31.3.2007. Closing balance as per Cash Book of IAY as on 31.03.2007 was ₹8,60,735 (Cash column: ₹599 and Bank column: ₹8,60,136). Thereafter, no transaction was recorded in the Cash Book till his leaving the office on 28.9.2007. The succeeding EO after taking over charge unilaterally on 29.09.2007 (no formal handing over of charge) opened a subsidiary Cash Book on 17.10.2007 with opening balance of ₹24,167 (derived from actual balance in bank as on 17.10.2007). Thus, there was a shortage of ₹8,36,568 in the opening balance as on 17.10.2007.

Detailed scrutiny of Bank Pass Books of EO, Birsing Jarua AP in respect of IAY Scheme revealed that an amount of ₹8.54 lakh was withdrawn through five self cheques during the period from 1.4.2007 to 28.9.2007 as detailed in the following **Table 3.1**:

**Table 3.1: Details of amount withdrawn through self-cheques**

Sl. No.	Name of the Bank	Account No.	Date	Bank Pass Book	
				Cheque no	Debit
1	PragjyotishGaonlia Bank, Dhubri (S/B)	8159/28	03.04.2007	292641	2,22,000
			03.07.2007	292642	65,000
2	Central Bank, Dhubri (S/B)	5408	05.04.2007	292288	67,000
			05.04.2007	292289	2,50,000
			05.04.2007	292290	2,50,000
<b>Total</b>					<b>8,54,000</b>

Audit observed that though ₹8.54 lakh was withdrawn from banks on different dates, it was neither recorded in any Cash Book nor any expenditure details were available on records. The incumbent EO, Birsing Jarua, AP stated that during audit neither any Cash Book nor any expenditure details/vouchers were available for the period from 01.04.2007 to 16.10.2007. Further, as per report submitted (December 2009) by the succeeding EO to the Project Director (PD), District Rural Development Authority (DRDA), Dhubri, 37 IAY dwelling

units were not constructed by his predecessor though money for the purpose was received by him during 2006-07. However, no FIR was lodged by the PD, DRDA, Dhubri.

Thus, it is transpired from above that the EO misappropriated ₹ 8.54 lakh, meant for IAY beneficiaries, by withdrawing the amount from bank without recording it in the Cash Book. Further, the beneficiaries were also deprived of the intended benefit of the scheme to that extent.

In reply to audit observation, the Joint Director, Panchayat and Rural Development, Assam submitted (July 2015) a preliminary report stating that the concerned EO was suspended (May 2010) and departmental enquiry was initiated against him. As the enquiry officer could not prove the charges leveled against EO, he was reinstated in the service (June 2013). Though the Joint Director furnished (August 2015) detailed report of investigation along with related documents, scrutiny of those documents revealed many discrepancies<sup>41</sup> which were overlooked by the Investigating Officer.

Moreover, neither any whereabouts of the Government fund was mentioned in the report nor any bills, vouchers *etc.*, were available in the records of Birsing Development Block.

The matter was reported to the Government in August 2015; their reply has not been received (December 2015).

### 3.2 Unfruitful expenditure in Ghilamara Anchalik Panchayat

*An expenditure of ₹42.85 lakh incurred by the Executive Officer (EO), Ghilamara AP on eight plantation works under Mahatma Gandhi National Rural Employment Guarantee Act, (MGNREGA), was unfruitful as the works remained incomplete.*

The Deputy Commissioner & Ex-Officio District Programme Coordinator, MGNREGA, Lakhimpur, sanctioned (August 2010) an amount of ₹ 124.50 lakh for eight plantation scheme under MGNREGA in Ghilamara AP with an objective to generate employment and to encourage common people in the locality for plantation of *sum*<sup>42</sup>, bamboo and pineapple as an additional support to their livelihood. As per sanction order, the works were to be completed in all aspects within 45 days of release of fund. The project was expected to generate 58060 mandays of employment. The Project Director (PD), District Rural Development Agency (DRDA), North Lakhimpur (NL), released (August 2010 to June 2011) ₹42.85 lakh only to Ghilamara AP for the plantation works which was utilised fully for development of the land prior to plantation.

Test check of records of the Executive Officer (EO), Ghilamara AP revealed that ₹ 42.85 lakh was utilised for making material payments and wage payments while developing the land prior to plantation of seeds/seedlings. However, all the works remained incomplete till the date of audit (February 2014) as work ranging from 21 to 51 *per cent* only could be executed as balance fund was not released by PD, DRDA, North Lakhimpur. The details of fund

<sup>41</sup> 1. Invoices were issued with continuing serial numbers between 8.03.2007-13.04.2007.

2. Overwriting were being made in the dates by using correcting fluid.

3. No dates were mentioned in any of the APRs relating to IAYs beneficiary's payment.

4. There was no mention regarding stock certificate on the body of the invoices and there is no record whether the bill had been passed for payment and payment made accordingly.

<sup>42</sup>Sum is a kind of tree mainly used for making of furniture.

sanctioned, released and percentages of physical progress of the works are shown in the Table 3.2 below:

**Table 3.2: Details of financial and physical progress of the plantation works**

(₹ in lakh)

SL.No	Name of the work	Fund Sanctioned	Fund released	Date of start	Fund utilised	Physical progress (per cent)	Fund not yet released
1	Sum plantation at Bilmukh Grazing Pathar	18.74	7.00	08/10/2010	7.00	38	11.74
2	Bamboo & Sum plantation at Konwarbari Goheinbari	18.74	8.00	-	8.00	42	10.74
3	Sum plantation at Putumala	18.74	4.00	08/10/2010	4.00	21	14.74
4	Sum plantation at Bharat Chuk	8.70	3.45	13/10/2010	3.45	40	5.25
5	Sum plantation at AlimurChapori	8.70	3.45	13/10/2010	3.45	40	5.25
6	Pineapple & Sum plantation at Ayengia Gaon & Ayengia Grazing	13.40	6.95	15/04/2010	6.95	51	6.45
7	Sum plantation at BaghmaraGaon	18.74	5.00	08/10/2010	5.00	26	13.74
8	Bamboo & Sum plantation at No. 1 Parghat	18.74	5.00	08/10/2010	5.00	26	13.74
	<b>Total</b>	<b>124.50</b>	<b>42.85</b>		<b>42.85</b>		<b>81.65</b>

In reply to audit query, the EO, Ghilamara, AP stated (February 2014) that the works were taken up as per the Annual Action Plan for the year 2010-11 but as the funds were not released, the works remained incomplete and they were of no use to the beneficiaries as no plantation was done on the developed lands.

As the developed lands were not maintained, it also became barren as depicted in the following pictorial evidence collected from Ghilamara AP.



The EO, Ghilamara stated that even after repeated request for release of the balance fund, the PD, DRDA did not release the balance fund against the eight plantation scheme.

In reply to audit query, the PD, DRDA, Lakhimpur stated (August 2015) that the balance funds against the scheme could not be released as funds were not available at that time. He further stated that the balance funds would not be released as the works were already closed.

The reply is not tenable as the Administrative Approval for ₹ 124.50 lakh against the works were accorded by the PD, DRDA, Lakhimpur as per the perspective plan for 2010-2011. Further, scrutiny of the fund received and expenditure statement of the PD, DRDA, Lakhimpur under MGNREGA for 2010-2011 revealed that an amount of ₹ 1017.58 lakh was available with the PD, DRDA, Lakhimpur at the end of 2010-2011.

Thus, inspite of availability of funds it was not released resulting in unfruitful expenditure of ₹42.85 lakh. The objectives of the works were unfulfilled as only 26,822 mandays of employment were generated against expected 58,060 mandays. Moreover, the other objective of attaining livelihood for the common people of the locality also remained unfulfilled. As the works had already been closed, the expenditure on plantation was unfruitful.

The matter was reported to the Government in August 2015; their reply has not been received (December 2015).

### 3.3 Unfruitful expenditure in Bahir Salmara Gaon Panchayat

*Expenditure of ₹24.66 lakh on Protection work was unfruitful as the work remained incomplete and abandoned.*

One of the primary objectives of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) is to provide at least 100 days of guaranteed wage employment in a financial year to every rural household whose adult members volunteer to do unskilled manual work. Further, creation of durable assets and strengthening the livelihood resource base of the rural poor is also an important objective of the scheme. For effective implementation of any project under the scheme, Administrative Approval (AA) should be accorded only after ensuring availability of funds. Further, as per Rule 36 (2) of Assam Panchayat (Financial) Rules 2002, Technical sanction (TS) is to be obtained from the concerned Department i.e., PWD in case of construction of Roads and Culverts, from Irrigation Department in case of irrigation works and Public Health Engineering (PHE) Department in case of water supply schemes where the estimate of the work is more than ₹ 50,000, ₹ 20,000 and ₹ 10,000 in case of ZP, AP and GP respectively.

Project Director (PD), District Rural Development Agency (DRDA), Dhubri accorded (January 2010) AA of ₹ 73.99 lakh for implementation of the scheme<sup>43</sup> namely “Protection at Salmara Pt-V river bank at Gauranga from Abdul Kader house towards Jharnarchar Pt-I Sadurchar under MGNREGS”. AA was given on the basis of the proposal submitted by Gram Sabha for the year 2009-10 under NREGS. This was as per the perspective plan under NREGA of Dhubri district for 2009-10. This scheme was to generate 47,368 mandays of work in that area besides protection of Salmara Pt-V river bank of Gauranga area to save the area and the adjacent cultivated land of the economically backward locality from erosion.

Test check of records of the office of Secretary, Bahir Salmara GP revealed that inspite of having a budget of ₹ 16.39 lakh and ₹ 42.00 lakh for 2009-10 and 2010-11 respectively, PD, DRDA released only (between January 2010 and December 2011) ₹ 24.66 lakh in five instalments for the first five phases. The project was stopped in February 2012, without any recorded reason, after completion of 34 per cent of the work. The work remained abandoned since then as balance fund was not released by PD, DRDA, Dhubri. The Secretary, Bahir Salmara GP stated that major portion of the executed work was also gradually washed out by the river Gouranga and it never served the purpose of its construction.

<sup>43</sup>Components of the scheme-

1. Bank trimming.
2. Earth work by head load for road cum bundh.
3. Turfing.
4. RCC Porcupine.

Audit observed that instead of obtaining TS for the work valuing ₹ 73.99 lakh from the Public Works Department (PWD), the estimate was split up into 15 parts of ₹ 4.93 lakh each and technically sanctioned (TS) by the Executive Engineer, DRDA, Dhubri. In reply to an audit query, the PD, DRDA stated (June 2015) that the estimate was split up into 15 parts for according TS as sending the estimate to PWD for according TS takes time. He further stated that such huge fund against the scheme could not be released as available fund was to be disbursed to other GPs also (total 168 GPs). The reply was not tenable as the AA for ₹ 73.99 lakh against the scheme was accorded by the PD, DRDA, Dhubri as per the perspective plan for 2009-10. Further, splitting the estimate was in gross violation of the Financial Rules. As the scheme had already closed and since it was not included in the subsequent year's Annual Action Plan (AAP), there was no scope for release of balance fund. Thus, splitting of estimates and release of funds in piece meal basis was in violation of financial rules. Further, despite availability of funds, an insufficient amount of ₹ 24.66 lakh was released rendering the objective of the scheme unfulfilled as only 16,300 mandays were generated against expected 47,368 mandays. Further, the protection work of Salmara Pt-V river bank of Gauranga river also could not be achieved.

The matter was reported to the Government in August 2015; their reply has not been received till December 2015.

### **3.4 Avoidable extra expenditure in Darrang Zilla Parishad**

*Due to allowance of 10 per cent Contractor's profit in the estimate for the works executed departmentally, the Darrang Zilla Parishad incurred an avoidable extra expenditure of ₹ 43.72 lakh.*

As per Assam Public Works Department (APWD) (Roads/Buildings) Schedule of Rates (SOR), 2010-11 all items of civil works include 10 per cent contractor's profit over the cost of material and wages of labourers. However, when works are executed departmentally, without engaging contractors, the contractor's profit element is to be deducted from the estimated cost.

Government of Assam, Panchayat and Rural Development Department (P&RDD), accorded sanction and released (between March 2012 and December 2013) ₹ 3.44 crore to Darrang Zilla Parishad (ZP) for construction of 43 Community Halls under 13<sup>th</sup> Finance Commission for 2011-12. The estimates of the above works were prepared by the Junior Engineer, PWD (Building), Mangaldoi and approved by the Superintending Engineer, PWD, Tezpur Building Circle. The estimates were prepared on the basis of Assam PWD (Roads/Buildings) Schedule of Rates (SOR), 2010-11. The works were executed departmentally under the supervision of the technical officials of the Department and ₹ 3.22 crore, which included contractor's profit of ₹ 31.27 lakh, were paid to construction committee (February 2014).

Test check (February 2014) of the records of Darrang Zilla Parishad (ZP) and subsequent collection (June 2015) of information revealed that Darrang Zilla Parishad had not deducted 10 per cent contractor's profit from the payment made, thereby incurring avoidable extra expenditure of ₹ 31.27 lakh.

Similarly, 83 works valuing ₹ 1.37 crore were executed departmentally by the Darrang ZP under 4<sup>th</sup> Assam State Finance Commission for the year 2011-12 but element of contractor's profit amounting to ₹ 12.45 lakh was not deducted from the payment made.

As 10 per cent contractor's profit element was not deducted from the value of works executed departmentally, it resulted in avoidable extra expenditure of ₹ 43.72 lakh (₹ 31.27 lakh + ₹ 12.45 lakh).

The matter was reported to Government in July 2015; their reply has not been received (December 2015).

### 3.5 Undue Financial Benefit to the contractor in Dhubri Zilla Parishad

*Dhubri Zilla Parishad (ZP) failed to impose penalty as per agreement for delay in completion of the 89 works in Dhubri thereby extending undue financial benefit of ₹ 45.30 lakh to the contractor.*

Finance Department, Government of Assam (GoA) sanctioned (March 2012) ₹ 758.90 lakh for 117 works consisting of Construction of Multipurpose hall for Anchalik Panchayat (AP), extension of AP and Gaon Panchayat (GP) building and construction of staff quarters of the AP & GP under the award of Fourth Assam State Finance Commission (4<sup>th</sup> ASFC) during the year 2011-12 for Dhubri ZP. CEO, Dhubri ZP issued (between July 2012 and November 2013) work orders to 48 contractors for the aforementioned works in GPs and APs with an instruction to complete the work within a specified period of time, as shown in **Appendix XIII**.

As per clause 2 of the agreement, the contractor was liable to pay compensation amount equal to one per cent or such smaller amount as the Chairman may decide on the estimated cost of the whole work for every day that the due quantity of works remain incomplete, provided always that the entire amounts of compensation to be paid under the provisions of the clause shall not exceed 10 per cent of the estimated cost of the work, as shown in the tender.

Test check (November 2014) of records of the CEO, Dhubri ZP revealed that none of the 117 works was completed in time and delay in completion was ranging from two to 710 days. However, in 99 works as detailed in **Appendix XIII** the Dhubri ZP ignoring the agreement clause made full payment to the contractors without invoking any compensation for delay. The estimated costs of those 99 works were ₹ 4.58 crore and as per agreement the delay attracted a compensation of ₹ 45.30 lakh<sup>44</sup> against the contractors as detailed in the **Appendix XIII**.

Thus, failure of the Dhubri ZP to impose penalty for delay in completion of the project resulted in undue financial benefit to the contractors to the tune of ₹ 45.30 lakh.

The CEO, Dhubri ZP stated (June 2015) that penalty on the contractors for delay in completion of works was not imposed due to ignorance. However, the reply is not tenable as compensation clause was very much part of the agreement.

The matter was reported to the Government in July 2015; their reply has not been received (December 2015).

<sup>44</sup>As specific amount of compensation was not fixed by the Chairman of the ZP, compensation was calculated as per terms of contract i.e. one per cent of the total value of the work for each day of delay subject to maximum 10 per cent of the total value of the work.

### 3.6 Unfruitful expenditure in Matia Anchalik Panchayat

*Expenditure of ₹25 lakh on the construction of Bharat Nirman Rajiv Gandhi Sewa Kendra remained unfruitful due to the estimate not being adhered to and the project not being monitored during execution.*

Ministry of Rural Development, Government of India (GoI) included construction of Bharat Nirman Rajiv Gandhi Sewa Kendra (BNRGSK) in scope of permissible works under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) to provide space to facilitate the functioning of the MGNREGA office at the GP/Block level and to function as Knowledge Resource Centre so that citizens can have access to information on MGNREGA and other Rural Development Programmes.

Accordingly, the District Programme Coordinator, MGNREGA, Goalpara accorded approval (July 2010) for an amount of ₹25 lakh along with a model estimate for construction of BNRGSK at Matia Development Block under MGNREGA during 2010-11. While releasing (July 2010) the fund, the Project Director (PD), District Rural Development Agency (DRDA), Goalpara instructed the Block Development Officer (BDO) to utilise the fund in consultation with the Assistant Project Officer, Technical {APO (T)}, DRDA, Goalpara, who was entrusted with the supervision of the scheme. Further, the BDO was directed to submit Utilisation Certificate (UC) immediately after 60 per cent utilisation of the fund which is to be substantiated by details of progress of work given in the form of MIS<sup>45</sup> and next installment of fund was to be released only on submission of the UC.

Scrutiny (January 2014) of records of the BDO, Matia AP revealed that though approval was accorded in July 2010, construction work started only in February 2011. The sanctioned amount of ₹25 lakh was released at one go and UCs were not followed up. The amount exhausted by March 2012 on completion of only 70 per cent (approximately) of the work. Photographs taken (January 2014) in presence of the Executive Officer (EO), Matia AP revealed incomplete state of the project.



Photographs of BNRGSK taken during Joint physical verification by audit on 05.01.2014

The EO, Matia AP could neither furnish copy of estimate nor could he produce any other related records *viz.*, Measurement Books, Muster Roll, Suppliers' Bills, vouchers, Actual Pay Receipts (APRs), *etc.*, in support of the expenditure of ₹25 lakh during audit and even after

<sup>45</sup>MIS- Management Information System.

subsequent requisitions (July and August 2015). Further, neither any work was executed since April 2012 nor was any action taken by the EO, Matia AP to get additional fund for completing the project. Following photograph of the BNRGSK furnished (August 2015) by EO, Matia AP shows that the project still remained incomplete.



Photographs furnished (August 2015) by EO, Matia AP showing incomplete state of BNRGSK

Audit observed that failure on part of the EO/BDO, Matia AP to adhere to the estimate and not following the directions issued (July 2010) by the PD, DRDA, Goalpara while releasing the fund led to exhaustion of fund before completion of the work. No Inspection Report was received from the APO (T) of DRDA, Goalpara to indicate that he had supervised and monitored the progress of the project.

After being pointed by audit (September 2015), PD, DRDA, Goalpara directed (October 2015) BDO, Matia AP to submit a detailed report regarding utilisation of fund released from DRDA for construction of BNRGSK. No such report was submitted by BDO, Matia AP.

Thus, due to lack of monitoring by PD, DRDA, Goalpara and the EO, Matia AP, not adhering to the estimates, the project remained incomplete for more than five years even after exhaustion of the whole fund for the project resulting in unfruitful expenditure of ₹ 25 lakh. Besides, the common people of the area were deprived from the intended benefits of the project. The chance of completion of the project was also remote as there was no scope for release of additional fund for the project as stated (August 2015) by the EO, Matia AP.

The matter was reported to the Government in August 2015; their reply has not been received (December 2015).

### **3.7 Undue financial benefit to lessees and loss of Government revenue by not registering the lease deed by PRIs**

*Undue financial benefit extended to lessees by PRIs by not enforcing the registration of lease deed while leasing out markets, fisheries etc., resulted in loss of Government revenue of ₹61.20 lakh.*

As per Rule 47, sub-rule 11 and 16 of Assam Panchayat (Financial) Rules, 2002, the successful bidder within seven days of acceptance of the bid for settlement of markets, ferries, fisheries, ponds *etc.*, shall deposit with the Panchayat concerned not less than 30 *per cent* of his quoted amount as security and accept a duly stamped lease. The Panchayat shall provide the form of lease and stamp paper at the concerned lessees cost. The Panchayat shall also take step to register every lease. Further, as per the Indian Stamp (Assam Amendment) Ordinance, 2008, stamp duty at the rate of five *per cent* in case of women and

six per cent in case of others of the value of the deed instrument is leviable on all deeds along with registration fees as detailed in **Appendix XIV**.

Test check of records of six<sup>46</sup> PRIs revealed that during 2006-07 to 2013-14, the PRIs invited tenders to lease out markets/fisheries *etc.*, and accordingly, 362 markets/fisheries were leased out during the period involving settlement value of ₹4.59 crore.

Audit observed that the PRIs while leasing out the markets/fisheries took no action to enforce the above mentioned provision of the Act and none of the deeds for settlement of the markets/fisheries were registered paying applicable registration fee and stamp duty. Thus, the PRIs extended undue financial benefit to the lessees besides causing loss of Government revenue to the extent of ₹61.20 lakh (Registration fees ₹33.66 lakh and cost of stamp paper ₹27.54 lakh) as detailed in the **Appendix XIV**.

Accepting the audit observation, the Chief Executive Officer (CEO) of Dhubri ZP and EOs of Matia AP, Lahowal AP and Binakandi AP stated that steps would be taken to register the deeds in future as well as to realise applicable fees from the leases. However, the manner in which fees would be realised from leases which had already expired had not been stated. While EO, Ruposhi AP did not furnish any reply, CEO, Morigaon ZP stated (May 2014) that the matter would be taken up with the Government for exemption of Stamp Duty and Registration Fee as the documents were made in favour of Government. The reply is not tenable as the lessees were not Government entities.

The matter was reported to Government in August 2015; their reply had not been received (December 2015).

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<sup>46</sup>Dhubri ZP, Morigaon ZP, Binnakandi AP, Lahowal AP, Ruposhi AP, Matia AP