

CHAPTER VIII

OTHER IMPORTANT CASES

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Kolkata Municipal Corporation

8.1 Insufficient efforts in collection of property tax from the Institute of Neurosciences, Kolkata - ₹ 2 crore

Kolkata Municipal Corporation did not collect arrears of property tax amounting to ₹ 2 crore from the Institute of Neurosciences, Kolkata, in respect of land measuring about 32 *kottahs*. On the contrary, the Municipal Corporation exempted the Institute from payment of property tax for five years in violation of law in force.

In pursuance of a Memorandum of Understanding (MoU) signed on 27 April 2005, Kolkata Municipal Corporation (KMC), Government of West Bengal (GoWB) and Neurosciences Foundation (NF), Bengal agreed to form a joint venture company for establishment of a centre for neurological sciences in Kolkata. Accordingly, the Institute of Neurosciences, Kolkata (INK), a company under Section 25 of the provisions of the Companies Act, 1956 was incorporated on 26 August 2005. In October 2005, KMC allotted a piece of land measuring about 32 *kottahs*³⁹ together with structures and sheds standing thereon to INK on lease for 33 years. As per terms of allotment, INK agreed to provide –

- (a) 8 *per cent*⁴⁰ of total beds free of cost every year to the KMC employees, Councillors and others upon recommendation of the Corporation and in case free beds are not available or not required by the Corporation, INK should pay the Corporation the amount equivalent to bed charges;
- (b) free treatment to patients with brain and / or spinal injuries, recommended by the Corporation (in view of poor economic condition of patients belonging to Below Poverty Line families), up to an amount of ₹ 20 lakh⁴¹ per annum.

As per section 172(1)(b)(ii) of the KMC Act, 1980, the Mayor-in-Council may exempt from the property tax any land or building exclusively used for the purpose of public charity or for the purpose of medical relief to or education of the poor, free of charge. Since INK did not provide the medical facilities ‘free of charge’ to all, it was not entitled for exemption from property tax. As per records of KMC, property tax of ₹ 2 crore was due against the land for the period from

³⁹ One *kottah* or *katha* equals to 720 sqft.

⁴⁰ After allotment of additional land measuring about 16 *kottahs*, the percentage was enhanced to 12 in February 2009.

⁴¹ After allotment of additional land measuring about 16 *kottahs*, the amount was increased to ₹ 30 lakh in February 2009 and the amount to be enhanced by 10 *per cent* in every six years or as may be decided jointly by KMC and INK.

January 2006 to December 2008. Although INK agreed to pay municipal taxes, it did not pay the same till June 2014.

Besides, the building plan on land was sanctioned on 3 March 2006. Out of ₹ 1.66 crore charged as building sanction fee, INK paid only ₹ 0.50 crore. The reasons for non-payment of the remaining amount of ₹ 1.16 crore was not explained to Audit. The Executive Engineer (Building) under Borough VI of the KMC area, however, issued completion certificate on 1 March 2010 for the building erected on the said land. But, KMC did not assess / revise the property tax on 32 *kottahs* of land even after the erection of building. Audit further noticed that considering the prayer⁴² of INK for waiving all statutory fees, KMC exempted⁴³ the Institute from payment of property tax for five years (without specifying the date from which the period of five years would commence).

Thus, KMC did not collect arrears of property tax amounting to ₹ 2 crore for the land, neither did it assess or revise the property tax. On the contrary, KMC exempted the INK from payment of property tax for five years in violation of Section 172(1)(b)(ii) of the Act *ibid*.

The matter was referred to Government and KMC in December 2014; their replies had not been received (April 2015).

8.2 Avoidable expenditure of ₹ 15.47 crore as demand charges

Kolkata Municipal Corporation did not fix contract demand for high tension electricity connections on the basis of actual requirement which resulted in avoidable expenditure of ₹ 15.47 crore.

KMC had 107 high tension (HT) electricity connections at different locations as of March 2014. The Calcutta Electric Supply Corporation (CESC) Limited was supplying electricity to these points in terms of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 (WBERC Regulations).

Regulation 4.3.5 of WBERC Regulations states that the demand charge shall be levied on the basis of maximum demand, recorded during the month or 85 *per cent* of the contract demand whichever is higher.

Regulation 4.7 stipulates that if a consumer consumes power in excess of his contract demand, he shall be liable to pay the following extra charges :

If the highest demand of any non-Time of Day consumer recorded in a month exceeds his contract demand, he shall be liable to pay demand charge at the applicable rate. In addition, he will also be liable to pay an additional demand charge at the rate of 60 *per cent* of the demand charge for the additional demand

⁴² Submitted to KMC on 16 March 2010.

⁴³ *Vide* MIC resolution No. M.O.A. 179.3 dated 20 April 2010.

being the difference between the recorded highest demand and his contract demand (Regulation 4.7.1).

Scrutiny of electricity bills of HT connections of KMC for the period 2011-12 to 2013-14 revealed that KMC did not assess its actual requirement for these connections. It was observed that contract demand for most of the points was not commensurate with actual requirement as it was either too high or too low for a long time. As a result, KMC had to pay additional demand charge (due to lower contract demand and comparatively higher consumption) or minimum charges (due to higher contract demand and comparatively lower consumption).

In terms of Regulation 4.15, the contract demand shall mean the electrical load in horsepower (HP) or kilowatt (KW) or kilovolt ampere (KVA) which, in accordance with the signed contract or agreement between the licensee and the consumer, the licensee has committed to deliver and the consumer has right to draw at the delivery point of the consumer at any time during the currency of the contract or agreement. Such contract demand shall be calculated on the basis of average consumption and intimated to the consumer for applying revision of contract demand. If no request for such revision is received from the consumer within three months from the date of receipt of such intimation by the consumer, then such calculated contract demand shall be considered as contract demand under the agreement and also for the purpose of these regulations from the date of expiry of 90 days of such intimation.

Audit noticed that KMC did not revise contract demand for most of the points even though there was a provision for it in the WBERC regulations.

Failure to assess the actual requirement and revising the contract demand accordingly led to an avoidable payment of ₹ 15.47 crore⁴⁴ during the years 2011-12 to 2013-14 as observed by Audit.

On being pointed out, KMC stated (November 2014) that additional load was based on practical site condition and characteristics of electrical equipment. The reply was not correct since the contract demand did not reflect 'practical' consumption as evident from the Audit observation. Further, KMC did not furnish any reply regarding the cases where contract demand was low and actual consumption was relatively higher.

The matter was referred to Government in October 2014; the reply had not been received (April 2015).

⁴⁴ ₹ 4.06 crore (2011 – 12)^Ω, ₹ 6.10 crore (2012 – 13)^Ω and ₹ 5.31 crore (2013 – 14)^Ψ

^Ω Average Monthly Demand of the year 2011 – 12 has been considered for calculation of avoidable expenditure for the year 2011 – 12 and 2012 – 13.

^Ψ Average Monthly Demand of the same year has been considered in calculation of avoidable expenditure in case of newly installed meters.

Kharagpur Municipality

8.3 Unfruitful Expenditure – ₹ 10.94 crore

The water supply project in Kharagpur town was a non-starter as pipelines were procured and laid without ensuring availability of required amount of water rendering the entire expenditure of ₹ 10.94 crore unfruitful. This expenditure included an excess payment of ₹ 40.03 lakh incurred on procurement and laying of pipes.

Government of India (GoI) approved (October 2011) a Water Supply project of ₹ 85.79 crore⁴⁵ for the town of Kharagpur. Initially, the project was to be executed under ‘Urban Infrastructure Development Scheme for Small and Medium Towns’ (UIDSSMT) but later it was sanctioned (April 2012) under ‘Special Backward Region Grant Fund’ (BRGF).

The project was conceived to supply water of about 11 Million Gallon per Day⁴⁶ (MGD) up to the year 2043 from the riverbed of *Kansabati* (also known as *Kasai*). It was to be executed by Kharagpur Municipality under technical guidance of Municipal Engineering Directorate (MED) and was scheduled to commence in January 2012 and to be completed in two years *i.e.* by December 2013. SUDA⁴⁷ (the nodal agency) released an amount of ₹ 21.02 crore⁴⁸ in two phases for implementation of the project.

8.3.1 Laying of distribution pipeline without ensuring availability of water

The Central Public Health and Environmental Engineering Organisation (CPHEEO) advised (February 2009) the Municipality that geo-technical investigation of the project sites for bearing capacity, ground water table, etc. should be carried out before execution of the project. However, in spite of the CPHEEO stipulations, without the necessary investigations, the Municipality floated (April 2012) tenders for laying of distribution pipelines even before receipt of the first instalment of grant in July 2012.

In a meeting held on 12 April 2012 between Principal Secretary, Municipal Affairs (MA) Department and Director, SUDA, the Principal Secretary emphasised that necessary clearance from State Water Investigation Directorate (SWID) should be taken well in advance for sinking of Deep Tube Well in the riverbed. A work schedule for execution of different components of the project was prepared wherein it was stressed that MED should request SWID to find out suitable location for availability of raw water for the project by 19 April 2012. Simultaneously, MA Department also directed the Municipality and MED to complete the tender procedure for other components of the project (laying of distribution pipeline, construction of overhead reservoir, etc.) by June 2012.

The above directions of the MA Department were contradictory as it had instructed the concerned departments to carry out the tender procedure for the

⁴⁵ Fully funded by GoI.

⁴⁶ 1 MGD (USA) = 3.78 MLD.

⁴⁷ SUDA – State Urban Development Agency.

⁴⁸ ₹ 13.44 crore (July 2012) and ₹ 7.58 crore (June 2013).

other components of the project without first ensuring the availability of raw water.

The Chief Engineer, MED requested (April 2012) SWID to inform whether the required amount of raw water was available in the riverbed throughout the year. However, a team from SWID visited the site after 10 months (27 February 2013) but submitted no report thereon. MED did not also pursue the matter.

Scrutiny revealed that the Municipality invited tender (₹ 17.23 crore) for overhead reservoir and distribution pipeline during April 2012 to August 2012 and work order for the same was issued by January 2013. Audit noticed that the Municipality incurred expenditure of ₹ 10.94 crore for the above works as of November 2013 without ensuring availability of requisite quantity of raw water.

The report from SWID came out only in August 2013 wherein it was mentioned that “drawal of large volume of water from the riverbed of *Kasai* shall lead to depletion of ground water level and shall hinder cultivation in the adjoining areas leading to socio-economic problems”. It was also pointed out that large volumes of water was being drawn from the river for industrial and community-based purposes in a short stretch of about five km, for which the river was already in a stressed condition. SWID assessed that nearly one MGD water may be available (by sinking four tube-wells in the riverbed). The Municipality, therefore, can tap only one MGD water from the riverbed against the actual requirement of 11 MGD.

On the matter being pointed out, the Municipality stated (January 2014) that tender for pipe laying and overhead reservoir was invited on the advice of Superintending Engineer, MED and added that though MED had requested SWID to conduct the source survey back in April 2012, yet MED did not pursue the matter to get the work done at the earliest.

Thus, it is evident from the above that procurement and laying of distribution pipeline was done without proper planning and ensuring availability of minimum quantity of raw water which not only rendered expenditure of ₹ 10.94 crore unfruitful, but also jeopardised the fate of the entire project depriving the people of the town from the intended benefits.

8.3.2 Excess payment on procurement and laying of pipes

The project was to be executed by Kharagpur Municipality with technical guidance of MED. One of the components of the project included laying of ‘High Density Poly Ethylene (HDPE) pipe of 110 mm outer diameter (OD)’ for distribution pipelines.

The estimate for supplying and laying of HDPE pipe was prepared at ₹ 430 per metre for the first Notice Inviting Tender (NIT) issued in April 2012 in respect of Zone III while the same was ₹ 426.30 per metre for the second NIT issued in August 2012 in respect of Zone I. No analysis for adopting these rates was found on record. The Municipality issued work order for Zone III in July 2012 and that for Zone I in January 2013.

Scrutiny revealed that Kharagpur Municipality had actually procured HDPE pipes at the rate of ₹ 250 per metre⁴⁹ and rate for laying of HDPE pipes of 110 mm OD up to the desired depth of 1.5 meter was ₹ 58 per metre⁵⁰. Therefore, the rate for supplying and laying of HDPE pipes of said specification worked out to ₹ 308 (₹ 250 + ₹ 58) per metre.

Audit, however, noticed that the Municipality paid (between August and December 2013) ₹ 174.02 lakh to the contractors for laying of 43,508.35 metre (at the rate of ₹ 400 / metre⁵¹) of HDPE pipe.

Therefore, the Municipality allowed excess rate of ₹ 92 per metre for the said work and paid (as of February 2014) an excess amount of ₹ 40.03 lakh⁵² to the contractors.

The Municipality replied (February 2014) that the rate for supplying and laying of HDPE pipe was prepared and approved by MED and the Municipality had only adopted the rate while calling the tenders and they forwarded the preliminary observation of the Audit to the MED for reply.

The matter was referred to Government in May / July 2014; reply had not been received (April 2015).

Uluberia Municipality

8.4 Irregularities in tender procedure and splitting of works under JNNURM

Uluberia Municipality executed works valued at ₹ 4.94 crore relating to Water Treatment Plant under JNNURM in violation of the prescribed tender procedures and split the total work to facilitate excess payment, etc.

As per Note – 2 below Rule 47 (8)⁵³ of the West Bengal Financial Rules, Volume – I, open tender for supply of articles or stores or for execution of works and services with estimated value exceeding ₹ 10.00 lakh shall be invited by publication of the work on the notice board and on the website of the administrative department, if maintained, and also on the official website of the Government of West Bengal (GoWB). Brief referral⁵⁴ advertisements are also to

⁴⁹ Inclusive of VAT, Excise Duty and freight to Kharagpur.

⁵⁰ Public Works Department West Bengal Schedule of Rates (SOR) for Sanitary and Plumbing works effective from August 2010.

⁵¹ Part payment as cleaning and disinfection of pipe was yet to be completed.

⁵² 43,508.35 metre x ₹ 92 = ₹ 40.03 lakh.

⁵³ Amended *vide* Notification No. 5400 – F (Y) dated 25.06.12 issued by the GoWB, Finance Department, Audit Branch. The Notification was circulated to different ULBs in July 2012 by the Department of Municipal Affairs, GoWB for information and necessary action.

⁵⁴ Brief referral advertisement will contain only certain title information such as name and location of the scheme, last date for submission of tender, names of the websites where details are available.

be given in three daily newspapers, one each in Bengali, English and Hindi. It was also stipulated that the use of intermediate general suppliers should be discouraged. For tender value of ₹ 50 lakh and above, e-tendering⁵⁵ is mandatory, in addition to publication in print media.

Uluberia Municipality (UM) executed works relating to Water Treatment Plant (WTP), Phase – II under JNNURM in two parts as detailed below.

8.4.1 Splitting and execution of works through intermediate agencies

UM issued ‘Abridged Tender Notice’ (ATN)⁵⁶ on 5 October 2012 for works under Part - I. Audit noticed that under one ATN, UM had split the total work estimated at ₹ 3.03 crore into 24 items of works. There was nothing on record to show that the ATN was put up on the notice board of UM or advertised through daily newspapers. UM did not adopt e-tendering procedure for this particular work, although the total value exceeded ₹ 50 lakh. UM irregularly provided the copy of tender notice to two intermediate agencies. The reasons for utilising the services of such intermediate agencies were not available on records. Audit observed that without proper circulation of the tender notice and against the prescribed tender procedures, UM had split the total work and arranged bidders for each item of work through two intermediate agencies for executing works valued at ₹ 2.87 crore (November 2013).

8.4.2 Splitting of work to facilitate excess payment

UM issued another ATN dated 21 January 2013 for works under Part - II. Under this ATN, UM had split the total work estimated at ₹ 1.62 crore into 26 items of work. UM did not have record to show that the ATN was advertised in any daily newspaper, neither did it adopt e-tendering procedure for this work, the total value of which exceeded ₹ 50 lakh.

Audit observed that without proper circulation of the tender notice and in violation of the prescribed tender procedure, UM had split the total work and executed works amounting to ₹ 1.83 crore (July 2014).

8.4.3 Non-furnishing of information regarding utilisation of pipes, etc.

UM executed the works relating to WTP, Phase – II under JNNURM in two parts through two ATNs issued on 5 October 2012 and 21 January 2013. Audit observed that UM issued another Notice Inviting Tender (NIT) dated 15 July 2013 for supplying and laying of pipes (100 mm dia and 150 mm dia). In this NIT, UM

⁵⁵ Presently the ‘State Government has decided to make it mandatory to introduce e-tendering system to all the State Government Organisations as well as Local Self Governments for the works having tender value of more than ₹ 5 lakh’. (Source : Memo No. 803 (41) / MA / O / C – 3 / 2E – 39 / 2012 dated 30.06.14 issued by the Municipal Affairs Department, GoWB and addressed to the Chairperson, Uluberia Municipality.)

⁵⁶ Instead of Notice Inviting Tender.

did not specify the area for which the pipes were required to be supplied and laid. The reason for issuing the NIT was not found on record.

Under this NIT, UM split the total work estimated at ₹ 99.67 lakh in four different items. As per the NIT, two items of work having estimated value of ₹ 49.83 lakh would be executed under JNNURM. UM did not have any records to indicate that the NIT was advertised in any daily newspaper and neither did it use e-tendering procedure for this work also though the total value of it exceeded ₹ 50.00 lakh. Audit noticed that apart from notifying in the Notice Board, Executive Officer of UM only forwarded the NIT to Vice-Chairman, four Members of the Chairman-in-Council, other⁵⁷ officers and officials of UM for wide circulation which was not in conformity with the prescribed procedure. The copy of said NIT was not forwarded to Kolkata Metropolitan Development Authority (the State Level Nodal Agency for JNNURM).

Out of four items of work, the Municipality submitted only one file to Audit. Hence, Audit could not ascertain whether the other three items of work were at all executed. Records revealed that UM again spent ₹ 0.24 crore for supplying and laying of 'water main'. However, UM could not furnish the details of utilisation of pipes till the closure of Audit (August 2014).

The Municipality in reply stated (August 2014) that due to some unavoidable circumstances e-tendering procedure could not yet be started. The Municipality remained silent on the irregularities pointed out in the above observation.

The matter was referred to Government in December 2014 reply to which had not been received (April 2015).

Kolkata

The 03 JUN 2015



(Utpal Banik)

Examiner of Local Accounts
West Bengal



(Madhumita Basu)

Principal Accountant General
(General and Social Sector Audit)
West Bengal

Kolkata

The 08 JUN 2015

⁵⁷ Like Health Officer, Assistant Engineer, Finance Officer, Accounts and Finance Coordinator, Head Clerk and Accountant.
