

CHAPTER-V

FOREST RECEIPTS

CHAPTER-V: FOREST RECEIPTS

Part-A: Revenue Receipts

5.1 Tax Administration

The Principal Secretary to the Government of Meghalaya, Forests & Environment Department is in overall charge of the Department at the Government level. The Principal Chief Conservator of Forests (PCCF) is the administrative head of the Department. He is assisted by a host of Chief Conservators of Forests and Conservator of Forests. At the district level, the Divisional Forest Officers (DFOs) are entrusted with management of forests and wildlife through various divisions such as territorial, wildlife, social forestry *etc.* including levy of forest dues wherever applicable. The collection of forest revenue is governed by the provisions of the Assam Forest Regulation, 1891.

5.2 Internal audit

The Forests & Environment Department has no separate Internal Audit Wing (IAW). Despite the same being pointed out in the PAs carried out from time to time, no action has been taken by the Department to create an IAW to monitor the working of the Department. In the absence of a separate IAW, the Department solely relies upon the audit carried out by the Accountant General.

Recommendation: *The Department may urgently look into the possibility of creating an Internal Audit Wing to effectively monitor the functioning of the Department.*

5.3 Results of Audit

Test check of the records of ten units relating to the Forests & Environment Department during 2014-15 revealed under-assessment of tax and other irregularities involving ₹ 45.77 crore in 79 cases which fall under the following categories:

Table 5.1

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	Non/Short realisation of revenue	18	12.76
2.	Loss of revenue	26	18.56
3.	Other irregularities	35	14.45
Total		79	45.77

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 25.27 crore in 55 cases. No recovery was intimated in any of the cases during the year 2014-15.

A few illustrative cases having financial impact of ₹ 46.85 crore in terms of short/non-realisation of revenue are discussed in the paragraphs 5.4 to 5.8.

5.4 Loss of revenue due to short realisation of export fee

Failure of the DFO to take timely action against a Forest Beat office resulted in loss of revenue due to short realisation of export fee amounting to ₹ 0.22 crore.

[DFO, Territorial Division, Shillong; October 2014]

As per Section 40 of the Assam Forest Regulation, 1891 (as adopted by the Government of Meghalaya) the State Government can issue passes to regulate the movement of forest produce and fix the fees for issue of such passes. The Forest Department, Government of Meghalaya in October 1999 fixed the fees for export of all forest produce outside the State at a uniform rate of ₹ 300 per truck. Subsequently, in October 2013, the Department re-fixed the fees for export of different forest produce outside the State as shown below:

Type of forest produce	Fee per truck (in ₹)
<i>Tezpatta</i>	60
Cinnamon bark	300
Broomstick	500
Bamboo and minor minerals	1000
Firewood/sawn timber/timber	5000

From the records pertaining to realisation of export fees in the Divisional Forest Officer (DFO), Khasi Hills Territorial Division, Shillong it was observed that between April 2013 and November¹ 2013, the officer in charge of Byrnihat Forest Beat office issued 40,947 Transit Passes (TPs) for export of forest produce and sawn timber outside the State on which export fee amounting to ₹ 2.13 crore was realisable, against which, the officer in charge realised export fee of ₹ 1.91 crore on account of applying lower rates² in respect of sawn timber resulting in short realisation of export fee of ₹ 0.22 crore. Despite the information being available with the Division³, no action was taken by the DFO to direct the Beat office in charge to realise export fee as per prescribed rates. Thus, inaction of the DFO to initiate timely action resulted in loss of revenue to that extent.

The case was reported to the Forest and Environment (F&E) Department, Government of Meghalaya (GOM) in November 2014; their reply has not been received (November 2015).

¹ After November 2013, the checkgate realised export fee as per prescribed rates.

² The DFO realised export fee for sawn timber at various rates ranging between ₹200 and ₹5000.

³ The check gate in charge sends monthly details of transit passes issued and revenue realised to the DFO.

5.5 Short realisation of revenue

There was short realisation of revenue amounting to ₹ 2.37 crore by the user departments.

[DFO, Territorial Division, Shillong; October 2014]

The Forest & Environment (F&E) Department, GOM through a notification dated 12 November 1998 fixed the rate of royalty on sand, stone and earth at ₹ 30, ₹ 80 and ₹ 32 per cubic metre (cu. m.) respectively. In Meghalaya, all user departments⁴ utilising minerals for execution of works contracts are responsible for deduction of royalty from the contractors and depositing of the same to the concerned forest divisions.

From the records pertaining to payment of royalty by the user departments in the DFO, Khasi Hills Territorial Division, Shillong it was observed that 471336.77 cu. m. of stone, 114643.36 cu. m. of sand and 11941.44 cu. m. of earth were extracted and utilised for various works by the contractors of the Executive Engineer (EE), Public Works Department (Roads), Nongpoh Division between March 2013 and June 2014 on which royalty amounting to ₹ 4.15 crore⁵ was realisable. However, the Division realised only ₹ 1.78 crore as royalty recovered from the contractors' bills and forwarded the same to the DFO. Despite the information being available with the Division, no steps were taken by the DFO to direct the EE to recover the balance royalty of ₹ 2.37 crore from the contractors and deposit the same to the Division thereby resulting in short realisation of royalty to that extent. These amounts should be recovered from the future bills of the contractors.

The case was reported to the F&E Department, GOM in November 2014; their reply has not been received (November 2015).

⁴ Works Departments like Public Works Department, Public Health Engineering Department etc. which undertake works on behalf of the Government.

⁵

Minor mineral	Quantity	Rate (₹)	Royalty (₹)
Stone	471336.77	80	37706941.60
Sand	114643.36	30	3439300.80
Earth	11941.44	32	382126.08
Total			41528368.48

5.6 Evasion of royalty on limestone

Due to lack of co-ordination between Government Departments, 34 exporters/companies concealed 3.77 lakh MT quantity of limestone actually consumed/exported thereby resulting in evasion of royalty of ₹ 1.91 crore.

[DFO, Territorial, Jowai & PCCF, Meghalaya; July & October 2014]

The Mining & Geology (M&G) Department, GOM revised⁶ the rate of royalty on limestone from ₹ 45 to ₹ 63 per Metric Tonne (MT) with effect from 28 September 2010. In Meghalaya, the F&E Department realises royalty on limestone from non-mining lease areas while the M&G Department realises royalty from mining lease areas.

5.6.1 It was observed that the Directorate of Mineral Resources (DMR), Meghalaya forwarded (June 2013) to the PCCF a list of 48 exporters who exported limestone to Bangladesh during the period from April 2009 to February 2010 through the Land Custom Station at Bholaganj for confirmation of payment of royalty. The list was compared with the list of exporters available with the Forest Department and it was seen that 31 exporters out of these 48 exporters exported limestone through the Forest check gate at Bholaganj on payment of forest royalty.

Examination of the list furnished by the DMR to the PCCF revealed that during the period⁷ from April 2009 to February 2010, 2.76 lakh MT of limestone was exported by the 31 exporters⁸ through the Land Custom Station at Bholaganj, against which, the Forest check gate at Bholaganj recorded export of 0.18 lakh MT of limestone during the same period, thereby resulting in non-recording of export of 2.58 lakh MT of limestone and consequent evasion of royalty amounting to ₹ 1.16 crore⁹. Despite the information relating to actual quantity exported to Bangladesh being available with the Department, no action was initiated by the PCCF to realise the additional revenue from the exporters or fix responsibility on the concerned officials for dereliction of duty resulting in evasion of Government revenue of ₹ 1.16 crore. Audit observed that due to absence of proper co-ordination between Government Departments, the evasion of royalty was not detected.

On this being pointed out (November 2014), the PCCF stated (February 2015) that the matter would be taken up with the Land Custom Station at Bholaganj for reconciliation of figures following which, steps would be taken for

⁶ Vide Notification No. MG.31/2008/PT-II/59 dated 28.09.2010

⁷ Information for subsequent years was not available in respect of Land Custom Station at Bholaganj.

⁸ Exporters' details in Annexure VIII.

⁹ 2.58 lakh MT X ₹ 45/MT = ₹ 1.16 crore

recovery of royalty. A report on reconciliation and details of recovery of royalty has not been received (November 2015).

5.6.2 From the records of the DFO, Jaintia Hills (Territorial) Division, Jowai it was observed (July 2014) that three companies¹⁰ utilised 0.28 lakh MT of limestone from the non-mining lease areas between April 2013 and March 2014 and accordingly paid the admitted royalty to the DFO. However, cross-verification with the records of the Divisional Mining Officer (DMO), Jowai revealed that during the same period, the companies actually utilised 1.47 lakh MT of limestone from non-mining lease areas. Audit further observed that due to absence of proper co-ordination between Government departments or a system of periodic exchange of information, the companies concealed consumption of 1.19 lakh MT of limestone thereby resulting in evasion of royalty ₹ 0.75 crore¹¹.

The case was reported to the F&E Department, GOM in August 2014; their reply has not been received (November 2015).

5.7 Net Present Value not realised

Inaction of the Forest Department resulted in irregular diversion of 642.87 ha of forest lands by six cement companies and Net Present Value amounting to ₹ 42.24 crore not being realised.

[PCCF, Meghalaya; October 2014]

As per Section 1.1 of the Forest (Conservation) Act, 1980 (Rules & Guidelines) all proposals for diversion of forest land for non-forest purpose require prior approval of the Government of India (GOI). The Ministry of Environment & Forests (MoEF), Government of India directed (June 2003) all State Governments to recover Net Present Value¹² (NPV) of forest lands diverted for non-forest purposes from the user agencies for which approval was granted on or after 30 October 2002. The Compensatory Afforestation Fund Management & Plantation Authority (CAMPA)¹³ also directed (September 2007) all State Governments to stop all activities on forest land in respect of those projects for which NPV had not been realised. NPV¹⁴ is to be realised on the basis of classification of forests into six ecological classes as follows:

¹⁰ (i) Meghalaya Power Ltd. (ii) Adhunik Cements Ltd. and (iii) Hills Cement Co. Ltd.

¹¹ 1.19 lakh MT X ₹ 63/MT = ₹ 0.75 crore

¹² When forest land is diverted for non-forest use, the developer of such land has to pay for compensatory afforestation. In addition, the government charges the developer an amount to compensate for the forest's lost ecosystem services till the afforested area starts providing comparable benefits. The sum of such amounts realised is what is termed as the Net Present Value of the forest land.

¹³ An ad hoc body constituted by the Supreme Court of India.

¹⁴ Based on a Supreme Court judgement dated March 2008.

Eco-value	NPV (₹ in lakh per hectare)					
	Class I	Class II	Class III	Class IV	Class V	Class VI
Very dense forest	10.43	10.43	8.87	6.26	9.39	9.91
Dense forest	9.39	9.39	8.03	5.63	8.45	8.97
Open forest	7.30	7.30	6.26	4.38	6.57	6.99

Six¹⁵ cement plants in the State, with declared land holdings of 2122.83 hectares (ha), obtained State Government approval for operation of cement plants on various dates between March 2002 and October 2008 but failed to obtain prior approval of the GOI for diversion of forest land, although these projects were situated in forest land. Based on complaints received from various quarters, a High Level Committee¹⁶ (HLC) was constituted by the State Government during March/April 2011 to appraise the status of land holdings under the cement plants in the Jaintia Hills district of the State and suggest measures for initiating action against the defaulting cement plants for violations of the Forest Conservation Act. Based on various assessments between August 2011 and November 2011 the HLC opined that the cement plants had indeed been operating in forest lands. The HLC also *inter alia* recommended to the State Government that the cement plants should submit proposals for seeking approvals under the Forest Conservation Act. Accordingly, a joint inspection was undertaken by the Regional Office, MoEF and the State Forest Department in three phases between March 2012 and June 2012. The team inspected 1502.55 ha of land held by these cement companies and assessed¹⁷ 642.87 ha of land as forest land and 802.12 ha as non-forest land while the status of 57.56 ha of forest land could not be assessed.

However, despite the reports of the HLC and the joint inspection team which corroborated the fact that 642.87 ha of land as forest land had actually been diverted by the cement plants, no action was taken by the Forest Department and the Principal Chief Conservator of Forests (PCCF) against the cement plants either by way of stopping their activities on forest lands or by directing the cement plants to submit proposals for seeking clearances from the GOI.

The lackadaisical approach of the Forest Department towards an issue of utmost importance not only allowed undue commercial benefit of

¹⁵ (i) Amrit Cement Industries Limited (ii) Cement Manufacturing Company Limited (iii) Green Valley Industries Limited (iv) Goldstone Cement Limited (v) Hill Cements Company Limited (vi) Meghalaya Cement Limited

¹⁶ Members comprised of (i) The Regional Chief Conservator of Forests, MOEF, GOI (ii) The Principal Chief Conservator of Forests, Meghalaya (iii) The Director of Mineral Resources, Meghalaya (iv) The Conservator of Forests (Monitoring & Evaluation), Meghalaya, (v) The Director of Industries, Meghalaya (vi) Secretary, Jaintia Hills District Council.

¹⁷ Details in [Annexure IX](#).

₹ 42.24 crore¹⁸ to the cement plants towards NPV not realised but also resulted in unauthorised operation of these cement plants without seeking necessary clearances in violations of the regulatory Acts. Moreover, the fact that the cement plants still continue to run their operations with impunity and in total disregard to the provisions of the Forest Conservation indicates connivance between the Forest Department and the cement plants and is a matter which needs serious investigation by the State Government as well as the MoEF.

On this being pointed out (November 2014), the PCCF, Meghalaya stated (December 2014) that the concerned DFO had been asked to report on the status of the applications in respect of the six cement companies. A report on the present status of the applications along with action taken to recover the NPV has not been received (November 2015).

5.8 Short realisation of licence fees

Licences were granted to 44 applicants for operation of saw/veneer mills on which ₹ 0.17 crore was realisable against which, the Department realised ₹ 0.06 crore resulting in short realisation of licence fees amounting to ₹ 0.11 crore.

DFO, Territorial Shillong; October 2014]

As per Rule 6 read with Rule 7 of the Meghalaya Forest-Based Industries (Establishment and Regulation) Rules, 1998 the Government may grant licence for operation of saw/veneer¹⁹/plywood mill in the State which shall remain valid for the calendar year ending 31st day of December following the date of issue or renewal of licence. Further as per Rule 10 of the Rules *ibid*, for grant/renewal of licence for operation of saw/veneer/plywood mill, the fees to be paid is as follows:

Sl. No.	Particulars	Grant of Licence fees (₹)		Renewal of licence fees (₹)	
		Tribal applicant	Non-tribal applicant	Tribal applicant	Non-tribal applicant
(a)	Saw Mill	10000	20000	5000	10000
(b)	Veneer Mill	50000	100000	10000	20000
(c)	Plywood Mill	100000	200000	25000	50000

On scrutiny of records pertaining to granting /renewal of licence to the wood based industries set up/to be set up in the industrial estates at Umiam and Byrnihat in Ribhoi District and Nongstoin in West Khasi Hills, it was observed that 44 applicants were granted fresh/renewed licences on various

¹⁸ Forest in Meghalaya fall under Class I and Class V category. Hence, calculated at the minimum of ₹ 6.57 lakh per hectare (for Class V category).

¹⁹ Veneer refers to thin slices of wood, usually thinner than 3 mm which are glued onto core panels (typically, wood, particle board etc.) to produce flat panels such as doors, and panels for cabinets and parts of furniture.

dates between November 2013 and April 2014 by the PCCF for operation of saw/veneer mill on which licence fees amounting to ₹ 0.17 crore was realisable against which, the PCCF realised ₹ 0.06 crore and remitted the amount to the DFO. No action was, however, initiated by the DFO to realise the balance amount from the licencees thereby resulting in short realisation of licence fees of ₹ 0.11 crore²⁰.

The case was reported to the F&E Department, Government of Meghalaya in November 2014; their reply has not been received (November 2015).

²⁰ Details in *Annexure-X*.

Part-B: Expenditure

A few illustrative cases of excess payment/financial irregularities having financial impact of ₹ 10.85 crore are discussed in the paragraphs 5.9 and 5.10.

5.9 Financial irregularities resulting in doubtful payments

Unauthorised release of funds indicating arbitrary decisions of the then CEO of the Meghalaya State Medicinal Plants Board resulted in fraudulent financial transactions of ₹ 2.85 crore in the implementation of several plantation schemes.

[Meghalaya State Medicinal Plants Board; March-April 2015]

The Meghalaya State Medicinal Plants Board (MSMPB)²¹ has been receiving grants-in-aid from National Medicinal Plant Board (NMPB), Ministry of Health and Family Welfare, Department of Ayush, Government of India (GOI) for Implementation of Centrally Sponsored Schemes viz. National Mission on Medicinal Plants, Nationwide Amla Campaign *etc.* The Schemes were to be implemented during the 11th Five year plan with 100 *per cent* contribution from the GOI. The details of the funds received during the period 2009-10 to 2011-12 are detailed below:

(₹ in lakh)				
Year wise Action Plans	Amount proposed	Amount sanctioned	Date of approval	Amount released
2009-10	368.55	368.55	June 2009	318.60
2010-11	397.16	397.16	April 2010	68.50
2010-11 (Amla Campaign)	98.45	40.00	June 2010	40.00
2011-12 (1 st Action Plan)	282.61	108.19		91.64
2011-12 (2 nd Action Plan)	84.00			
Total				518.74

For implementation of the above Schemes, MSMPB engaged Vista Agritech Private Limited (VAPL), an agency located in Guwahati, as Consultant by signing an agreement with them on 3 August 2010 for a period of five years *i.e.*, 2009-10 to 2013-14. Accordingly, VAPL was to provide consultancy services and other ancillary activities needed for the implementation of the various projects such as:

- Site mapping;
- Preparation of Project Reports, Annual Action Plans *etc.*;
- Mobilisation of farmers and entrepreneurs;

²¹ The Governing Body of the Board is appointed by the Government and has the following members:-(i)Chief Secretary, GOM (ii) Principal Secretary, GOM, Finance Department (iii) Principal Secretary, GOM, Planning Department (iv) Principal Secretary, GOM, Department of Forest & Environment (v) Principal Secretary, GOM, Health & Family Welfare Department (vi) Principal Secretary, GOM, Horticulture/Agriculture Department (vii) Principal, Chief Conservator of Forests, Meghalaya (viii) Chief Conservator of Forests Territorial, Meghalaya (ix) Conservator of Forests, *i/c* Medicinal Plants, O/o the Principal Chief Conservator of Forests, Meghalaya (x) Director, Health & Family Welfare (Research), Meghalaya (xi) Director, Horticulture, Meghalaya (xii) Director, ICAR, NER, Barapani (xiii) CEO, National Medicinal Plants Board, New Delhi (xiv) Vice-Chancellor, NEHU or his Nominee (xv) Regional Director, Botanical Survey of India, Shillong.

- Supply of Quality Planting Materials;
- Developing nurseries and plantations;
- Providing agro and post harvesting techniques;
- Setting up of processing houses, storage godowns *etc.*; and
- Market intervention survey and buy back arrangement for quality produce.

Consultancy fees up to maximum of 2 *per cent* of the total project sanctioned was payable. VAPL was to provide bills and receipts of expenditure and payments. For implementation of various scope of work as stated above, MSMPB released funds as detailed below:

(₹ in lakh)

No.	Action Plan & Amla Campaign	Fund received	Fund disbursed to VAPL				Total
			Consultancy fees	Seeds, planting materials for nurseries & Cultivation	Development of nursery	Capacity Building	
1.	2009-10	318.60	7.00	148.00	48.00	12.00	215.0
2.	2010-11	68.50	1.30	11.18	33.50	0	45.98
3.	2010-11 (Amla) ²²	40.00	0	23.40	0	0	23.40
4.	2011-12	91.64	0.95	0	0	0	0.95
TOTAL		518.74	9.25	182.58	81.5	12	285.33

Audit of records relating to the above transactions revealed the following irregularities and deficiencies:

5.9.1 Arbitrary appointment of consultant

- The consultant (VAPL) was appointed (August 2010) on a *pick and choose* basis by the Chief Executive Officer (CEO)²³ of the SMPB without observing any tender procedures of the Government, such as invitation of tender & proper evaluation of the bids after consideration of qualification, past experience, competitiveness of the Consultancy fees and related issues, *etc.* Further, the appointment of consultant was not even approved by the Governing Body of the Board. It was also observed that the then CEO himself had executed an Agreement with VAPL in August 2010 by falsely mentioning that a Memorandum of Understanding (MoU) was executed with VAPL in May 2009 for a period of 5 years. However, no such MoU with VAPL was executed in May 2009.
- The agreement was silent about the procedures to be followed before releasing the project payments to the consultant and no payment schedules were prescribed in the agreement. In the absence of this essential provision of the agreement, the genuineness of the project payments released by the CEO to the consultant amounting to

²² This indicates the Action Plan for Amla Campaign which highlights the coverage areas, funds requirement, awareness programme, training & Capacity building *etc.*

²³ Shri T.T.C. Marak was the CEO from April 2009 to April 2011.

₹ 2.85 crore could not be vouchsafed in audit as could be observed from the following irregularities in disbursement of payments.

The Government accepted (September 2015) the audit observation.

5.9.2 Irregularities in disbursement of payment to the consultant

The CEO did not adhere to the prescribed Rules & Regulations of the Board in regard to disbursement of payments by issue of cheques as detailed below:

Rule 15(k) of the Rules and Regulations of the Meghalaya State Medicinal Plants Board as notified by the Government of Meghalaya, Forest & Environment Department on 24 August 2006 stipulates that the CEO shall operate bank account(s) for and on behalf of the society²⁴ subject to the condition that cheques for amounts above ₹ 1 lakh should be jointly signed by the CEO and the Chairman of the Board. However, in total disregard to the aforesaid Regulation of the Board, the CEO released payment of ₹ 2.36 crore to VAPL by issuing 23 cheques valuing above ₹ 1 lakh without obtaining the signature of the Chairman of the Board. The matter regarding issue of cheques above ₹ 1 lakh by the CEO without obtaining signature of the Chairman was also discussed in the Review meeting of the MSMPB held on 9 July 2010 and it was decided that the CEO should submit a comprehensive report in this regard in the next meeting of the Governing Body of the Board for consideration and further direction. However, no such report was submitted by the CEO in the subsequent meeting of the Governing Body. On this being pointed out by the Principal Chief Conservator of Forest (one of the members of the Governing Body) on 22 July 2010, the CEO stated that he had not issued any cheque beyond ₹ 1 lakh since 9 July 2010. Audit, however, noticed that the CEO had subsequently (March 2011 to April 2011) withdrawn ₹ 0.22 crore through 9 cheques valuing above ₹ 1 lakh.

➤ The other malafide transactions made by the CEO are detailed below:

No.	Nature of transaction	Amount involved
1.	Splitting the cheque amount within ₹ 1.00 lakh to avoid the requirement of joint signature of the Chairman even though the payments released in single day was ranging from ₹ 2 lakh to ₹ 10 lakh	₹ 0.46 crore
2.	Irregular Withdrawal of Government money through self drawal cheques (28 Nos)	₹ 1.39 crore
3.	In a single day (30 October 2009), the then CEO had withdrawn money from Meghalaya Cooperative Apex Bank (MCAB) through self drawal cheque and shown as payment made to VAPL although the account maintained at MCAB was a joint account.	₹ 0.93 crore

It was also observed that updated receipts of the cheques amounting to ₹ 2.03 crore only were available which indicated towards the possibility of these receipts being issued after the irregularity surfaced. Moreover, there was

²⁴ The Meghalaya State Medicinal Plants Board is registered under Meghalaya Societies Registration Act, 12 of 1983.

system defect/failure at Bank level since it did not ensure that the cheques amounting ₹ 1,00,000 and above should have joint signature of CEO & the Chairman which indicated collusion at the Bank level. Furthermore since self-cheques cannot be used for making payments, misappropriation cannot be ruled out.

The Government stated that an FIR had been lodged in this regard. However no comments were given either on the reasons responsible for the irregularity or of Departmental action taken.

5.9.3 Doubtful expenditure

VAPL did not submit any bills and supporting documents regarding purchase of seeds, planting materials, development of nurseries and organizing workshops, training etc. The Governing Body of the Board in its meeting dated 4 August 2014 had expressed serious concerns regarding not submitting bills and other supporting documents by VAPL and directed (24 September 2014) VAPL to submit the authenticated bills and other documents. While VAPL had sent some vouchers amounting to ₹ 1.76 crore without any supporting original bills for the purchases made, no such vouchers had been submitted for the balance amount of ₹ 1.09 crore. Missing original bills/invoices indicated doubtful expenditure.

The Department while admitting the audit observation stated that some of the documents (vouchers /bills/ despatch registers) as submitted by M/s Vista Agritech were also made available to audit.

The fact remains that the documents submitted to Audit were not supported by original bills and invoices, which are very important to ensure the genuineness of expenditure.

5.9.4 Performance of VAPL neither monitored nor evaluated

Even though an amount of ₹ 2.85 crore was released to the consultant for implementation of various schemes/programmes, the Board never evaluated the performance of the consultant to ensure the actual development of nurseries, cultivations and other project related activities executed by the consultant. Moreover, the Board also did not get any physical verification conducted to establish the actual existence of the plantations and also to substantiate the expenditure incurred by the consultant.

The Government did not offer any comment on this issue (November 2015).

5.9.5 Non-existence of the Plantations noticed during joint Physical Verification of the plantations in East Khasi Hills District

With a view to verifying the physical existence of these plantations, the audit team along with officials of the MSMPB conducted a joint physical

verification on the following plantations in East Khasi Hills District on 30 March 2015 & 08 April 2015.

Date	Name/Address of the Farmers.	Amount received (₹)
30.03.2015	1. Laitdiengwah Farmers, Laitdiengwah Village, Smit.	10,00,000
	2. Mr Pynskhemlang Kharkongor, Umphyrnai Village.	2,00,000
	3. Smti Phiora L Nongbri, Umpat Village, Smit	3,43,750
	4. Mr. Chandra L Nongbri, Wah Iing Syiem, Smit	3,43,750
08.04.2015	5. Kardingland Shangdiar, Malai Sohkrria Village, Balat.	3,43,750
Total		22,31,250

During physical verification, audit noticed that none of the above mentioned plantations were found physically existing.

- The audit team visited Laitdiengwah Farmers Group Development Co-operative Society (Sl. No.1) and met the President of the Society, Mr. Edar Lyngdoh Nongbri who stated that he had received ₹ 5 lakh as cash from the consultant and tried to create model nursery but no plants survived. He also stated that he did not receive the seeds and other inputs amounting ₹ 5 lakh as shown in the voucher and the signature shown in the receipt voucher was not his. During the inspection, audit also observed that there were no signs of any plantation having been developed. Thus, the voucher shown for payments of seeds worth ₹ 5 lakh appeared to be fraudulent. Moreover, the fact that there was no proof of any plantation indicated that the plantation itself was doubtful.
- The audit team also visited Balat (Sl. No. 5) on 08 April 2015 along with the assistant/helper of the plantation. However, the plantation did not exist anymore as the seeds supplied by VAPL did not germinate. The owner of the plantation stated that he received ₹ 1.72 lakh and 2 bags of seeds weighing 50 kgs each and not 4 bags of seeds weighing 288 kgs as shown in the voucher. It would therefore be observed that the purpose of creation of nursery for plantation of Medicinal Plants was defeated.

In reply, the Government stated that the plantations in East Khasi Hills was raised during the year 2009-10 and since then 5 years had elapsed and the medicinal plants taken for cultivation were mostly annual in nature and may not be available after one year. Moreover, the Department stated that in view of the observations pointed out by audit, the Board as per the direction of the Governing Body filed an FIR with the Superintendent of Police, East Khasi Hills, Shillong and an investigation into the matter was going on.

In view of the reply that the medicinal plants may not be available after a gap of 5 years, it was doubtful whether such plantations were really developed in

the context of doubtful and fraudulent transactions of the consultant during the contract period from 2009-10 to 2011-12. This fact is supported by the Board's action of filing an FIR against the then CEO of the Board.

Conclusion:

- The consultant (VAPL) was appointed on a pick and choose basis by the then Chief Executive Officer (CEO) of the Medicinal Board without observing any tender procedures of the Government.
- The then CEO did not adhere to the prescribed rules and regulations of the Board and thus irregularly disbursed ₹ 2.85 crore to the consultant. This proves the dubious actions of the then CEO in dealing with the fraudulent financial transactions of the consultant leaving a needle of suspicion. Irregular withdrawal of Government money worth ₹ 2.36 crore through self drawal of cheques also raises serious doubts about the intention of the then CEO. Collusion of the bank, in allowing withdrawal of money without obtaining joint signature of the Chairman, also cannot be ruled out.
- Non-submission of original bills/inadequate documentation for the material purchased by VAPL raised serious doubt in regard to actual purchases made for development of plantations & nurseries
- The Board failed to evaluate/monitor the performance of the consultant to ensure the actual development of nurseries, cultivations and other project related activities executed by the consultant. In this regard, the Board also failed to ensure compliance of its directives issued in 2012, 2013 & 2014.
- Physical verifications conducted by Audit indicated fraudulent financial transactions relating to development of plantations as no plantations existed on sites, where these had been shown by VAPL to have been planted.

Thus, it would be observed that the delivery of services by the consultant was either false or doubtful or of poor quality and though an FIR had been lodged against CEO, a similar case of action was necessary against VAPL and this action was to be expedited.

Recommendations:

- *The then CEO and the consultant should be held accountable by initiating disciplinary /criminal proceedings for committing fraudulent financial transactions & misappropriation of government money.*
- *The unspent as well as unaccounted money should be recovered from the consultant and the CEO apart from initiating criminal proceedings.*

5.10 Fictitious land acquisition and consequent fraudulent payment

Land acquisition proceedings of the Mawpalai Afforestation Area (1.78 sq.km) were flawed and consequently, an amount of ₹ 8 crore (80 per cent of compensation) was fraudulently released to the village representative for a fictitious land acquisition when actually the land was and continues to be in the possession of the Soil & Water Conservation Department, Government of Meghalaya.

[PCCF, Meghalaya; August 2012]

With a view to providing environmental amelioration to the degraded forest areas, the Forest and Environment (F&E) Department, Government of Meghalaya (GoM) proposed (July 2009) to acquire Mawpalai Afforestation area (1.78 sq.km) lying adjacent to NH-40 between Umsaw Khwan and Lad Sumer villages, Ri-Bhoi district at an estimated cost of ₹ 15.09 crore and sought approval of the Planning/Finance Department. The Planning Department, GoM, in the interest of ecology & environment and to convert the acquired land into State Reserved Forest agreed to the proposal and allocated ₹ 10 crore during 2009-10. It further suggested the following procedures to be applied:

- The acquisition of afforested land should be done through negotiation with the Village Community/Village *Dorbar*²⁵ on priority basis.
- In the negotiated settlement, the 30 per cent solatium and 12 per cent interest should not be made applicable and should not be included in the estimate.
- The Forest & Environment Department should enter into a legally binding agreement with the community/village Durbar having legal identity or socially /traditionally accepted identity to the effect that the properly defined afforested land shall be acquired by the Government and the signed agreement be duly registered.

Accordingly, the GoM constituted (July 2009) an 'Inter-Departmental Negotiating Committee'²⁶ (Negotiating Committee) to negotiate the cost of land excluding the 30 per cent solatium and 12 per cent interest. After taking into account the estimate of ₹ 11.63 crore²⁷ as submitted (January 2010) by the Deputy Commissioner (DC), Ri Bhoi District and the offer (February 2010) of ₹ 10 crore of the Umsaw Khwan Village Durbar for transfer of ownership of the Mawpalai Afforestation area, the Negotiating Committee agreed (February 2010) to the compensation amount of ₹ 10 crore which was endorsed (March 2010) by the Planning and Finance Departments, GoM. Based on this, the F&E Department sanctioned (March 2010) ₹ 10 crore and placed the funds

²⁵ Traditional village authority functioning under the Autonomous District Council established under Sixth Schedule of the Constitution

²⁶ Commissioner & Secretary, F&E Department, GOM as Chairperson along with six other Officials.

²⁷ Includes value of land - ₹ 1.39 crore plus value of trees - ₹ 5.76 crore, 30 % solatium at ₹ 2.14 crore, 12% interest at ₹ 1.29 crore and other charges ₹ 1.06 crore.

(October 2010) at the disposal of Deputy Commissioner (DC), Ri Bhoi District for further necessary action. Subsequently, the Revenue Department issued (March 2011) notification under Section 4²⁸ of the Land Acquisition Act (LA Act), 1894 and also invoked (April 2011) the urgency clause 17²⁹ of the LA Act for speedy acquisition proceedings. Accordingly, an amount of ₹ 8 crore was released (June 2011) in favour of Shri S.W. Rymbai³⁰ who accepted the payment as land owner and a 'Certificate of Taking Over Possession of the Land' was signed after executing an 'Indemnity Bond' in favour of GoM.

However, the land was not handed over by the Village *Dorbar* to the F&E Department till date. In the meantime, the F&E Department, on an enquiry (May 2012) by the DC, Ri Bhoi District had ascertained (October 2012) that the Mawpalai plantation had been created and maintained by the Soil and Water Conservation (S&WC) Department, GoM, in different years from 1959-60 to 1972-73 and the land was under their possession since 1953. In view of this, the LA proceedings were considered flawed and the DC, Ri Bhoi District, was asked to recover ₹ 8 crore with interest and annul the LA proceedings. In this regard, a Writ Petition (WP) was filed (2012) against the State Government by the Village *Dorbar* in the High Court of Meghalaya. The Government also filed a case (November 2012) with the Criminal Investigation Department (CID) Police Station, Shillong for investigation in connection with fraudulent payment of Government money and the investigation was still in progress (July 2015). The High Court of Meghalaya, while disposing (Feb 2014) the WP observed that since public money was involved, the Government must get a chance to redress the grievances and therefore directed the Government to file a recovery suit before the appropriate Court. Accordingly, a Money Suit for recovery of ₹ 8 crore was filed (June 2014) in the Court of Assistant District & Sessions Judge at Nongpoh.

²⁸ *Whenever it appears to the Government, the land in any locality is needed for any public purpose, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.*

²⁹ *In cases of urgency whenever the Government so directs the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of such notice mentioned in Section 9, sub-section 1, take possession of any land needed for a public purpose. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.*

³⁰ *The Divisional Forest Officer, Wildlife Division, Khasi Hills, stated (August 2009) that the then Parliamentary Secretary, Shri S.W. Rymbai had informed him that he was authorised by the Umsaw Khwan village Durbar to discuss the acquisition of Mawpalai Forest.*

Scrutiny of relevant records in audit revealed the following irregularities and fraudulent transactions.

5.10.1 Fictitious land Acquisition & fraudulent payment of Government Money

As maintained by the villagers of Umsaw Khwan, the afforestation at Mawpalai was taken up by the Government of Assam under a scheme introduced in early fifties known as Jhum Control Scheme. Consequent to creation of the State of Meghalaya, the Mawpalai Afforestation Plantation was passed over to the Soil & Conservation Department (S&WC), GoM. However, the villagers, on the basis of *patta*³¹ issued by the *Syiem*³² of Raid Mawbuh and the *Syiem* of Myllem had requested (1994) for transfer of the Mawpalai Afforestation area to them. The request of the villagers was examined by a team of State Government officials³³ and it was reported that there was no evidence to support the claim of the villagers. On this basis, the State Cabinet had also decided (August 1995) that Forest land should not be parted with and the claim of the villagers should be rejected and Government may continue to exert control over it.

However, based on the fresh claim again made by the villagers in June 2009, the F&E Department without relying upon the earlier decision of the GOM that the forest land should not be parted with as it was under Government control, had acquired the land it already possessed (July 2009) at a negotiated cost of ₹ 10 crore (estimated cost: ₹ 15.09 crore). It is therefore evident that the Government Notification dated 02-03-2001 issued under Section 4 of the Land Acquisition Act, 1994 was flawed and 80 per cent compensation amounting to ₹ 8 crore was fraudulently released to one of the village representatives.

The following further irregularities were also observed by Audit:

- The compensation amount of ₹ 8 crore was unauthorisedly paid to Shri. S.W. Rymbai, who claimed to be the self-styled rightful representative of the Village *Dorbar* and acted as the landowner without any valid and legal authorisation by the village *Dorbar* to that effect. Hence, the Government and the Deputy Commissioner, Ri-Bhoi District released Government money to a third party without due diligence and verification of facts and antecedents of the parties involved in the transaction.
- Although the *patta* issued by the *Syiem* of Myllem in 1994 clearly indicated that there should not be any sale/registration of this village forest to other authorities and the State Cabinet had rejected the request of the villagers

³¹ *Patta is a documentary evidence of purchase of land by the buyer.*

³² *Syiem is the head of the Hima (Kingdom).*

³³ *Chief Secretary, Principal Secretary of Soil Conservation Department, Commissioner and Secretary of Revenue Department and Secretary of Law Department.*

for transfer of forest land, yet the F&E Department fraudulently accepted the ownership claim of the villagers.

➤ Though the Negotiating Committee had decided (December 2009) to examine the details of records of Mawpalai Afforestation area available with S&WC Department, it failed to verify the legal ownership and title of the aforesaid forest land and became a party to fraudulent land acquisition at a negotiated cost of ₹ 10 crore. This was later admitted (October 2012) by the then Principal Secretary, F&E Department, GoM that the said plantations developed by the Government Department over an area of 178 ha were 40-52 years old and the entire land containing these plantations was still in the possession of S&WC Department. This was further substantiated by the fact that basing on this premise, the Government filed a case (November 2012) with the CID, Shillong for investigation in connection with fraudulent payment of Government money and subsequently a Money Suit was also filed (June 2014) in the Court of Law.

5.10.2 Payment of irregular compensation towards trees/fruits, solatium & interest

Notwithstanding the above fictitious land acquisition, the Negotiating Committee irregularly agreed (February 2010) to a compensation of ₹ 3.43 crore towards 30 *per cent* solatium and 12 *per cent* interest although the same was not admitted as per the conditions and procedure prescribed by the Planning Department. Additionally, the compensation erroneously included as payments towards trees/fruits was not to be allowed as the trees standing on the aforesaid land were planted and nurtured/raised by the S&WC Department, GOM and this fact was also intimated to the DC, Ri Bhoi by the PCCF on 02 November 2010. Despite this fact, the DC, Ri Bhoi irregularly prepared the estimate by including compensation for plantations/trees valued at ₹ 5.76 crore and accordingly, the Negotiating Committee approved the estimate prepared by DC, Ri-Bhoi.

Thus, on the basis of 80 *per cent* compensation already released, the irregular amount paid worked out to ₹ 6.32 crore³⁴ towards 30 *per cent* solatium, 12 *per cent* interest and plantations /trees.

➤ Even though the Planning Commission, New Delhi did not support (December 2009) the scheme as it lacked scientific and legal backing for procurement and management of forests, the funds were irregularly re-appropriated by the Planning Department, GOM from the other Heads of the State Plan funds as temporary transfer during the year 2009-10.

³⁴ 80 % of 86 % of (₹ 3.43+ ₹ 5.76 crore). 86 % is the ratio of estimate of ₹ 11.63 crore to ₹ 10 crore amount agreed.

➤ After the sanction (March 2010) of the scheme, funds (₹ 10 crore) were transferred (September 2010) to DC, Ri Bhoi District without calling for any demand letter specifying³⁵ the exact requirement to initiate land acquisition proceedings. However, based on the directive (August 2010) of the F&E Department, funds were transferred (September 2010) to the DC, Ri Bhoi who was asked to submit the necessary documents directly to the F&E Department.

➤ Though the payment for acquiring land was released in June 2011 and a 'Certificate of Taking over Possession of the Land' was signed with the representative of the Village *Dorbar viz.* Shri S.W. Rymbai by the DC, Ri Bhoi, the physical possession of land was never taken over by the DC. Despite repeated enquiries (December 2011 and January 2012), the DC failed to intimate the status of LA proceedings to the F&E Department. It was however, later (October 2012) ascertained that the entire land containing these plantations was still in the possession of Soil Conservation Department.

In reply to an audit observation in this regard, the then PCCF stated (May 2013) that *"To surmise it as a fictitious and fraudulent matter is a misplaced judgement, for facts have all along established that the Government had made the purchase of the land belonging to the people for the purpose of maintaining ecological stability of the area and in view of the critically eco-sensitive nature of the land. Payment in respect of the plantation that was created and maintained was in tune with the principle of Social Forestry plantations being followed by the Department."*

The reply of PCCF (May 2013) is silent about the facts that the State Cabinet's decision in the year 1995 and the *patta* issued by the *Syiem* of Myllem both prohibit the transfer of land and also that the land was acquired by the Government in the Soil & Water Conservation and maintained by it subsequently. It was not possible that the F&E Department was not aware about the hard irrefutable evidence and therefore its action of initiating the transfer and payment of ₹ 8 crore in pursuance thereof amounted to criminal negligence. Though we have not received the response of the Government, yet its decision in November 2012 to register a case with the CID to investigate the offences committed against the Government which resulted in a wrongful loss of ₹ 8 crore bears out our conclusion. Thus, the then PCCF had wilfully hidden the above information from Audit about the CID investigation and tried to mislead the Audit investigation. Since it was the responsibility of the Revenue Department, being the authority on land matters, to verify the land details before carrying out the LA proceedings, the negligence of the Revenue Department in this matter also needs to be investigated.

³⁵ *With details on area of land identified after survey by the Revenue Department, particulars of owners of land with the area of their individual holdings, valuation of land, etc.*