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**HARYANA VIDHAN SABHA**  
**COMMITTEE**  
ON  
**PUBLIC UNDERTAKINGS**  
(1993-94)  
(EIGHTH VIDHAN SABHA)  
**THIRTY SEVENTH REPORT**  
ON THE  
**REPORT**  
OF THE  
**COMPTROLLER AND AUDITOR GENERAL OF INDIA**  
**FOR THE YEAR 1988-89 (COMMERCIAL)**



Presented to the House

**HARYANA VIDHAN SABHA SECRETARIAT**  
**CHANDIGARH**  
1994

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**COMPOSITION**  
**OF**  
**THE COMMITTEE ON PUBLIC UNDERTAKINGS**  
(1993—94)  
**CHAIRMAN**

\*1 Shri Phool Chand Mullana

\*\*2 Shri Suraj Mal

**MEMBERS**

3 Shri Ram Rattan

4 Shri Phusa Ram

5 Dr Om Parkash Sharma

6 Shri Dhirpal Singh

7 Shri Satbir Singh Kadian

8 Shri Ram Bhajan Aggarwal

9 Shri Kitab Singh Malik

\*\*\*10 Shri Chander Mohan

**SECRETARIAT**

1 Shri Sumit Kumar Secretary

2 Shri Ashok Kumar Deputy Secretary

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\*Resigned with effect from 6th August 1993 on his appointment as Minister

\*\*Appointed Chairman with effect from 18th August 1993

\*\*\*Nominated with effect from 18th<sup>1</sup> August 1993

Note —The Committee for the year 1993 94 was nominated by the Hon ble Speaker in pursuance of the motion moved and passed by the Haryana Vidhan Sabha in its sitting held on 25th February 1993 authorising him to nominate the Members of the Committee on Public Undertakings for the year 1993 94 on the 20th April 1993

## INTRODUCTION

I Suraj Mal Chairman Committee on Public Undertakings having been authorised by the Committee in this behalf, present Thirty Seventh Report of the Committee on the Report of the Comptroller and Auditor General of India for the year 1988 89 (Commercial)

The Committee orally examined the representatives of the Government/Undertakings

A brief record of the proceedings of various meetings of the Committee held during the year 1993 94 has been kept in the Haryana Vidhan Sabha Secretariat

The Committee are thankful for the assistance rendered by the Accountant General (Audit) Haryana and his staff

The Committee are also thankful to the representatives of the Government/Undertakings who appeared before the Committee from time to time

The Committee are also thankful for the whole hearted and unstinted co operation extended by Secretary/Deputy Secretary and his staff

Chandigarh  
The 17th February 1994

SURAJ MAL  
CHAIRMAN

## REPORT

### HARYANA TELEVISION LIMITED (REVIEW)

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1 The Government has intimated that the Corporation has since been sold out to some private party w e f 28 11 1992 and all its staff was already retrenched on 30 9-1988

The Committee in these circumstances recommend that the Government may take appropriate action, as they deem fit in regard to the points raised in the above stated paragraphs Total substance of assets disposed off and liabilities discharged may be reported to Committee within six months

### THE HARYANA STATE SMALL INDUSTRIES & EXPORT CORPORATION LIMITED (REVIEW)

#### 2B 1—Introductory

2 The Haryana State Small Industries and Export Corporation Limited was incorporated on 19th July 1967 as a Government Company with a view to assist small and medium Industries in the State

A review on the working of the Corporation was included in the Report of the Comptroller and Auditor General of India for the year 1981-82 (Civil) Government of Haryana. Results of further study are contained in the succeeding paragraphs.

#### 2B 7 4 Procurement and distribution of raw materials

3 The raw materials sold either against cash payment or on 60 days credit against bank guarantee in which case interest is charged for the period of credit. The Corporation procures iron and steel from Steel Authority of India Limited (SAIL)—a Govt of India Undertaking which takes about a month in sending the sale invoices. Pending its receipt the corporation makes sales of iron and steel at provisional rates. The debit/credit notes are issued to the registered units subsequently after the finalisation of sale rates on receipt of invoices from SAIL. As on 30th June 1988 Rs 20 66 lakhs was recoverable from units on account of difference between the provisional and final rates. Out of Rs 20 66 lakhs Rs 3 74 lakhs had become time barred and irrecoverable as these represent the sales made against cash.

In their written reply the Government / Corporation stated as under —

- (1) "At the time sales is conducted in favour of a unit care is taken by the Branch Manager Raw Material depot to see that nothing is recoverable from such unit. There are standing instructions to the Branch Manager to ensure the recovery of the debit balance if any before the release of material to the parties. However Industries Department had stopped the supplies of Iron & Steel material to certain units because these had stopped the manufacturing activities. Most of these units were set up under R I Scheme. There is no earnest money in their account as Corporation do not receive earnest money from the R I units. Such time barred and irrecoverable amount are proposed to be written off. It may be pointed out that there are number of units whose earnest money is lying with the Corporation but have not sought refund though they do not take advantage of raw material facility and most of such units are no more in existence.

After scrutinising the reply of the department the Committee was constrained to infer that there was culpable laxity and connivance in not observing a system for effecting recovery of cost of raw material supplied to R I units. Consequently the amount had become irrecoverable and time barred. The Committee therefore recommended that responsibility of the defaulting officials be fixed and action taken be intimated to the Committee within six months alongwith the report if the amount had since been written off.

#### 2B 7 5 Blocking up of funds

4 The corporation purchased 3 34 acres of land for Rs 5 92 lakhs at Ballabgarh from Haryana Urban Development Authority (HUDA) in 1973 74 for setting up its own raw material depot which was being run

in rented premises in Faridabad. In April 1985 the work of construction of the building was entrusted to Haryana State Industrial Development Corporation Limited (HSIDC)—a Haryana Government Undertaking at an estimated cost of Rs 9.48 lakhs. An advance of Rs 4.74 lakhs was paid to HSIDC in May, 1986. The Haryana State Industrial Development Corporation allotted the work to Agaon Cooperative Labour and Construction Society Limited Agaon (District Gurgaon) in December, 1987 which was to be completed within 12 months from the date of handing over the site. Since there was encroachment the land was handed over to the firm only in April 1988. The work of construction on the depot could not be taken up by the firm in the absence of the approved building plan. In October 1988 the Corporation approached HUDA for approval of the building plan. In the meantime the Haryana Urban Development Authority introduced (September 1986) a Scheme of charging extension fee for delay in construction of building on plot beyond three years and accordingly demanded (September 1989) extension fee of Rs 2.03 lakhs for the years 1987-88 to 1989-90 before granting approval to the building plan. Neither the Corporation had deposited the extension fee nor HUDA had approved the building plan so far (October 1989).

As the Haryana State Industrial Development Corporation Limited (HSIDC) could not take up the construction work for want of approved plan, the corporation obtained refund of Rs 4.69 lakhs in May 1989 and decided to take up the work departmentally. The work was yet to be taken up (October 1989). Thus due to inordinate delay in starting the construction work, the Corporation had become liable to pay the penal charges of Rs 2.03 lakhs. The cost of proposed construction would also increase with passage of time. Besides, the Corporation also suffered a loss of interest of Rs 15.71 lakhs on idle investment of Rs 5.92 lakhs on purchase of land and Rs 4.74 lakhs on locked up funds lying with the Haryana State Industrial Development Corporation Limited (HSIDC) for three years. The Corporation also incurred an avoidable expenditure of Rs 2.24 lakhs during the period July 1973 to September 1989 on rent charges as a sequel to the delay in construction of raw material depot.

In their written reply the Government/Corporation<sup>1</sup> stated as under —

- (i) The Corporation had not proposed to construct the building on its plot in sector 4 which was adjacent to the SAIL Stockyard because the rented premises at 17/6 Mathura Road was considered be most appropriate site. Moreover the rent payable by the Corporation for the rented premises at Faridabad was only Rs 1200 per month.

The Corporation has since taken consignment agency of Hindustan Zinc Ltd at Faridabad and the premises at 17/6 Mathura Road had become congested due to the running of sales depot. Stockyard Branch besides consignment agency of H Z L. It was therefore felt necessary to start Construction work at its own plot in Sector 4 in 1985.

- (ii) Some jhuggies had been built by some Labourers. But these were assured to be vacated before the start of Construction Work.

- (iii) The plans were submitted to Haryana Urban Development Authority (HUDA) before giving the construction work to M/s HSIDC but the same were not approved by HUDA for want of extension fee under the policy finalised by Industries Department and further adopted by HUDA in 1987
- (iv) The matter has been taken up with the Commissioner Industries for waiver of extension fee and the final decision in this regard is awaited

It is further stated that the Corporation has exchanged this plot with SAIL Faridabad. The present site is most suitable and is located in the mid of Industrial Sector. The exchange of plot has taken place as SAIL wanted more space for modernisation of Stock yard and provide better service facilities to Industries which would benefit state of Haryana also as well as the corporation.

- (v) The construction requirement of the plot is boundary wall weighbridge Cabin 2-3 rooms for staff and metalled road inside the plot. The Corporation is taking steps to start the construction itself and the same will be supervised by own Technical staff.

Though the Corporation lost by way of interest on the investment of plot but its appreciated value is much more than that of interest.

The Committee felt that payment of advance to HSIDC without the approved plan was not proper. The Committee was also not satisfied with the reply of the department that appreciation of the plot was much more than the value of interest in the idle investment for 11 years. The construction of building on the plot had no bearing on appreciation. The loss by way of interest and rent was a reduction in appreciation. The Committee recommended that responsibility in the matter be fixed and action taken intimated within six months. The Committee desired that the final status/position of the plot ensuring the exchange proposal with the site/building in possession of SAIL with financial implications should also be reported.

## 2B 11.1 Rural Industrial Schemes

5. The corporation is implementing 24 Rural Industrial (RI) Schemes entrusted to it by the State/Central Government and Government agencies since 1978. The schemes provided for extension of assistance to entrepreneurs in the form of (i) institutional finance and seed money at subsidised low rates of interest (ii) subsidies in the form of Cash interest and on stamping and registration charges (iii) development of industrial complexes in selected trades for imparting short term training to rural artisans and making available constructed sheds to them (iv) opening sale depots at various centres in the States for the sale of the products manufactured by the units set up under the scheme and (v) supply of essential raw material to the units. Funds for the implementation of these schemes are provided by Government and the concerned agencies. The table below indicates the grants available with the Corporation as on 1st July 1983.



grants received during 1983 84 to 1987 88 and unutilised/over utilised grants as on 30th June, 1983 in respect of various schemes —

(Rupees in lakhs)

(i) Opening balance as on 1 7 1983 (net overspent)	(—) 44 45
(ii) Grants received during 1983 84 to 1987 88	11,39 58
	<hr/> 10 95 13
(iii) Grants spent during 1983 84 to 1987 88	11 66 06
(iv) Balance as on 30 6 1988 (net overspent)	
Overspent (8 schemes)	1 08 43
Unspent (8 schemes)	37 37
	(—) 70 93

The overspent amount of grant had not been reimbursed by Govt so far. The request of the corporation for the reimbursement of the amount utilised in excess of grants was rejected by Government (February 1989) which had been insisting on keeping the expenditure within sanctioned amount of grants and reduction in staff.

In their written reply the Government/Corporation stated as under —

“The Corporation has taken up the matter with the State Govt time and again to reimburse the over spent amount but funds have not been released inspite of our repeated requests. The matter has also been taken up demt officially with the Commissioner & Secretary Industries Haryana for releasing of funds. At no stage the State Government has rejected the proposal for release of more funds. The staff strength of Rural Industrial (R I) Scheme stands approved from Board of Directors of the Corporation as well as Directorate & Director of Industries Haryana is always present in all the meeting of Board of Director where in agendas have been taken time and again for reduction of staff and other fixures but it could not be reduced for smooth running of the Centres. However the case for recovery of overspent amount is being persued with the Govt. In case Govt refuses to reimburse the amount the same will be treated as deferred revenue expenditure and would be charged to P & L A/C in 10 years.

The Committee observed that excess expenditure over grants is increasing from year to year. It was Rs 44 45 lakhs as on 1-7 1983 which went up to Rs 108 30 lakhs as on 30 6 1988. The Committee desire that expenditure should be strictly regulated as per grants in future.

2B 11 2

6. The schemes for imparting training in various trades viz carpentry carpet weaving manufacture of steel utensils agricultural implements etc was entrusted to the corporation by various District Rural Development Agencies (DRDAs) in 1982 83. Under the scheme

the corporation was to provide training to rural artisans in pre selected trades and help them to set up their own units. Under the schemes 29 training centres were to be set up for training of 2 600 trainees. The various schemes were discontinued from 31st March 1985 as these schemes were taken over by the concerned agencies. In this connection following observations are made —

- (a) Out of grants aggregating Rs 52 35 lakhs received from DRADs the Corporation incurred an expenditure of Rs 50 62 lakhs up to June 1988. The unutilised grant of Rs 1 73 lakhs had not been refunded by the Corporation so far (October 1989)
- (b) Out of 1 679 trainees trained, only 779 trainees had adopted the trade. Thus the object of imparting training under the schemes could be achieved only to the extent of 30 per cent

In their written reply the Government/Corporation stated as under —

- (i) Regarding refund of unutilised grant of Rs 1 73 lakhs to various Rural Development Agencies it is pointed out that a sum of Rs 2 59 828 is overspent in respect of DRDA Hisar Narnaul Ambala & Jind against unutilised grant of Rs 1 73 lakhs. Thus a sum of Rs 86 000/ is recoverable from DRDAs after adjusting unutilised grant with overspent amount
- (ii) All type of assistance was provided to the trained trainees and it is because of our efforts that more than 50% trainees had adopted trade

The Committee observe that in ratio to the infra structure the centre was not attracting the optimum number of trainees and recommended that the Government should gainfully review the necessity and utility of running the centre

## 2B 11 3 2 Nugatory expenditure

7 The Corporation received an order in July 1985 from Herbert Sons Limited Delhi for the supply of 400 dinner sets of 18 pieces each. Against the order the Centre produced 843 complete sets with some extra plates/dongas. The firm lifted only 255 sets up to December 1986 and 45 sets were transferred to various emporia while 6 sets were sold by the Centre. 537 sets with extra plates/dongas valuing Rs 1 23 lakhs were still lying unsold (March 1989). As the sets bear the logo of the above mentioned firm there is little chance of their sale. Thus the expenditure of Rs 1 23 lakhs on manufacture of 537 dinner sets proved nugatory

In their written reply the Government/Corporation stated as under —

Efforts are being made for the sale of dinner sets by offering special rebate

The Committee observed that production of 843 dinner sets against the order of 400 sets was not proper. It was also improper on the

part of the Corporation for not initiating the action against M/s Herbert Sons Limited for lifting 255 sets only against the order of 400 sets. As such the Committee recommended that responsibility in the case should be fixed and action taken in the matter be intimated to the Committee within six months. The latest position of sale of dinner sets should also be intimated.

## HARYANA STATE ELECTRICITY BOARD

### Panipat Thermal Power Project (Review)

#### 3 1 1 Introductory

8 The Panipat Thermal Power Project with two generating units of 110 MW each in the first stage was completed and commissioned in November 1979 (first unit) and March 1980 (second unit). The Board further decided to install three units with a capacity of 430 MW (two units of 110 MW each in stage II and one unit of 210 MW in stage III).

The working of the stage I of the Project was last reviewed in the Report of the Comptroller and Auditor General of India for the year 1982-83 (Civil) Government of Haryana. Results of further study are contained in the succeeding paragraphs.

#### 3 1 5 4 Construction of natural draughts cooling towers

9 Tenders for design and construction of two natural draught cooling towers (No. 3 and 4) were invited/opened in May/September 1981. Tenders of Gammon India Bombay (firm 'A') and Central Concrete and Allied Products Private Limited Calcutta (CCAP) (firm B) were received. The consultants while scrutinising the technical bid recommended (October 1981) that price bid of firm B should not be opened as the firm was incapable of executing the work in time. Accordingly the firm was not considered by Store Purchase Committee (SPC) as the firm did not have proven past experience in the construction of natural draught cooling towers. Thereafter the Board constituted (November 1981) a sub-committee to negotiate with other firms which were having technical competence to undertake such jobs.

After holding detailed discussion with four firms (offers from two more firms viz. Paharpur Cooling Towers, Delhi and National Building Construction Limited New Delhi—a Government of India undertaking were received) the sub-committee recommended (December 1981) that the work should be allotted to firm A. The Panipat Thermal Standing Committee (PTSC) however decided (January 1982) to award the work to firm B after taking an overall view about the competency of the firm, its French consultants and the price difference of about Rs. 1.25 crores between the offers available. The work was allotted to firm B in January 1982 at a cost of Rs. 6.70 lakhs plus price escalation limited to Rs. 25 lakhs with a completion period of 20 months (up to September 1983) and 26 months (up to March 1984) for cooling tower No. 3 and 4, respectively. The period of completion was extended (July 1985) up to March 1986 and May 1987 respectively without levy of penalty.

In this connection following observations are made —

- (i) The consultants in the original tender specification for cooling tower No 3 did not specify the A C distribution pipes (pressure or non pressure) During discussion on part 1 of the offer with the firm the firm consultants specifically stipulated non pressure pipes The firm accordingly provided A C non pressure pipes The work was completed by the firm in June 1986 at a cost of Rs 3 20 25 lakhs excluding Rs 17 21 lakhs paid to the firm on account of escalation charges

During trial run in June 1986 A C non pressure pipes failed as these could not withstand the designed load Non pressure A C pipes were replaced with A C pressure pipes at a cost of Rs 3 58 lakhs The work of replacement was completed by the firm during November 1986 and the firm demanded Rs 10 lakhs towards the labour cost of the work executed

The unit was ultimately synchronised with the system in December 1986 The loss of generation due to failure of the pipes worked out to 242 352 MKwh

- (ii) The firm executed the work of cooling tower No 4 up to May 1986 and a payment of Rs 1 62 05 lakhs and Rs 8 71 lakhs towards cost of work and escalation charges respectively was made The firm due to delay in payment of mobilisation advance time lost in post contractual negotiation, shortage of cement financial stringency on the part of the Board etc abandoned (June 1986) the work and also lodged (October 1986) a claim of Rs 3 39 lakhs for both the cooling towers was revised (July 1988) to Rs 2 47 lakhs in respect of cooling tower No 3 The Board decided (September 1986) to constitute a Committee to examine the claims and other related matters The Board after considering the recommendations of the committee withdrew the work from the firm Tenders were invited in September 1987 and after a few extensions were opened in January 1988 Offers from firm A and firm B (not on prescribed forms) were received Panipat Thermal Standing Committee (PTSC) decided (January 1988) to constitute a Sub Committee to explore the possibility of getting the work completed from firm B in view of high price bid of firm 'A' and also to negotiate the rates with firm B After consideration of the recommendations of the Sub Committee the Board decided (February 1988) to reallocate the balance work of cooling tower No 4 to firm B Accordingly the work was reallocated (March 1988) to firm B for Rs 2 40 lakhs with the following terms and conditions —

- (a) completion period-20 months i.e. up to November 1989
- (b) interest free mobilisation advance of Rs 25 lakhs
- (c) price escalation was payable subject to ceiling of 10 percent of Rs 2 40 lakh
- (d) no adjustment/recoveries would be made from running account bills of this work for any dues against the old contract and

- (c) the firm was to withdraw all arbitration and court cases relating to both the cooling towers

A sum of Rs 1 36 33 lakhs towards the cost of work and Rs 7 93 lakhs on account of escalation charges had been paid to the firm up to March, 1989

As the completion of cooling tower No 4 was delayed PTSC decided (July 1986) to interconnect the hot water duct of cooling tower No 4 with cooling towers No 1 and 2 (stage 1) so as to commission unit IV. The work was got executed (January 1987) from Raj Kishan and Company (firm C) at a cost of Rs 19 74 lakhs

Thus allotment of work to an inexperienced firm despite the recommendations of consultants to the contrary, resulted in an extra expenditure of Rs 1 15 29 lakhs as detailed below

Cooling tower No 3	(Rupees in lakhs)
(i) extra payment of escalation charges	4 71
(ii) extra expenditure on purchase of A C pressure pipes	13 58

#### Cooling tower No 4

	(Rupees in lakhs)
(i) extra expenditure on reallocation of work	67 05
(ii) extra expenditure on inter connections	19 74
(iii) extra expenditure on account of escalation charges	20 21

In addition the Board also extended undue financial benefit to the firm by way of interest free mobilisation advance and non adjustment/recovery of the amount due from the firm under the old contract

Although inter connection of cooling towers was made to run four units on three cooling towers yet due to inadequate cooling the units could not run to their rated capacity. This resulted in short generation of 242 352 MKWh

In their written reply the Government Board stated as under —

- (i) 'The consultants vide their letter No 9407/VC—2110/1457 dt 3 10 82 recommended for allotment of work to M/S Gammon India Ltd Bombay (Firm A). The consultants after scrutinising the technical data of the bidders proposals for Natural Draught Cooling Tower assessed the technical requirements and recommended as under —

- (c) 02 (a) On the basis of proven past experience in constructing natural draught cooling towers Gammons competency is better as they have constructed several towers in the country

and are presently constructing a number of cooling towers. They are geared up to execute several cooling towers simultaneously at various sites in the country maintaining quality workmanship and guaranteed completion schedule subject to Board furnishing needed cement and steel materials for an uninterrupted progress of work at site.

(b) Gammons propose to carry out the structural design of the natural draught cooling towers themselves and adopt the thermal designs of their Foreign Collaborators viz Hamon Sobelco Belgium whose cooling towers have proved to give satisfactory performance in the past. The Board is already aware of their capabilities for design and construction of towers under Stage I Units.

(c) However we would suggest that all outstanding technical and commercial issues be finalised prior to opening the price bid so that they can proceed with the construction of towers without any interruption and/or settlement of issues during contract execution.

C 03(a) Central Concrete & Allied Products is basically a civil work contractor. They have offered the natural draught also have cooling towers in collaboration with Stup Consultants who also have not constructed any natural draught cooling tower so far. Neither Central Concrete and Allied Products nor Stup have associated with or constructed any cooling tower of specified size in the past. Stup consultants claim to have entered into collaboration with Europe Etudes Gecti France. The experience of Europe Etudes Gecti also appears to be very much limited in design and construction of natural draught cooling towers.

(b) Being new in the field of natural draught cooling towers they have yet to know technique of getting over the difficulties which are encountered during the various stages of construction including mobilisation which may result in non availability of the Unit 3 by September 1983. The cooling tower is a complicated RCC structure in shape and design and if entrusted to inexperienced contractor for design and construction may get constructed with many defects resulting in acceptance of any unsafe and inefficient cooling tower.

c 04(a) On the basis of the above we consider it to be a very risky proposition even to try Central Concrete and Allied Products cooling towers and therefore we would recommend Board not to open their price bid to avoid complications later.

In view of the above we recommend that the price bid of Gammon India Ltd. only be opened and sent to us for our final recommendation.

The Sub Committee after holding discussions with various firms submitted its final recommendations with the Board in its meeting held on 14.12.81. The recommendations of Committee are reproduced as under —

The Committee after taking a stock of the whole situation and after holding detailed discussions with various competent firms, recommends as under —

- (a) The contract for the construction of two numbers natural draught coolings for Panipat Thermal Power Project Stage II may be entrusted to M/S Gammon India Ltd Bombay on their terms and conditions with a rebate of Rs 5 00 lakhs and with price escalation ceiling of  $12\frac{1}{2}\%$  of the contract value
- (b) The contract for the construction of RCC Chimney for Panipat Thermal Power Project Stage II may be entrusted to M/S Gammon India Ltd Bombay at their original quoted rates of Rs 55 95 lakhs with a price escalation ceiling of  $12\frac{1}{2}\%$  of the contract value Price escalation for refractory materials and stainless steel will, however be limited on actual basis

The following considerations weighed with TSC for allotment of work to M/S Central Concrete & Allied Products Private Ltd i.e the firm B

1 Difference in price of the two firms was about Rs 1 25 Crores

2 Large experience for construction of sophisticated RCC structures and technical background of their consultants viz M/S STUP Consultant and the experience of their French Associates the firm will be able to under take the construction of natural draught cooling tower to the requirement of the the Project

3 The firm has also confirmed that the services of Mr Shoemaker and Mr Fuster Du Septan French gentleman who have designed a number of cooling in France will be available for Panipat Thermal Station

In view of above the Committee after taking an overall view of the facts about competency of M/s Central Concrete and Allied Product with Technical background of Stup India Ltd and their French Associates and the price difference of Rs 1 25 Crores decided to award the work to M/s Central concrete and allied Product private limited Central Concrete and Allied Product The Committee further decided that all along the planning design and erection and maintainance (mtc) of these cooling towers services of Engineers of M/s Stup and their French Associates will be available with the contractor and the project engineers

The job of design and construction of 2 No natural draught cooling tower No 3 & 4 under State II of the Panipat Thermal Power Project was allotted to M/s C C A P on 18 1 82 with a completion period of 20 months for C T 3 and 26 months for C T 4 The completion date for C T 3 was 28 9 83 and for C T 4 was 28 3 84 the work could not be completed within the stipulated period The reasons for delay in completion of the work as observed by the Project authorities are stated as under —

A C T -3 from 28 9-83 to 31-8 84 & C T 4 from 28 3-84 to 28 2-85

- (i) Delay due to issue of detailed purchase order (PO) Nil
- (ii) Delay due to additional plate load test —17 4 82 to 25 5 82—39 days

(iii) Delay due to decision regarding vertical piles	—26 5 82 to 28 8 82—95 days
(iv) Delay due to decision regarding tension of raker piles	10 9 82 to 20 11 82—72 days
(v) Delay due to the non availability of SRO cement and also carrying out work in single shift	24 2 83 to } 15 4 83 & } + } 87 8 2 83 to } days 28 2 83 }
(vi) Delay due to approval of billing schedule	30 5 83 to 6 7 83—38 days
(vii) Delay due to strike by stone crushers	7 days
Total	<hr/> 338 days <hr/>

**B Delay from 31 8-84 to 31 10 85 in case of C T -3 and from 28 2 85 to 30 4-86 in case of C T -4**

Panipat Thermal Standing Committee in its meeting under agenda item No 74 08 granted the extension by considering the following reasons for delay —

- 1 Delay in decision of plate load test
- 2 Delay due to non availability of cement
- 3 Delay due to difference in opinion between consultants on the design features shortage of cement non approval of billing schedule untimely rains and delay in running payments
- 4 Delay due to discontinuity of work and restart in mobilisation etc The mobility for revival depends upon factors like working season in agriculture sector weather condition, coming up of the other projects in the neighbouring areas and availability of labour etc as per project experience, mobilisation normally takes about 2/3 months
- 5 Delay in release of monthly bills thereby slowing down the progress due to timely non availability of funds so as to satisfy the local parties/suppliers and work force by the contractor



- 6 Project authorities also observed that M/s GIL a concern holding high experience of the line, took 34 months and 36 months in construction of cooling towers for Unit I & 2 respectively. Thus the new firm M/s CCAP were expected to take the minimum if not more time for completion of the work.

**C Delay from 1-11-85 to 31-3-86 in case of C T -3 and from 1-5-86 to 31-5-87 in case of C T -4**

Panipat Thermal Standing Committee in its meeting under item No 77 06 granted the extension upto the above noted period due to the following reasons —

- 1 Due to deterioration of funds position from 4/85 onward there by non payment for the work done during 3/85 thereby further showing down the progress of work. The firm kept on pursuing with the Board for early clearance of their dues.
- 2 Certain recoveries from the running bills were disputed by the firm leading to controversy with the contractor and resulting in stoppage of work by the contractor.
- 3 The contractor requested for extension in completion period upto March 1986 and October 1986 for CT 3 and CT 4 respectively vide their letter No CCAP/BM/CRS/332 dt 14 2 85. PTSC granted the extension after considering the continuous shortages of funds with Board release of running bills against work done. Inadequacy of finance for effecting planned procurement of cement and steel. Financial constraints resulted in slowing down the progress of the work and mobilisation of the inputs and infrastructure items were also delayed.

**D From 31-3-86 to 12/86 in case of CT - 3**

The completion of the work for the above period delayed due to the following reasons —

- 1 After completing the distribution system of AC pipes by the firm it failed during June 1986 during trial run with regard to its guaranteed performance. The non pressure AC Pipes did not withstand the designed load and collapsed. No pressure AC/o/es were removed and AC pressure of Pipes as approved by the Consultants were provided by the Board at a cost of Rs 3 58 lakhs during September 1986. The work of replacement was completed by the firm during November 1986. For this delay the Board has already lodged its counter claim for Rs 33 50 lakhs with Sh D C Sahoo the then MFC HSEB the Arbitrator which was appointed earlier by the Board on 8 9 89. Now the earlier Arbitrator had resigned on 30 10 91 and the new Arbitrator Sh M S Gujral Chief Justice (Retd) has been appointed by the Board on 22 9 92 for which the proceedings have started.

- (iii) As per approval of Consultants AC Pressure Pipes were got provided by the Board by making the payment direct to the manufacturers of AC Pressure Pipes during September 1986. The job was awarded to M/S CCAP on turn key basis at a lump sum price including complete design and engineering to be done by the Contractor through their Stup Consultants and their French Associates. Thus the sole responsibility for failure of the design evolved by the consultants of the Contractor rest with the Contractor for which we have lodged a counter claim of Rs 3.58 lakhs which has been lodged before Sh. M. S. Gujral Arbitrator appointed on 22.9.92. The arbitration proceedings are being conducted regularly during all the months by Hon'ble arbitrator Mr. M. S. Gujral Retd. Chief Justice and the final decision is still awaited.
- (iv) As per clause 65 of the contract any defect noted in the work executed by the Contractor has to be removed by him at his own risk and cost. Accordingly the cost of rectification of such job is to be borne by the contractor and therefore we have replied on above lines to the Contractor against his claim of Rs 10 lakhs. The reply is being filed before the new Arbitrator appointed by the Board in consultation with the Legal Cell of the the Board. The arbitration proceedings are being conducted regularly by the Hon'ble Arbitrator Mr. M. S. Gujral Retd. Chief Justice. The final decision is still awaited.
- (v) The work had been allotted during January 1982. The Contractor submitted the proforma for Bank guarantee (B.G.) only in 1982 which is clear from their letter dt 17.3.82. In this letter the firm has admitted that they are still arranging the B.G. from their bankers. The mobilisation advance was to be given on submission of the B.G. by the firm on the prescribed proforma of HSEB. CCAP submitted the B.G. on Board's proforma on 7.4.82 vide their letter dt 7.4.82. The above copy of firm's letter was received on 9.4.82. The Scrutiny of B.G. by Legal Department of HSEB was got done and after getting authority letter from the firm mobilisation advance was issued on 30.4.82. Thus delay of about three months occurred on a/c of completion of above formalities.
- (vi) As per clause 14 of P.O. issued vide Memo No. Ch 19/CWC-119 dated 3.3.88 it was decided as under —
- (a) You (viz firm) will withdraw all Court case(s) relating to both the cooling towers of Stage II.
  - (b) Firm will withdraw all arbitration claims in respect of complete tower No. 4 and all your claims regarding tower No. 4 shall be deemed to have been satisfied/abandoned.
  - (c) All terms & conditions of original order No. Ch 2/PTP 406/C/CD I dated 23.4.82 with modifications contained in this letter shall be applicable and legally binding upon the Parties.

Accordingly the firm agreed to withdraw the court cases and claims in respect of completed work of CT 3 will be settled through arbitration. Accordingly, the firm has lodged their claims amounting to Rs 242 lakhs (approx) excluding interest for which Sh D C Sahoo the then MFC HSEB was appointed Arbitrator by the Board. After conducting various meetings the Arbitrator resigned. New Arbitrator has recently been appointed by the Board and the proceedings are being conducted regularly by the Hon ble Arbitrator Mr M S Gujral Retd Chief Justice. The final decision is still awaited.

- (vii) A detailed case for allotment of left over work of CT 4 was prepared and put up to PTSC under item No 97 01. Detailed merits and demerits for allotment of work to either of the Parties viz M/S CCAP and M/S GIL were indicated in the above memorandum. After discussion in its 97th meeting held at Panchkula on 20 1 88 PTSC decided as under —

After discussion it was felt that we should explore the possibility of getting the work completed from the old contractor viz M/S CCAP in view of high price bid of M/S Gammons. However the price bid given by M/S CCAP was considered to be on higher side and therefore a sub committee comprising of MFC MT (G&P) was constituted to negotiate the price with M/S CCAP.

In pursuance of the above decision the Committee met on 28 1 88 and discussed the matter with the representative of M/S CCAP. The following considerations were kept in view while negotiating with the Party and arriving at a reasonable price —

- (i) The importance of early completion of the tower in order to ensure running of all the four units simultaneously on full load.
- (ii) Escalation in prices upto May 1987 the earlier scheduled date of completion.
- (iii) Additional expenditure on repairing/modifying and recasting of abandoned lower casting beds.
- (iv) Additional expenditure in providing AC pressure pipes instead of non pressure pipes as stipulated in the original contract of Stage II.
- (v) Enhancement in cost due to overall effect of restriction of tension in raker piles (restricted to 4 tonnes from 19 tonnes).
- (vi) Withdrawal of all court cases relating to both the cooling towers under Stage II.
- (vii) Withdrawal of all Arbitration claims relating to the completed portion of tower No 4. Further no such claims to be raised about the completed portion of tower No 4 in future.

In view of above the Board has justified the reallocation of the work to the same firm at extra cost

- (viii) As per purchase order (P O) issued for reallocation of work, the work was to be completed within a period of 20 months to be reckoned from 10th day of the date of issue of allotment letter viz 3 3 88 Thus the work was to be completed by 12 11 89

The work was actually completed by the firm on dated 2 5 90 The brief reasons for delay in completion of the subject work are indicated as under —

(i) Delay in releasing 1st instalment of mobilisation advance	—19 days
(ii) Delay due to non availability of cement and power connection	— 30 days
(iii) Delay in approval of design drg of wall block	— 15 days
(iv) Delay due to non availability of high tension wire for casting of louvers	— 30 days
(v) Delay due to rains and power failures	— 9 days
(vi) Delay in release of shut down on hot water duct of Unit IV for fixing of butterfly valves and riser pipes	— 68 days
Total	171 days

PTSC(c) under agenda item No 117 21/spl I considered the case and decided to grant extension in completion period to the firm by 2 5 90 in its meeting held on dated 25 10 90

- (ix) To get the left over work of CT 4 completed the detailed reasons have already been given under item (vii) Issue of interest free mobilisation advance was one of the condition of the firm and therefore keeping in view of the overall position the mobilisation advance was given free of interest

The following amounts were due from the firm against the old contract

- |   |                 |
|---|-----------------|
| 1 Recovery for mobilisation advance and fresh advance with interest upto 3 7 89 | —Rs 36 11 lakhs |
| 2 Recoveries for special advance of Rs 10 lakhs with interest upto 31 7 89      | Rs 15 62 lakhs  |

3	Recovery for Board's materials	Rs 5 14 lakhs
4	Recovery for excess consumption of cement, steel and M S Plates as per Clause 35 SH 27 of specification No 2108	Rs 9 87 lakhs
5	Recovery for hire charges of Bull Dozer & Crane	Rs 0 04 lakh
Total		Rs 66 92 lakhs

### Position of recoveries

Regarding effecting recovery of the outstanding dues, the counter-claims have been prepared and the same have been filed before the new Arbitrator appointed by the Board on 22 9 92 in consultation with the legal cell of the Board

The arbitration proceedings are being conducted regularly all the months by Hon ble arbitrator Mr B M S Gujral Retd Chief Justice The case is under active consideration and the final decision is still awaited The outcome of the proceedings will be intimated as soon as the arbitration proceedings are over

After scrutinising the reply, the Committee would like to have the following information —

- (i) Total cost paid to firm 'B viz M/s Central Concrete and Allied Products Limited, Calcutta including the cost of work reallocated and the amount paid on the basis of the verdict of the Arbitrator and extra work allotted
- (ii) The status position of the 4th cooling tower as to when completed and commissioned
- (iii) Whether all the four units with four independent cooling towers are working to the full capacity A table indicating their rated capacity and power actually generated during the subsequent years In case the generation of power falls short of the rated Capacity, a succinct note detailing the reasons thereof may be furnished

### 3 1 6 1 Extra expenditure on procurement of transformer evacuation system

10 As per operation and maintenance manual of manufacturers the filling of the oil in all the main and unit transformers was required to be done under vacuum The Board purchased (August 1987) one high vacuum oil purification and filtration plant of 6 000 LPH capacity valuing Rs 13 50 lakhs from Vacuum Plant and Instrument Manufacturing Company Private Limited Pune (firm A') without transformer evacuation system which the firm had offered to supply at a cost of Rs 3 65 lakhs The filtration set was drawn (September 1987) from the store by Executive Engineer Switchyard (stage III) The Executive Engineer pointed out

(November/December 1987) that the plant already procured would be of no use without evacuation system. The evacuation system was purchased (November 1988) from the firm being its proprietary item at a cost of Rs 5.12 lakhs. Thus the delay in purchase of evacuation system resulted in an extra expenditure of Rs 1.47 lakhs.

In their written replies, the Government/Board stated as under:

'The proposal for the procurement of one High Vacuum Oil Filtration Plant 6000 litres capacity amounting to Rs 19.51 Lakhs along with evacuation equipment and other accessories was put to Panipat Thermal Standing Committee (PTSC). But the PTSC approved the proposal on the similar lines of the purchase of oil filtration set made by Chief Engineer/MM amounting to Rs 9.63 Lakhs in 2/82.

After due consideration and additional requirement of certain items a P.O. for Rs 11.29 Lakhs excluding evacuation equipment was placed by the Project Authorities during 2/87. The oil filtration set was received in store in 8/87 and the same was drawn by XEN Switchyard in 8/87. This oil filtration set was used for dehydration of 40 MVA station transformer of Stage III and for other general maintenance of power transformer of Stage I and II from 9/87 to 6/88.

The need for procurement of additional evacuation system arose only at the time of commissioning of 240 MVA power transformer of Unit V. The transformers of this capacity are not installed in the field and at the project against Unit I to 4. M/s BHEL, the manufacturer of the 240 MVA Power transformer had recommended the filling of the oil in the transformer after maintaining full vacuum and accordingly the proposal for procurement of evacuation equipment was initiated and approved by the Competent authority. Evacuation equipment being an optional item of the main filtration set the purchase was effected by the Board at the time of its actual requirement. Thus, it is only a case of deferred purchase of evacuation equipment. In fact with this deferred purchase the Board has saved the blocking of the initial investment/interest its depreciations etc. on this equipment."

The need of the purchase of transformer evacuation system arose immediately on issue of plant. Thus the Committee felt that evacuation system should have been purchased along with the High Vacuum Oil purification and Filtration Plant when the rates were competitive and economical. The extra expenditure of Rs 1.47 lakh was avoidable. The Committee, therefore, recommends that responsibility for the extra expenditure may be fixed and action taken intimated within six months.

### 3.1.9.2 Loss due to improper storage/shortage of reject coal

11. Coal, being basic input for generation of power is crushed, pulverised and fed to the furnace for combustion. Due to presence of foreign material and boulders in coal it was rejected by the coal mills and was stacked after weighments at different locations through bullock carts/tractor trolleys at coal yard. After inviting tenders the Board issued sale order for disposal of the old reject coal (1.20 lakh tonnes) and fresh reject coal (0.20 lakh tonnes) at the rate of Rs 151 and Rs 300 per tonnes respectively to Coal India Associates, Hisar in December, 1985.

It was noticed that physical verification of reject coal lying at the site was not carried out annually as required in terms of Board's Manual of inspection. As per records the physical verification were carried out in July 1984 and January 1985 as detailed below

Date of physical verification	Balance as per accounts	Coal as per physical verification report	Shortage(—)/ Surplus(+)
		(Tonnes)	
20th July 1984	61 075	1 03 707	(+)42 632
24th January, 1985	81 540	38,542	(—)42 998

No action to adjust surplus and investigate shortage was taken as the physical verification was considered by the management to be on approximation and rough estimation

As per accounts books there was closing balance of 1 24 lakh tonnes of reject coal on 31st March 1986. During the period from April, 1986 to April, 1987 the Board sold 0 35 lakh tonnes of old reject coal at Rs 151 per tonne thereby leaving a balance of 0 89 lakh tonnes. As per physical verification conducted on 25th April 1987 there was a balance of 0 88 lakh tonne lying at site. Thus there was shortage of 0 81 lakh tonne valuing Rs 122 76 lakhs. No investigation to find out the reasons and fixing the responsibility for the shortages had been made by the Board so far (October 1989)

In their written reply, the Government/Board stated that

“In this regard, it is intimated that the investigation was directly undertaken by the Board's vigilance wing and FIR was lodged subsequently. The matter was referred by Chief Engineer/O&M PTPS to the Director (V&S) HSEB vide Memo No 2481 dt 20 3 92 for early decision and the reply received vide Memo No 2902/VO 5556 dt 12 5 92 from the Director (V&S) HSEB is also enclosed herewith. The case is under trial in the court of CJMIS Panipat and next date of hearing is 5 11 1993.”

The Committee therefore, recommended that the surplus rejected coal should be accounted for and results of investigation of shortages/decision of the court be intimated to the Committee

### 3 1 13 1 Idle dust extraction Plan

12. The dust extraction plant was designed to suck the dust in the crushing house to avoid extra long dust runs and consequent high pressure drops. To meet this requirement dust extraction plant was installed and commissioned alongwith commissioning of coal handling plant by Robina Frasher Limited Jamshedpur during the year 1979 at a cost of Rs 4 84 lakhs. However, the plant was not put to use since

November, 1979 as the dust spreads in the coal handling maintenance office/control room and pollutes the entire area resulting into almost total closure of all the activities of the plant. Installation of motor at low level also created problem during rainy season. No steps were taken to modify the system in order to utilise the dust extraction plant. The General Manager of the plant opined (November 1988) that the system was lying idle due to the apathy of the concerned staff for which no responsibility had been fixed so far (October 1989).

In their written reply the Government/Board stated as under —

- ‘ (i) Dust extraction plant was installed to suck the dust in the crusher house to avoid pollution. Centrifugal cyclone type dust extraction system was installed in the year 1979 as per known technology and the recommendation of the consultant M/S Tata Consultancy Company to match with the design capacity and parameters of the coal handling plant.

The plant was commissioned by M/S T R F alongwith the commissioning of coal handling plant. The matter was pursued time and again with the original supplier M/S T R F for renovation/modification of the system who further suggested to contact M/S Batli Bor & Co. The issue was again taken up with M/S Batli Bor & Co the prime supplier of the equipment for renovation and modification. Their Site Engineer visited the site and ultimately refused to carry out the modification and renovation as the existing system will not give the desired efficiency and out let emission stipulated by State Control Board. The firm recommended pulse get bag filter with centrifugal I D Fan and for this the firm submitted the offer amounting to Rs 45 00 lakhs approx. The proposal was dropped due to financial constraint. The system is lying as it is.

Regarding the disposal of the dust extraction system it is mentioned that 2 Nos motors of 90 KW each can be utilised on conveyor belts of conveyor 8A/8B as existing motors on these belts are of same capacity and ratings. The pipe of the system can be used for removing the coal dust from the crusher house and dropping of spilled coal from R C feeder 14 meter level to ground level. Regarding steel of the supporting structures that will be returned to store as scrap.

Based on the technology available in seventies the dust extraction system was envisaged but it has not proved effective during actual operation. So no responsibility can be fixed at this stage as even the principal supplier of the equipment failed to modify the same.

After going through the reply, it transpired that Dust extraction Plant valuing Rs 4 84 lakhs was purchased without ascertaining its working efficiency and utility. A report on the basis of which the purchase was recommended may be sent to the Committee with action taken against the defaulting officials/officers.



## HARYANA BREWERIES LIMITED

### 411 Purchase of hops

13 Hops is an essential ingredient for production of beer and is grown in the Kashmir valley only. In order to streamline the system of procurement the Board of directors of the Company decided in November, 1985 that a committee consisting of two directors should visit and contact producers of hops directly.

A *suo moto* offer for supply of 20 tonnes of hops at the rate of Rs 120 per Kg (FOR Srinagar) was received from Hops International ('A') in February, 1986. Though the season for procurement of dried hops falls in August/September the committee in disregard of the decision of the Board and without ascertaining the prevailing market rate placed an order for 20 tonnes in February 1986. An advance of Rs 6 lakhs representing 25 per cent value of the order was also paid to the firm in April, 1986.

In March 1986 Kashmir Hops (B) offered to supply an unspecified quantity of hops in September at the rate to be notified by the State Government but this was not considered. Again in September 1986 Balaji Agro Industries (C) offered 4 tonnes of hops at Rs 100 per Kg. A scrutiny of records in Audit revealed that Associated Breweries and Distilleries Bombay had purchased hops at Rs 90 to 100 per Kg during this period. Considering the prevailing rate as Rs 100 per Kg the Company incurred an extra expenditure of Rs 4 lakhs on the purchase of 20 tonnes of hops besides loss of interest of Rs 0.36 lakh on advance of Rs 6 lakhs paid four months prior to supply of hops.

Against 20 tonnes received during August 1986 to December 1986 the consumption was 3.98 tonnes during first 12 months (August 1986-July, 1987) 4.27 tonnes in the next 12 months and 7.04 tonnes in the 12 months ended July 1989 leaving a balance of 4.71 tonnes of hops in stock. The bulk purchase of hops which was far in excess of one year's requirement resulted not only in blocking of funds but also in deterioration of quality of hops in stock. Resultantly from April 1988 the Company increased the input of hops in the manufacture of various brands of beer by one to four Kg per brew. Upto July 1989 the excess consumption of hops aggregated to 1,430.5 Kg valuing Rs 1.76 lakhs. The extra expenditure would further increase when the remaining stock of hops (4.71 tonnes) is consumed.

The matter was reported to the Corporation and Government in August, 1989. Their replies had not been received (October 1989).

In their written reply the Government/Corporation stated as under —

HBL purchased 20 tonnes of hops @ Rs 120 per kg from M/s Hops Inter National in 1986 on the basis of market surveyed by the 2 senior officers of the company namely Sh. B. D. Jain G.M.(F) & Sh. B. S. Rangarajan Asstt. Brew.

Master and further negotiations by the then M D Sh M D Asthana and Director Sh R K Verma at New Delhi. As Hops is an agricultural product & an essential ingredient for production of beer and was grown in India only in the Kashmir valley. The ratio of total yield of hops as compared to the total requirement of Indian Beer Industries is very low. The order was placed 6 months in advance to ensure the quantity as per the market trend of booking order in advance as is also the trend in International Hops market.

The decision for the purchase of 20 tonnes of hops was taken by the management as per discussion and to ensure the uninterrupted production of beer in the next couple of years. For the last few years there is no hops in the Kashmir valley as the valley is completely disturbed due to extremist activities.

No responsibility has been fixed by the management since the decision was taken at the highest level and it was a bona-fide decision.

The balance has been consumed and the rate of consumption per brew was the same as was before July 1989.

During the course of oral examination it was informed by the representative of the Corporation that order was placed without conducting any survey because of the shortage of hops in the market. It was also informed that 20% advance amount of Rs 6.00 lakhs also paid. The Committee observed that resolution was passed by the Board of Directors that Sarvshri R K Verma and M D Asthana Directors will try to contact the producers directly with a view to improve the system of procurement. But the very purpose of the Board delegating the powers to the Directors stood defeated because they did not visit the area and satisfied themselves with the prevailing situation. The Committee further observed that profit can only be earned if each item of the raw material is purchased after proper survey.

The Committee, therefore, recommend that an enquiry for the purchase of hops be conducted and responsibility be fixed. The Committee further recommend that information be sent within two months.

#### 4.1.2 Purchase of new bottles

14 Tenders for the purchase of 30 lakh new bottles were invited and opened in December, 1987. Of the three offers received the rate of Universal Glass Limited New Delhi (firm A) at Rs 2,234.61 per thousand bottles was the lowest and that of Ballarpur Industries Limited New Delhi (firm B) at Rs 2,356.80 per thousand bottles and Hindustan National Glass Industries Limited Bahadurgarh (firm C) at Rs 2,583.63 per thousand bottles were the second and third lowest. The firms offered to supply full tendered quantity.

All the three firms were called for negotiations (January 1988) and

as a result of negotiations firms B and C reduced the rates to Rs 2 320 40 and 2 463 97 per thousand bottles respectively Firm A however did not reduce the rates but agreed to allow 30 days credit against 15 days indicated in its offer

Meanwhile the requirement was re assessed at 60 lakh bottles and the Company decided to purchase 45 lakh bottles pending decision on the representation of firm C to the State Government regarding levy of sales tax/surcharge on glass products at first point

Instead of placing orders for 30 lakh bottles at the lowest rates on firm A and for remaining 15 lakh bottles at the second lowest rates on firm B the Company placed orders (January 1988) for 15 lakh bottles only on firm A at Rs 2 234 61 per thousand bottles and for 30 lakh bottles on firm B at Rs 2 320 40 per thousand bottles. The supplies were to be completed by firm A by April 1988 and by firm B up to May 1988. Against this firm A supplied 12 45 lakh bottles up to May 1988 and firm B supplied 26 87 lakh bottles up to July, 1988. Thus by purchasing 12 45 lakh bottles as against 30 lakh bottles which firm A had agreed to supply the Corporation incurred an extra expenditure of Rs 1 51 lakhs

As the matter regarding levy of sales tax could not be got sorted out by firm C the Corporation procured (May/July, 1988) an additional quantity of 10 lakh new bottles from firm B at a higher rate of Rs 2 393 20 per thousand bottles without calling for any fresh enquiry. The purchase was made without asking firms A and B to complete the balance supply of bottles against their pending orders of January 1988. Compared with the tendered rate of firm B (Rs 2 320 40 per thousand bottles) the purchase of 10 lakh bottles at higher rates resulted in an extra expenditure of Rs 0 73 lakh

Thus the procurement of bottles at higher rates without assessing properly the actual requirement and by not availing the benefit of lowest rates on the full quantity offered by firm A the Corporation incurred an extra expenditure of Rs 2 24 lakhs

The matter was reported to the Corporation and Government in June 1989. Their replies had not been received (October, 1989)

In their written reply the Government/Corporation stated as under —

The requirement of 60 lakh bottles was reassessed in the light of our expected future sale/production requirement and to ensure maximum quantity of bottles at the prevailing rates

The order for the full quoted quantity of 30 lakhs bottles could not be placed with M/s Universal Glass because during negotiations on 8.1.88 the party had agreed to supply only 15 lakhs bottles against their initially offered quantity of 30 lakhs bottles. Thus we had no alternative other than to place the order with this party for the finally offered and agreed quantity of 15 lakhs bottles. Accordingly further order for 30 lakhs bottles was placed with M/s Ballarpur Industries

Ltd (M/s Jg Glass) the second lowest party. The order with M/s HNG (3rd lowest party) could not be placed for pending decision on their representation with the State Government regarding levy of SC/ST at glass product at 1st point. Thus the purchase of bottles were made at the lowest available rates.

Further two additional orders for the supply of 5 lakhs bottles each were placed in April 88 & June 88 with M/s Ballarpur Industries Ltd (Jg Glass) firm 'B' at the already negotiated basic rate of Rs 1525 per 1000 bottles on which above referred earlier order for 30 lakhs bottle was placed with the party. As firm A M/s Universal Glass was to complete the supplies against earlier order of 15 lakhs bottles party did not agree to accept any additional order. Rate of firm 'C' M/s HNG was coming much higher due to 13.28 sales tax on 1st point. Hence order was placed with firm B M/s Ballarpur Industries Ltd at the lowest available rate.

As the firm A M/s Universal Glass was yet to complete the supplies against earlier order of 15 lakhs bottles and the party did not agree to accept any additional order, hence the order could not be placed with firm A for additional quantity. Moreover this firm during negotiation had agreed to supply only 15 lakhs bottles against their initially offered quantity of 30 lakhs bottles. Hence originally also the order only for 15 lakhs bottles was placed with this party. It is not true that purchase of additional 10 lakhs bottles was made at higher rate and extra expenditure of Rs 0.73 lakhs was incurred. The purchase was made at the lowest available rate.

As there was no extra expenditure and the purchase were made at the lowest available rates and it was a bonafide decision, hence it was considered not to fix any responsibility.

During the course of oral examination it was informed that the purchase of new bottles was made after negotiations whereas the Committee observed that there should not have been any negotiation because the order should have been placed with the Corporation whose rates were the lowest one and was prepared to meet the whole requirement of the Corporation.

The Committee, therefore, recommends that in future the order be placed with the firm whose rates are found to be lowest one so that Corporation is not put to loss.

#### 4.1.3 Extra expenditure

15. The Corporation had been purchasing crown corks for beer bottles from Larsen and Toubro Limited (firm A) on negotiated basis since its inception in 1974. In July 1984 press tenders for the purchase of 2 crore crown corks were invited but no offer was received. The

Coorporation did not make any further market survey to find out the other sources of procurement of crown corks and continued to make purchases from firm A in contravention of its purchase regulations which provide that all purchases estimated to cost above Rs 0 50 lakh should be effected through open tenders. By virtue of its monopolistic position, firm A raised its rates from Rs 1 460 to Rs 1 855 per hundred gross between July 1984 and January 1986.

However in October 1985 the Coorporation contacted Metal Box India Limited New Delhi (firm B) and placed (November 1985) an order for 750 cases each containing hundred gross of crown corks at Rs 1 750 per hundred gross.

In June 1986 tenders were invited for supply of 2 crore crown corks for meeting the requirement for the year 1987 88. In response to the tender enquiry eight firms (including firms A and B) quoted their rates ranging from Rs 1 550 to 1 760 per hundred gross FOR factory (exclusive of excise duty and sales tax). The lowest rate of Rs 1 550 per hundred gross was quoted by Delhi Kanodia Delhi (firm C) which was an approved supplier to Parle Group MC Dowell Group Punjab Breweries and J&K Breweries. The offer of the firm was not considered (October 1986) on the ground that this firm had supplied a very small quantity earlier but the same was not of good quality though there was nothing on record to support this contention.

As regards the second lowest firm Ashoka Metals New Delhi (firm D) which quoted the rate of Rs 1 600 per hundred gross it was decided that this firm being new could be given only a trial order for 50 cases. As a result of competition this time firm A brought down its quoted rates from Rs 1 725 to Rs 1 660 per hundred gross after negotiations. Accordingly orders for 500 cases and 50 cases of hundred gross each of crown corks were placed (February 1987) on firms A and D at the rates of Rs 1 660 and Rs 1 600 per hundred gross respectively.

Even after opening of the tenders in July 1986 the Coorporation could finalise the tenders only in February 1987. Due to delay in finalisation of tenders the Coorporation continued to accept supplies at rates ranging from Rs 1 700 to 1 750 per hundred gross from firm B during August 1986 to March, 1987 resulting in an extra expenditure of Rs 1 77 lakhs on the purchase of 59 188 gross as compared to the revised rates of firm A. Thus had the Coorporation finalised tenders in July, 1986 the extra expenditure could have been avoided.

Tenders were again invited in December 1987 for the supply of 1 44 crore crown corks to meet the requirement of 1988 89. Offers were received from seven firms (including firm A and D) and their rates ranged between Rs 1 500 and Rs 1 825 per hundred gross.

The Purchase Committee of which General Manager (Production) was a member reported (February, 1988) that crown corks supplied by firm D earlier had been used and were in order. Yet the Coorporation however placed trial order in March 1988 for the supply of 50 cases hundred gross each on firm 'D' at the rate of Rs 1 500 per hundred

gross and another order for 600 cases of hundred gross on firm A at Rs 1 650 per hundred gross

Since the quality of crown corks supplied by firm D earlier was satisfactory there was no justification in purchasing 600 cases from firm A at an extra cost of Rs 0 62 lakh

Thus the Corporation incurred an extra expenditure of Rs 2 39 lakhs on purchase of crown corks due to delay in finalisation of tenders (Rs 1 77 lakhs) and purchase at higher rates (Rs 0 62 lakh)

The matter was reported to the Corporation and Government in July 1989, their reply had not been received (October 1989)

In their written reply the Government/Corporation stated as under —

In July 1984 tenders for the purchase of 2 00 crore crown corks were invited but no offer was received. In June 1986 also tenders were invited for the supply of 2 00 crore crown corks and accordingly orders were placed on the basis of tenders/negotiation. Hence it is not true that press tenders were not invited regularly to explore the new manufacturers in the trade.

The corporation did not make any enquiry from Punjab & J&K Breweries regarding the quality of crown corks supplied to them by M/s Delhi Kanodia Delhi as no competitor is expected to give the facts to another competitor and also information supplied by any competitor cannot be relied upon.

No doubt the tenders were received in July 86 and the orders were finalised in Feb, 87. During the period upto Feb, 87 supplies were received against our previous orders at the rate ranging from Rs 1 700 to 1 750 per 100 gross. This was done under the earlier contractual agreement and the orders already placed with the supplier. Only already ordered quantities were taken at the agreed rate/negotiated rate. Thus there was nothing wrong in accepting the supplies against the already placed orders which was our contractual obligation.

Against the tenders invited in December 87 the order for 600 cases was placed with M/s L & T Ltd and further trial order for 50 cases each were placed with M/s Ashoka Metal Dacor, M/s Ashoka Industries and M/s Decan Crown, Hyderabad at the finally negotiated rate. On the basis of the decision of the committee in which G M (P) was a member the quantities to be ordered were decided and accordingly orders were placed. The order for higher quantity with M/s L & T was placed due to their reliability dependability and unmatched quality of crown corks.

Further experience showed that in the subsequent year it was found that quality of crown corks supplied by the suppliers

other than L&T was not consistent and upto the mark. Hence there was nothing wrong for placing the order with M/s L&T for 600 cases. Even today we are buying bulk of the supplies from this same firm.

After orally examining the representatives of the Government/Corporation the Committee observed that the Corporation had been purchasing crown corks from Larsen and Toubro Limited after negotiations since its inception in 1974 to 1984. In 1984 when tenders were invited for the first time the rates of M/s Larsen and Toubro Limited came down.

The Committee, therefore, recommends that investigations may be made as to why tenders were not invited from 1974 to 1984 and information be sent within two months.

## HARYANA SEEDS DEVELOPMENT CORPORATION LIMITED

### 4.2.1 Nugatory expenditure

16. The Company Secretary who was appointed in September, 1977 was placed under suspension on 18th November 1985 and his services were subsequently terminated in January 1986 by the then Managing Director without the approval of the Board of Directors as required under Article 125A of the Articles of Association. However the *ex post facto* sanction for termination of services of the Secretary was accorded by the Board on 11th March 1986.

Being aggrieved by the termination order the Secretary filed a writ petition in the High Court of Punjab and Haryana and the order of termination of services of the petitioner was set aside (9th May 1986) by the single judge of the court on the ground that the order of termination of services of the petitioner was passed by the Managing Director on the application of his mind whereas Article 125A enjoins upon the Board of Directors to perform this function. The Managing Director nakedly usurped the powers of the Board and the Board of Directors in causing approval to the order of termination had mutely surrendered their powers to the Managing Director. The court held that this was an impossible situation and could not be given the seal of approval of the court and that on this score alone the order of termination of services of the petitioner was bad in law.

An appeal filed (May 1986) by the Corporation against the judgment was also dismissed (13th September 1988) by the Division Bench of the High Court. The Corporation filed (19th September 1988) a Special Leave Petition before the Supreme Court which was dismissed (December 1988) by the Supreme Court. The Secretary was accordingly reinstated on 13th December, 1988.

Thus due to termination of the services of the Secretary without getting prior approval of the Board of Directors the Corporation had not only to incur nugatory expenditure of Rs 1.67 lakhs as arrears of his pay and allowances for the period from 19th November 1985 to 12th December 1988 but legal expenses amounting Rs 0.63 lakh had also to be incurred for contesting the case in different courts of law.

The Corporation stated (July 1989) that the Managing Director was competent to terminate the services of the Company Secretary as per the powers delegated to him by the Board but the case could not be successfully argued in the High Court and that during the pendency of litigation the vacancy of company secretary was not filled

The reply is not tenable as the court did not uphold the competence of the Managing Director to terminate the services of the Company Secretary and that without gainful utilisation of his services, the company had to pay the arrears of pay and allowances to him

In their written reply the Government/Corporation stated as under —

Services of Sh Aggarwal were terminated on the following grounds

Sh Aggarwal was charge sheeted under Rule 7 C S R of (Charge sheet enclosed Flag A) The departmental enquiry was held as per procedure Managing Director after due consideration of the findings of Enquiry Officer and the nature of charges involved ordered the termination of the services of Sh Aggarwal The matter regarding appointment and termination of services of an officer are governed by service rules/regulation and provisions in Articles of Association of the Company and powers delegated thereunder

The Board of Directors of the Corporation delegated powers to Managing Director of the Corporation on 18 9 74 to appoint suspend dismiss officers, staff and workers of the Company In exercise of the powers the Company Secretary was appointed by the Managing Director vide letter dated 30 8 77 (copy enclosed for ready reference) Flag B Managing Director had accordingly appointed Company Secretary strictly on the basis of powers delegated to him by the Board inter alia to appoint officers staff and workmen of the Company (Though the word Officers has not been defined under the Articles of Association of the Company the definition under Section 2(3) of the Companies Act 1956 includes Company Secretary as an Officer) This position was explained that for smooth functioning of the Corporation and for running day to day affairs of the Company Board of Directors in their meeting held on 18 9 74 vide item no 4 delegated administrative & financial powers to the Managing Director provided under Article 110 of the memorandum & Articles of Association the Company According to provision ie articles 110(22) there are powers to Board of Directors which further delegated to MD to appoint and remove or suspend Secretaries Officers Clerk Agents as they may from time to time think fit Under these delegation of the powers the services of Sh J K Aggarwal Company Secretary was terminated Provisions clause of the delegation was not considered adequate by Ld Judges and provision clause 125 A were



cited and observed that BOD was alone competent. Managing Director acted under this delegation of powers made by BOD. The decision of MD was subsequently ratified by the Board also.

Following the findings of the court all actions Aggarwal's disciplinary proceeding case were taken by the Board.

So far the proper arguments of the case on all three occasions referred in the para it is submitted that case was argued by the senior advocates engaged by the Corporation in the High and Supreme Court too. Sh Aggarwal filed a writ petition in the Honble High Court which was decided in his favour on technical ground that MD was not competent to terminate services of the Company Secretary. After taking legal advice corporation filed LPA against the said judgement of the single Judge. Corporation filed the LPA in May 1986 that the contention of the Corporation had merits. It proved from the fact that interim stay was granted in favour of the Corporation which was subsequently confirmed by the Division Bench consisting of Chief Justice and another judge of the Honble High Court. The LPA came for final arguments before the Honble High Court on 6th September 88. Corporation's Sr Counsel namely Sh Kuldip Singh could not argue the case as he has since been appointed Solicitor General of India (now Honble Judge of Supreme Court) and the same was argued by our Jr Advocate. LPA was dismissed by the Honble High Court. A copy of the High Court Judgement dated 13.9.88 is enclosed for perusal. Flag C. It may be seen that Honble High Court inter alia observed whether Managing Director was competent to remove a Director also who was an 'Officer'. The case of the Corporation could not be successfully argued before the Division Bench of the High Court by the Corporation. However the legal position is that both Company Secretary as well as a Director of a company are Officers as per provision of section 2(30) of the Companies Act 1956 but for the purpose of their appointment and/or removal there are separate procedures/provisions. The appointment and removal of a Director is provided under section 284 of the said act while there is no provision in Act for appointment and removal of Company Secretary. It may be added that the Board of Directors of a Company (HSDC in the case) are competent to delegate any of their powers except those powers which are to be exercised by the Board itself and as specified under section 292 and 293 of the said Act.

The Corporation sought further legal advice and was advised that a few issues of vital importance have not been covered in the said judgement including the question whether Company Secretary is an Officer of the Company or not. The Corporation also contacted Sr Advocate, Sh Kuldeep Singh the then Solicitor General of India (Now Honble

Judge of the Supreme Court of India) on the basis of the advice including that of Legal Advisor/Advocate Special Leave Petition filed by the Corporation in Honble Supreme Court of India. The Corporation was granted interim ex parte stay by the Honble Supreme Court also. However the SLP of the Corporation was dismissed by the Honble Supreme Court of India. The case was contested by the Corporation through Sh B Dutta Additional Solicitor General of India who was assisted by Sh P P Singh Advocate on record of Supreme Court of India. Sh B Dutta had to be engaged by the Corporation as its Sr Counsel as Sr Counsel Sh Kuldip Singh was at that time being considered for appointment as Judge of the Supreme Court of India.

A copy of the report of Sh P P Singh Advocate on record dated 12 12 88 is enclosed. From the above said report dated 12 12 88 it would be observed that Honble Supreme Court of India did not like to interfere in the High Court's Judgement dated 13 9 88 on the grounds of equity though the Corporation had sound case on law as was observed by the Honble Judge of the Supreme Court of India.

From the above it would be seen that the Managing Director ordered terminating of the services of the Company Secretary after following the prescribed procedure and under the delegated powers. Court's pronouncement in the case was however to be implemented as the plea of the Corporation was not upheld. Apparently the litigation involved was thrust upon the Corporation and the Corporation was left with no alternative except to contest as it was observed that case was sound on law. In case it was contested/Challenged the Corporation could have faced legal and administrative complications vis a vis delegated powers exercised by its Managing Director. The Corporation has been taking legal advice before filing LPA/SLP and expenditure incurred on this litigation was quite justified. During the pendency of litigation the Corporation did not fill the vacancy of Company Secretary as duties of the Company Secretary were performed by one of the officers of the Company. Sh J K Aggarwal has now been dismissed from service by the Board of Directors in terms of the observations of High Court after a fresh departmental inquiry held by an IAS Officer appointed by the Government. The case was argued well by the counsels of the Corporation as per the provision of law. It is now always that the pleas are upheld by the Courts.

During the course of oral examination it was informed that Shri J K Aggarwal was appointed as Secretary after the approval by Board of Directors in accordance with article 125 and his services were terminated in accordance with the delegation of powers by the Board of Directors under articles 110 of Article of Association. It was also

informed that the services of the said officer were terminated on 8th January 1986 whereas it was ratified by the Board of Directors on 11th March 1986

The Committee observed that there was technical defect in this because before terminating his service the approval of the Board of Directors was not taken especially when the Managing Director was not competent to terminate his services as article 125 A is very much clear. The Committee further observed that a copy of the advice tendered by Shri Kuldeep Singh Senior Advocate may be sent to the Committee

The Corporation by way of additional written reply intimated the statement made by us to the above effect has further been checked from the office record. The position explained to the COPU on this point was correct and reiterated as under —

- (i) It was felt that the Managing Director was competent under powers delegated by the Board of Directors to take a decision in the case. In the present case the orders dated 9.5.1986 passed by the Honble High Court were examined. It was prima facie felt that the orders were patently wrong and therefore should be appealed against. However to reassure himself on law points the then Managing Director consulted leading lawyers namely Sh JS Narang, Sector 9 Chandigarh and Sh Kuldip Singh, Sector 10 Chandigarh. Both of them were Sr Advocates of the Honble High Court of Punjab & Haryana and had outstanding reputation in Company Law matter and service matters respectively. During the consultation with both these Sr Advocates by the Managing Director the Corporation's L.A. namely, Sh S K Sardana was also present.

As the opinion was sought by the Managing Director by personal consultation with the Advocates written advice was not brought on file. After consultation, Managing Director decided to go in appeal against the orders dated 9.5.1986 passed by the Honble High Court. Nevertheless the consultation having taken place are confirmed by the following office record available:

- (a) A letter dated 25.6.1986 (Annexure I) from the L.A. of Corporation namely, Sh S K Sardana may be seen. It has been stated by Sh Sardana that Sh JS Narang Advocate was consulted on 17th/18th May 1986 before filing LPA in the Honble High Court.
- (b) Sh Kuldip Singh was engaged after consultation/advice as Sr Advocate in the LPA. The Corporation's L.A. namely Sh S K Sardana was engaged by the Corporation since Sr Advocates as per High Court Rules and Regulations/Practice do not sign return/appeal. LPA was prepared in consultation with Sr Advocate Sh Kuldip Singh and in accordance with his legal opinion and vetted by him.

- (ii) Before filing the SLP Sh Kuldip Singh was again consulted through the Corporation's LA namely Sh S K Sardana Advocate. Such a consultation and views of Sh Kuldip Singh are contained in a letter dated 14.9.1988 (Annexure II) written by Sh S K Sardana Advocate to the Corporation.
- (iii) SLP was dismissed by the Hon'ble Supreme Court of India without any speaking orders. Written report/advice given by Sh P P Singh Advocate on Record after consultation with Sr Advocate was obtained. A copy of the same is enclosed at Annexure III.
- (iv) Legal advice of Advocate General Haryana was also obtained after decision of SLP by S C (copy enclosed at Annexure IV).

Based on the advice of the Supreme Court's advocate and Advocate General Haryana the matter was considered by the Board of Directors in its meeting held on 15.3.1989. The Board decided to hold a fresh inquiry into the same chargesheet (since the chargesheet was never quashed by the Hon'ble High Court and Hon'ble Supreme Court).

ANNEXURE—I

S K SARDANA  
Advocate  
High Court  
Chandigarh

718 SECTOR 11  
CHANDIGARH 160 011

Dated 25th June 1986

The Managing Director  
Haryana Seeds Dev Corpn Ltd ,  
CHANDIGARH

*Subject* — Consultation Fee Bill to Shri J S Narang, Advocate

Sir

Sh JS Narang, Advocate was consulted on 17/18th May 86 before filing L P A against Sh J K Aggarwal in the High Court of Punjab & Haryana at Chandigarh. It is therefore requested that consultation fee of Rs 2,200 may kindly be sanctioned to him.

Thanking you

Yours faithfully  
Sd/  
(S K SARDANA)

## ANNEXURE-II

S K SARDANA  
Advocate  
Punjab & Haryana High Court  
Chandigarh

718 Sector 11  
Chandigarh 160011

Dated 14 9 1988

The Managing Director  
Haryana Seeds Dev Corpn Ltd  
Chandigarh

(ATTENTION SH RANDHIR SINGH, MANAGER (P&A))

*Subject* —Legal Advice on the judgement pronounced by division bench  
of the High Court in LPA No 366 of 1986

Sir

The above mentioned LPA was pending before the Honble High Court wherein the undersigned had been engaged as an advocate by the Corporation besides Sh Kuldeep Singh Senior Counsel. The LPA came up for arguments on 6th Sept 1988. In the light of instructions from the Corporation to the effect that no adjournment be sought in this case in future and that Sh Kuldeep Singh was not available in Chandigarh therefore, the case was argued by me. The judgement was however reserved on 6th Sept and was then pronounced on 13th Sept 1988. From perusal of the orders passed by the Division Bench of the High Court the following legal advice is given for appropriate action —

1 that the Honble Division Bench has erred in observing that Sh J K Aggarwal Ex Secretary of the Corporation is not an Officer of the Company. The bench also wrongly observed that reliance of the Corporation's counsel on the definition of the word Officer given under section 2 (30) of the Companies Act 1956 is of no consequence.

2 that Board of Directors of the Company had rightly delegated the powers *inter alia* to appoint suspend the terminate officer staff and workmen and ever since the passing of this resolution by the Board in a meeting held on 18 9 1974 the Managing Director of the Company has been exercising such delegated powers from time to time. The Honble division bench has not appreciated this fact also and has summarily observed that the earlier orders passed by Mr Justice M M Punchhi were right. Mr Justice M M Punchhi had earlier observed that Managing Director nakedly usurped the powers of the Board of Directors and the Board of Directors while causing their approval to the termination orders passed by the Managing Director, mutely surrendered their powers to the Managing Director which are again not based on facts.

3 that the Honble division bench had raised another point during the argument as to whether Managing Director could terminate the services of a Director, who was *inter alia* included in the definition of the word Officer under section 2(30) of the Companies Act. This

point was replied stating that the said act and Articles of Association makes specific provision for appointment(nomination and removal of a Director on the Board of a Company and therefore his removal has to be in accordance with the provisions of the Act. The Division Bench has however observed that this point could not be forcefully argued by the appellants counsel. Therefore the definition u/s 2(30) wherein word Officer has been defined could not be accepted.

4 that the Honble Division Bench has further observed that powers delegated by the Board of Directors to the Managing Director in their meeting held on 18.9.1974 are of no consequence in this case. This observation may also create administrative and legal complications for the Corporation.

5 that in view of the said order the Corporation may have to reinstate Sh Aggarwal and pay him back wages while this liability can be avoided by filing SLP in the Supreme Court where the Corporation can reply upon a judgement of the Supreme Court in O P Bhandari v/s I T D C (1987 SC AIR III)

However I shall further advise that it may be worth while to have advice of Sh Kuldeep Singh Additional Solicitor General of India in the matter before taking an appropriate action. I can accompany the concerned officer to Delhi for discussions with Sh Kuldeep Singh if so desired. It may be pertinent to mention that I spoke to Sh Kuldeep Singh on phone on 13th September 1988 night and apprised him of the orders passed by the High Court in this case. He of course expressed his view that Corporation has a very strong and fit case for filing SLP can get stay immediately from the Supreme Court.

Thanking you,

Yours faithfully

Sd/—

(S K SARDANA  
Advocate

## ANNEXURE III

P P SINGH  
Advocate  
Supreme Court of India

59/5 Old Rajinder Nagar  
New Delhi 110060

New Delhi  
the 12 th December 1988

To

The Managing Director  
Haryana Seeds Dev Corpn Ltd  
Chandigarh

Re S L P 11499/88  
(Through Shri Randhir Singh)

Sir

Our S L P was heard by the Honble Supreme Court (OZA & Shetty JJ) after notice Mr B Datta Additional Solicitor General of India and myself appeared for the Corporation. The respondent was represented by Mr P N Lekhi, Senior Advocate. Although the Court observed that we had a sound case on law they would not like to interfere with the Judgement of the High Court under Article 136 Jurisdiction. The court also further observed that it is always open to the management terminate the services of an officer if the Board passes a resolution to that effect.

I have discussed the matter with Mr B Datta ASG in the presence of Mr Randhir Singh, Manager Personnel with regard to future course of action. The Supreme Court had stayed the operation of the order of the High Court until further order. In view of dismissal of our S L P today the stay order stands vacated. The legal position as a consequence thereof is that the respondent will be deemed to be continuing in service and he will like to join the office tomorrow. In case the Board of Directors so desires they can pass a resolution for terminating the services of the respondent after calling a meeting of the Board according to the procedure. The Agenda of the meeting can explain the entire position starting from the result of the enquiry held into the charges against the respondent. It will be desirable to pay the respondent salary in lieu of notice while passing the resolution for terminating the services of the respondent.

This advice is being given on the basis of instruction that the management does not find the respondent suitable for the post in view of the inquiry report already on the record.

Yours faithfully

Sd/—

(P P SINGH)



## ANNEXURE-IV

I have gone through the relevant record including the two orders handed down by the Honble High Court of Punjab and Haryana on 9.5.1986 and 13.9.1988 the averments in the writ petition No 256 of 1986 LPA No 366 of 1986 SLP filed by the Corporation the respondents reply thereby Corporations rejoinder and additional affidavit of the respondent. I have also seen the contents of a letter of dated 12th December 1988 from Sh P P Singh Advocate Supreme Court of India New Delhi and other relevant documents and facts available on the file

- 2 That the Corporation's case was sound on law is undisputable (as under the Law enunciated by the Supreme Court of India reported in SCR 1963 (3) page 453) At the same time I am not required to go into the circumstances under which the LPA and SLP have failed and the same is left to the management for introspection

3 The consequences of the orders of the Courts will be far reaching as the same may lead to multiplicity of litigation not only for the Seed Corporation but for other companies and Corporations under the authority of the State Govt

4 That a perusal of the proceedings of departmental enquiry and report given by the Enquiry Officer reveal that a reasonable opportunity was afforded by the Enquiry Officer to Sh J K Aggarwal but he has not availed the same. On the first date fixed for the hearing Sh Aggarwal did not appear before the Enquiry Officer while on the second date he did participate but he had withdrawn from the enquiry proceedings by raising a variety of untenable objections. The Enquiry Officer was well within his rights in such quasi-judicial proceedings to have applied his mind and made orders on which objections. The decision of the Enquiry officer to proceed ex parte in the face of non participation of Sh J K Aggarwal cannot legally vitiate the enquiry proceedings or report of the Enquiry Officer

5 In view of the above observations and having appreciated the entire facts on record provided to me my advice on the two points specifically raised by the Managing Director is as under —

(a) Board of Directors of the Company would be competent to take a decision on merits on the basis of enquiry already held with the charges proved against Sh J K Aggarwal because the enquiry proceedings and report of the Enquiry Officer still remains and the same has not been quashed by the Hon'ble Courts. Therefore a decision on the basis of the Enquiry report will be legal and sustainable

(b) In case the Board of Directors decides to terminate the services of Sh J K Aggarwal Company Secretary it will be desirable to pass speaking orders. Whether the Corporation would invite any unnecessary and avoidable litigation in the event of Board terminating Sh J K Aggarwal's services I am of the view that Corporation has a good case and since it would be fully competent and legal for the Board to terminate Sh Aggarwal's service I donot think there will be any valid ground left for further litigation. The AG may kindly send the file back to M D HSDC

Sd/—

(Balwant Singh Malik)

Ac'dl A G 16.2.89

After perusing the additional information, the Committee, recommend that outcome of the enquiry to be conducted as decided by the Board of Directors in its meeting held on 15th March, 1989, may be intimated to the Committee immediately

## HARYANA STATE ELECTRICITY BOARD

### 4411 Extra expenditure in the purchase of conductors

17 Tenders for the supply of Aluminium Conductor Steel Reinforced (ACSR) Dog conductor (100mm<sup>2</sup>) and Rabbit conductor (50 mm<sup>2</sup>) were invited and opened in October 1986. On the basis of lowest rates received telegraphic orders for supply of 450 Kms 'Dog conductor (3 orders) and 1000 Kms Rabbit conductor (7 orders) were issued in December 1986

Detailed orders for supply of 450 Kms Dog conductor were placed (January 1987) at firm equivalent rates ranging from Rs 9 978 to Rs 10 010 per Km on Adinath Cables and Conductors Private Limited Jaipur (firm A) Bhandari Cables Private Limited Jaipur (firm B) and Jaldhara Conductors Private Limited Jaipur (firm C). Orders for supply of 1000 Km<sup>s</sup> Rabbit conductor were placed (January 1987) at firm equivalent rates ranging from Rs 5 104 to Rs 5 196 per Km on firms A B C and the four other firms viz, Ashok Transmission Wires Private Limited Jaipur (firm D) Bali Cables Private Limited Jhunjhuna Rajasthan (firm E) Nakoda Conductors Private Limited Bhilwara (firm F) and Aaldee Wires and Conductors Gwalior (firm G)

In terms of the orders the supplies were to be completed by 31st March 1987 except in case of firms B and E where the supply of Rabbit conductor was to be completed by April 1987 and July 1987 respectively

Firms A D E and 'F completed the supplies in February 1987. Firm B supplied 75 Kms of Dog conductor in February 1987 leaving a balance of 25 Kms and did not supply 300 Kms of Rabbit conductor. Firm C on whom the order for 250 Kms Dog conductor and 100 Kms Rabbit conductor was placed and firm G which was to supply 100 Kms Rabbit conductor did not commence supply

Firms B and C refused (February 1987) to execute the orders on the plea that the orders were placed late and the rates as per purchase order were inclusive of Central Sales Tax (CST) while their offers were exclusive of CST. The plea taken by the firms was not correct as the telegraphic orders were issued well in time and the rates were given in the purchase orders after adding CST in the tendered rates. Consequent upon the increase in price of aluminium rods from Rs 20 260 to Rs 24 653 per tonne with effect from 1st March 1987 both firms B and C offered (March 1987) to execute the orders at enhanced rates by October 1987. The whole time members of the Board agreed (May 1987) to allow an increase of Rs 1 451 per Km for 'Dog conductor and Rs 750 per Km for Rabbit conductor even though the rates were firm and the increase was not in conformity with the purchase regulations of the Board. Firm G was also allowed increase on similar lines

Consequently firms B C and G supplied (June November 1987) 264 35 Kms Dog conductor and 486 872 Kms Rabbit conductor at higher rates resulting in extra expenditure of Rs 7 41 lakhs

Thus by allowing price increase despite firm rates the Board had to incur an extra expenditure of Rs 7 41 lakhs

The matter was reported to the Board and Government in June 1989 their replies had not been received (October 1989)

In their written reply the Government/Board stated as under —

- (i) The Pos for ACSR Conductor Dog were issued on 3 No firms on 23 1 87 and for ACSR Rabbit conductor on 7 firms on 30 1 87. The supplies for ACSR conductor Dog were to be completed by March 87 and in respect of ACSR Conductor Rabbit also by March 87 except 2 No firms where the supplies were to be completed by April 87 and July 87 respectively. The hike in prices of Aluminium rods was announced w.e.f. 1 3 87 (i.e. just within the Delivery Schedule) and immediately thereafter the firms came forward for increase in the prices of ACSR Conductor to be supplied by them. The Delivery Period being just two months from the placement of orders and hike in cost of aluminium coming up within one month from the placement of orders there was no occasion to write to the firms to supply the material. However the following firms supplied the material at original rates as the same had been manufactured by them in the month of Feb 87 i.e. before the hike in prices in aluminium.

Firm(A) Full quantity of ACSR conductor Dog & Rabbit

Firm(B) 75Kms of ACSR conductor Dog against the ordered qty of 100 Kms. However ACSR conductor Rabbit was not supplied

Firm (D) Fully qty of ACSR Conductor Rabbit in Feb 87. No ACSR Conductor 'Dog' was ordered upon them

Firm(E) Full qty of ACSR Conductor 'Rabbit' in March 87. The material was offered by them for inspection on 24 2 87. No ACSR conductor Dog was ordered upon them

Firm(F) The entire qty of ACSR conductor Rabbit supplied in Feb 87. No ACSR conductor Dog was ordered upon them

No firm manufactured/supplied ACSR Conductor at original rates after the commencement of hike in the prices of aluminium

- (ii) As there was no clause of increase/decrease of qty in POs the firms were not under any obligation to supply additional quantities. When other firms had demanded increase in the prices of ACSR Conductor these firms evidently could not be expected to supply the material at original rates after the announcement of hike in the prices of aluminium rod and as such these firms were not asked to supply additional quantity. It may be mentioned here that hike in the prices of aluminium rod was of the order of Rs 516 per Kg which resulted into increase in prices of ACSR Conductor Dog & Rabbit at the rate of Rs 1450/ and Rs 730 00 (Approx)
- (iii) In this context it is stated that the firms who supplied the material had manufactured the same prior to the announcement of hike in prices of aluminium which means that the conductor supplied by them had been manufactured out of old stock of aluminium rods purchased by them at lower rates. No firm manufactured and supplied material at original rates after the announcement of hike in aluminium prices.

The EC Grade aluminium required for the manufacturing of ACSR conductor was a Government controlled item and the sale prices of various sections was fixed by the Govt of India through a notification. Any notification in the prices of raw material by the Union Govt as an Act of the Govt and to this extent the provision of Force Majeure Clause could be genuinely extended. This fact was considered by the Board while taking decision to allow increase in the prices and further because the supplies against a fresh tender enquiry could not have been received earlier than Sept, 1987 and the Board works would have evidently suffered during the intervening period. Even the supplies against new tender enquiry would have been received at higher rates. In the event of non availability of ACSR conductor Dog & Rabbit the Board would have failed to carry out its urgent works thereby resulting into inconvenience to the consumers. It was therefore in the interest of the Board that increase in the prices of ACSR conductor were allowed by the Board.

- (iv) Although scope of invoking risk purchase at the cost of these firms existed yet it was visualised that risk purchase is normally a long drawn battle and is a futile exercise. This would have not only delayed the process of procurement but would have created a vacuum in the intervening period in the field for these sizes of conductor and also burdened the Board as a consequence. The major consideration for the Board is to see that works both of maintenance of the system its improvement and release of additional connections for the development of the State as a whole and consumer satisfaction in particular, do not suffer.

It was informed by the representative of the Board, during the course of oral examination, that supply was completed by four firms, one firm partly supplied the material whereas two firms did not supply the material. Further the representative of the Government informed that decision for accepting the higher rates for supplying the material was taken by the Board consisting of whole time members. The firms who did not supply the material should have been proceeded against but no action was taken against them.

The Committee observed that action should have been taken against the defaulting firms and if the rates were increased the tender should have been invited afresh.

The Committee, therefore, recommends that an enquiry into the matter may be conducted and the Committee be informed with the result within one month after fixing the responsibility for the loss suffered by the Board.

#### 4.4.2. Loss of Revenue

18. As per the instructions of the Board the energy variation register should be maintained in a sub division in order to investigate the causes of variation in the normal consumption of energy during a month and to detect unauthorised extension of load.

Shiv Oil and General Mill Narwana was sanctioned (January 1981) a medium supply connection with a connected load of 52 560 KW by city sub division Narwana. Subsequently in September 1982 and August 1985 the consumer applied for extension of load to 63 750 KW and 98 493 KW but the request was rejected (June 1983 and February 1986) due to non compliance of demand notice by the consumer. The connected load of the consumer was however extended (January 1987) to 98 493 KW on the basis of fresh application (May 1986).

During the course of Audit (June 1987) it was noticed that the monthly consumption of energy of oil mill ranged from 1371 to 20 810 and 1242 to 30 144 units during the years 1985 86 and 1986 87 (up to January 1987) respectively. The actual load of the consumer computed in Audit worked out to 101 53 KW and 120 25 KW during the years 1985 86 and 1986 87 (up to January 1987) respectively and thus consumer came under the category of large supply consumer for whom energy charges were to be billed at higher rates. Although the sub division was maintaining energy variation register and the extension of load was evident from consumption of energy the sub division failed to detect unauthorised extension of load by the consumer and continued to bill the consumer at lower rates. This resulted in loss of revenue amounting to Rs 0.92 lakh (energy charges 0.65 lakh additional surcharge 0.27 lakh) for the period from April 1985 to January 1987.

Neither the amount was recovered nor had the responsibility in the matter been fixed by the Board (October 1989).

The matter was reported to the Board and Government in July 1989. Their replies had not been received (October 1989).

In their written reply the Government/Board stated as under —

- (i) The variation register maintained gives an idea about the variation in the consumption pattern for the individual consumer. In case of variation beyond a reasonable limit the case is required to be scrutinised. Although technically it may be considered a lapse but it cannot be presumed that something unauthorised is existing. The premises of M/s Shiv Oil Mill were visited regularly for meter reading every month by JE/AFM. But no extension of load was detected by the JE/AFM during the years 1985-86 and 1986-87. Even M&P authorities also checked the site of the consumers on 21.2.86, 9.12.86 and 13.5.87 and they also found no extension of load as is revealed from their observations report.

It is further added for information that this is a seasonal load being Oil Mill dependent upon availability of oil seeds and normally highest consumption has occurred during the months of November, December, January and February every year. With a connected load of 52,560 KW a consumer can utilise upto 37,843 ( $52,560 \times 24 \times 30$ ) units in a month of 30 days and 39,105 ( $52,560 \times 24 \times 31$ ) units in a month of 31 days. Even with the highest consumption recorded during November 1986 i.e. 30,144 units the working hours per day come to 18.5 hours. Whereas the load factors and demand factors mentioned in the Sales Manual are to work out the financial justification i.e. a minimum return on our investment. It does not debar any higher consumption than that worked out on load factor and demand factor basis. The consumer was to consume a minimum of 5,676 ( $52,560 \times 24 \times 30 \times 0.25 \times 0.60$ ) units per month to justify the installation. If the consumer consumes more energy he is required to pay the charges of the actual energy consumed. The connected load is a thing which can only be verified by physical inspection and it cannot be worked out by assuming any conversion factor. This is also supported by the fact that M&P authorities also checked the load on 21.2.86 and 9.12.86 and they found no extension of load in this case.

In view of the above there is no need to fix responsibility.

- (ii) As stated above that premises was visited every month by responsible officials and periodical inspection made by the M&P authorities but no unauthorised load was detected at any stage during the year 1985-86 and 1986-87. The extension of load upto 98,493 KW in this case was allowed on 24.1.87 only after installing 200 KVA transformer on 28.12.86 which was drawn from the Store on dated 25.11.86 against the existing 100 KVA transformer and relevant large supply tariff was charged from 2/88 as per sales circular No. 1/88 and 18/88. The load of the consumer was further extended to 1,29,857 KW when the consumer was given supply at 11 KV with effect from 14.8.89.

It is also added for information that the existing 100 KVA transformer during the years 1985-86 and upto 28.12.86 was capable of taking the load upto 80 KW only. It also shows that there was no extension of load at this premises. Thus the load of the consumer computed in audit (101.53 KW during the year 1985-86 and 120.25 KW during the year 1986-87/upto January 1987) is impracticable.

During the course of oral examination, it was informed that Shiv Oil and General Mills, Narwana was sanctioned connected load of 52.560 KW in January 1981. After that the consumer applied for extension of load twice and during audit it was found that the consumer came under the category of large scale consumer for whom bill was to be charged at higher rates. It was also informed that no checking was ever carried out by any officer.

The Committee observed that the Board has furnished the reply on the basis of reply sent by the Superintending Engineer and the Accountant General Haryana called for some clarification in October 1989 which has not been sent so far with the result the Committee decided to keep the paragraph pending.

The Committee, therefore, recommends that the reply be sent at the earliest as the matter has been over delayed by four years by the Board. Moreover, the Board should fix the responsibility of the Officers/Officials who have delayed the reply and action be initiated against them immediately under intimation to the Committee.

#### 4.4.6 Purchase of cables at higher rates

19. As per Haryana State Electricity Board (Purchase) regulations 1974, the tenders for the capital equipment and material for works below 33KV and for operation and maintenance of existing works are required to be submitted by the Chief Engineer (Operations) 12 months in advance of requirement. On receipt of the tenders, the Material Management Organisation (MMO) prepares consolidated itemwise list of equipment and material to be procured during the year.

The tenders for various types of cables required for release of general services/tubewell connections and maintenance and upkeep of local distribution system during the year 1987-88 were submitted by Chief Engineers (Operations) in December 1986 i.e. only four months in advance of requirement. Tenders for supply of 2,447.5 Km cables in 12 different sizes were invited/opened in March/May 1987 and in response, 24 firms quoted the rates.

Keeping in view the anticipated supply of cables against pending orders (534 Kms), the Store Purchase Committee decided (August 1987) to place 12 orders for 1,880 Km of cables on eight firms. Telegraphic orders were issued in August 1987 to eight firms which were subject to their acceptance. Three firms conveyed their acceptance (August/September 1987), but detailed purchase orders were not issued immediately to these firms.

On 3rd November 1987 the whole time members decided to purchase cables in four sizes through a Special Purchase Committee (SPC) preferably against ex stock supplies in view of acute shortage of cables as detailed orders against annual requirement were yet to be issued by the MMO. In pursuance of the above decision the committee issued tender enquiry to eight firms (November 1987) which were regular suppliers of cables to the Board. Offers received from four firms were opened on 13th November 1987. Meanwhile, the Board issued nine detailed purchase orders on 4/16th November 1987 to eight firms for supply of 1780 Km cables against tender enquiries opened in May 1987. This quantity included 230 Kms in 3 sizes authorised for purchase through SPC. The SPC also placed order on R K Electrical Industries, New Delhi on 3rd December 1987 for the supply of 250 Km cables of the same 3 sizes at rates higher than those of the purchase orders already issued in November 1987, resulting in an extra expenditure of Rs 4.46 lakhs.

Thus owing to (i) delay in sending indent for requirement of cables for the year 1987-88 by Chief Engineers (operations) (ii) delay in issue of detailed purchase orders by MMO and (iii) purchase of cables at higher rates without keeping in view the rates allowed for similar type of cables by MMO, the Board had to incur an extra expenditure of Rs 4.46 lakhs.

The matter was reported to the Board and Government in June 1989. Their replies had not been received (October 1989).

In their written reply, the Government/Board Stated as under —

- “(i) HSEB Purchase regulations do not specify any time limit for the submission of indents. The indents for the material cannot be prepared till the targets for release of new connections and the list of works is made available to the field officers which is dependent upon the availability/approval of Annual Financial Budget. However Annual Financial Budget is generally approved in the month of January/February. The targets for the year 1987-88 were conveyed to the field officers in the last week of November 1986. The Chief Engineer OP submitted the material budget on 4.12.86 which was then scrutinised in the HO and the material Budget was approved by the WTMs on 9.3.87.

It will thus be seen that there was no delay in the submission of the indents by the field offices and the approval of Material Budget by the Whole Time Members.

- (ii) The tender enquiries No. OR 1728 & 1729 were floated in the month of March 1987 and opened in May 1987 for the supply of 2  $\frac{3}{4}$  and 4 crore LT PVC cables. These tender enquiries were processed and 12 No telegraphic Purchase Orders were issued against these enquiries on 18.8.87/13.8.87 within the validity period dates of 11.8.87/17.8.87. Since the terms of various tenders were at variance with the Board's standard terms of Schedule 'D' the same were not accepted by the HSEB. Further in some cases, firms were asked to



accept lowest rates received against these tender enquiries as entire order could not be placed on one firm only so as to ensure supplies as all the eggs could not be placed in one basket. The counter offers made to the firms in respect of rates terms and conditions were not accepted by them and hence negotiations had to be carried out with them to arrive at acceptable rates, terms and conditions otherwise the placement of orders on the firms without arriving at acceptable terms and conditions would have been of no use as no contract would have come into existence. This is due to this fact that time was taken in placement of detailed POs. It will therefore be seen that tenders were immediately invited cases processed expeditiously telegraphic purchase orders placed within validity period, but the detailed POs could not be placed as terms and conditions could not be mutually agreed upon immediately which took time in finalisation of the same.

- (iii) There are only 3 sizes of cables viz 4Cx 6mm Sq m, 4 Cx10mm Sq & 4C x 25mm Sq which were ordered by the Committee at higher rates than the rates at which the orders were placed by the office of Chief Engineer (MM). The supply position against the POs placed by the Chief Engineer/MM for purchase of these sizes of cables for which spot purchases were also made by the Special Purchase Committee is as under —

Description of material	PO No & date	Name of the firm	Qty (in Km )	Delivery-schedule as Per PO	Actual completion of supplies
4CX6mm Sq	HH—2674 16 11 87	M/S Krishna Electricals Delhi	70	Commencement within one month completion @ 25% Qty PM but completion before 31 3 88	30 3 88 to 14 11 80
4CX10mm Sq	HH—2673 16 11 87	M/S Vijay Cables Delhi	100	To complete supplies by 31 3 88	22 4 88 to 25-4 82
4CX25mm Sq	HH—2656 4-11 87	M/S Him Cables ((India) Chandigarh	60	Commencement within one month completion within 4 months thereafter	8 4-88 to 5 7 88

It will be clear from the above that the supplies against these POs were to mature very late while the Board was in immediate need of supply of LT cables. The stipulation for immediate supplies could not be made without the consent of the Parties. It will be seen that the firms could not maintain even the delivery schedules quoted by them which was provided in the POs and supplied the material much after the scheduled delivery periods. Hence to meet with immediate requirement

of the field offices Special Purchase Committee was constituted by the Board to make spot purchases

- (iv) As stated above, to meet with the immediate requirement of the field offices Special Purchase Committee was constituted by the Board to make spot purchases, the detail of the POs placed by MM Organisation has also been given in the above para. However detail of the POs placed by the Special purchase Committee is as under —

Description of material	Qty (in Km)	P O No & date	Name of the firm	Delivery schedule as per P O	Actual completion of supplies
4CX6 mm sq	100	Ch 9/E 3 /COS/ 87 88	M/s R K Electric Industries (India) P Ltd New Delhi	To be supplied at destination within 7 days of inspection by the inspecting officer & despatch authority	4CK6mm sq 9-12-87 to 5-1-88
4CX10 mm sq	100	dated 3-12-87			4CX10mm sq 4-12-87 to 5-1-88
4CX25mm sq	50				4CX25mm sq 4-12-87 to 30-12-87

It will thus be observed from the above that the Board could meet its emergent requirement of these LT cables by purchases through Special Purchase Committee as the entire material was received in the month of December, 1987 to early January 1988

- (v) The Competitive rates were ascertained by the Special Purchase Committee after obtaining spot purchase quotations with immediate delivery schedules. It is a matter of common knowledge that rates for ex stock/short delivery schedules are definitely higher than for the supplies with longer delivery schedules. The rates at which the POs were placed by MMO might have been in the knowledge of Special purchase Committee as copies of all the POs placed by the MMO were duly endorsed to Controller of Stores and all SEs Operation Circles in the HSEB SE OP Circle Ambala and Controller of Stores were members of the Special purchase Committee.

Had the spot purchase not been made important works such as release of new connections to achieve the targets and maintenance of continuity of supplies would have suffered adversely. The monetary loss as made out by the audit is imaginary and the Board could not afford to defer these works as otherwise it would have meant a lot of inconvenience to the public due to disruption of supply and non release of new connections.

During the course of oral examination, the Chairman of the Board agreed to send revised report after making appropriate enquiry for the delay

The Committee, Therefore, recommend that the matter be expedited and a report after fixing responsibility of the erring officers/Officials may be sent to the Committee within a period of two months

#### 4 4 7 Acceptance of substandard meters

20 After inviting tenders, an order for supply of 215 (11 K V) Trivector meter (value Rs 11 57 lakhs) was placed on Industrial Meters Priyate Limited Bombay in February 1987. As per the terms of the purchase order, the firm was to get the sample approved from the Superintending Engineer (Maintenance and protection) Hisar within one month of the receipt of the order and the meters were to be inspected and tested before despatch

Sample meter supplied by the firm was tested in Board's laboratory in May 1987. Test results indicated that in case of system voltage going below 80 per cent of the rated system voltage the clutch coil will not function throwing the Maximum Demanded Indicator registration out of gear consequently its recording under such system conditions will be absurd and problematic in the field. Without obtaining fresh sample meter the sample was approved in September 1987 on the meter basis of undertaking given by the firm (July 1987) that meters would operate even if voltage falls below 80 per cent but not below 70 per cent

172 meters were inspected in October 1987 (86 meters) and January 1988 (86 meters) by an Assistant Executive Engineer (AEE) at the firm's works. Without checking the meters offered for inspection with the approved sample the AEE reported that the meters were found conforming to the Board's specifications. 172 meters were received between November 1987 and February 1988 against which entire payment of Rs 9 26 lakhs was made in December 1987 and March 1988. Performance of these meters was not found satisfactory (January 1988) as the maximum demand and energy consumption of the meter was reduced by more than 10 per cent, if the phase sequence of the line was changed and the meter was very sluggish at low loads and counter gears were sticky.

The matter was taken up with the firm in July 1988. The firm contested the point that the meters were not as per approved sample. Thereafter, six meters selected at random were got tested (December 1988) from Bhakra Beas Management Board (BBMB) laboratory and all these meters failed in one or other tests. In a meeting held with the firm in March 1989 it was decided that all the meters be got tested and recalibrated individually irrespective of reports on sample meters received from BBMB laboratory. The firm agreed to repair the meters found defective.

83 Meters were found defective after testing out of which 40 meters were repaired (April May 1989) by the firm leaving 43 defective meters, valuing Rs. 2 31 lakhs, unrepaired.

The whole time members of the Board decided (April 1989) to cancel the order for balance 43 meters (out of 215 meters ordered) and not to issue 172 meters already supplied by the firm for loads exceeding 100 KV in view of their poor performance accordingly the order for balance 43 meters was cancelled in June 1989

Thus, laxity in approval of the sample and inspection of meters resulted in acceptance of 172 sub standard/defective meters valuing Rs 9 26 lakhs of which 43 meters valuing Rs 2 31 lakhs were lying unrepared and the balance 129 meters (value Rs 6 95 lakhs) could not be put to intended use

No responsibility in the matter had been fixed (October 1989)

The matter was reported to the Board and Government in August 1989, their replies had not been received (October 1989)

In their written reply, the Government/Board stated as under —

- “(1) In the earlier sample submitted by the firm there was only one draw back that the MDI clutch coil did not operate at the voltage less than 80% of the rated voltage. The firm agreed to modify their trivector meters for operation for MDI Clutch Coil at voltage lesser than 80% of the rated nominal voltage upto 70%. There was an urgent need of trivector meters in the field and as such, on the assurance of the firm as stated above the sample was approved. While conveying the approval it was mentioned that this aspect will be tested at the time of Inspection by the Inspecting Officer. The Inspecting Officer therefore tested the above provision at the time of inspection and it was reported by him that the working of the Maximum Demand Mechanism at 70% of the rated voltage was found to be satisfactory.
- (11) The lot was approved not on visual inspection but after carrying out the necessary tests by the Inspecting Officer as per the provisions of the purchase order. The performance of the meters can only be checked by carrying out the specified tests and matching with the approved sample may only result in checking of physical dimensions etc. It is pertinent to mention here that Inspecting Officer has specifically mentioned in his inspection report dated 20 10 87 that the working of the maximum demand mechanism at 70% of the rated voltage was checked and found to be satisfactory. It may be observed from the above that lot was approved after carrying out the various tests as specified in the purchase order.

It is further added that the Inspecting Officer does not test all the meters offered in a lot to him but only some of the meters as per the provisions of the relevant ISS are selected at random and tested. Further during transportation from the firm's works to the Board's Stores the calibration of the meters gets disturbed which is checked in the laboratory

before the same is installed at the consumer's premises. When some defects were noticed during laboratory test the matter was taken up with the firm and it was decided to get the meters tested from outside agency and on the basis of test results of the outside agency firm agreed to repair the defective meters.

- (iii) When a tender enquiry is invited Schedule D of the Board containing standard terms and conditions of the Board are supplied to the firms. The firms sometimes agree to the standard clause of the payment of Schedule 'D', but in some cases they don't agree and offer their own clause of the payment. The offered clause of the payment by the firm is considered and after approval of the Competent authority, the same is provided in the purchase order. Since the PO is issued the provisions of the purchase order including payment terms forms a contract between the purchaser and the supplier and the payment terms therefore are regulated as per the provisions of the purchase order. In the instant case, the payment terms were as under —

'100% payment plus full taxes and excise duty against RR/or Receipted Challans through bank on furnishing Bank Guarantee for 5% of the contract value valid upto warranty period.'

- (iv) No action is required to be taken in view of the position explained in reply to question (ii) above, as the meters were tested as per the provision of P O.

- (v) The repair position of the meters supplied by the firm was reviewed in August 1989 and it was observed that the defective 39 Nos meters (Dhulkote—7, Hisar—15, Panipat—17) had already been repaired by the firm but 43 Nos meters lying defective at Ballabgarh were not repaired. After making protracted correspondence with the firm, these 43 Nos meters have also been got repaired from the firm as per the report of Xen/Central Store, Ballabgarh dated 30.10.92.

- (vi) There is no advocate report received from the field.

- (vii) All the defective meters have already been got repaired from the firm and as such, no further action is required.

During the course of oral examination it was intimated by the representative of the Board that when the sample meters were supplied by the firm there was only one drawback that the MDI clutch oil did not operate at the voltage less than 80% of the rated voltage. The firm, therefore, agreed to modify their trivector meters. Since there was an urgent need of meters in the field on the assurance of the firm the sample was approved and while conveying the approval it was mentioned by the inspecting officer that the meters will be tested at the time of inspection. The firm also agreed that the checking may be got carried out from any independent laboratory and it was found during checking that meters were defective which were modified by the firm later on in view of their assurance.

The Committee observed that meters were received in two lots random checking of first lot was done on 20th October 1987 whereas this lot was received in November 1987 and was checked in January 1988 the second lot arrived in February 1988 and was checked in March 1988. The material which was received in first lot in November 1987 was not found in order at the time of checking. The Committee further observed that there was no necessity of receiving the second lot but the firm should have been black listed especially because their first sample was disapproved.

The Committee, therefore, recommended that an enquiry in the matter may be instituted to find out the officers at fault and action must be completed within two months.

#### 4 4 10 Non-reimbursement of freight charges

21 During the period from 24th to 30th October 1985 800 tonnes of cement was purchased by the Board from a cement factory at Charkhi Dadri under the authorisation from the Cement Controller. The cement was transported by road and freight charges amounting to Rs 0 64 lakh were paid (October 1985) by Executive Engineer (XEN), Central Store, Rohtak and Sub Divisional Officer (SDO) Divisional Store Jind. As per terms of authorisation in case of transportation of cement by road, the freight charges were reimbursable by the cement factory provided the claim for refund of freight charges was preferred within a period of six months from the date of despatch of cement. SDO Divisional Store Jind lodged (November 1985) a claim of Rs 0 28 lakh with the cement factory but all the relevant documents were not furnished with the claim. The XEN, Central Store Rohtak also lodged a similar claim for Rs 0 36 lakh in February 1987 i.e. long after expiry of six months period from the date of despatch of cement. Both the claims were rejected (May 1988) by cement factory on the ground that these were time barred.

Thus owing to late/incomplete preferring of claims the Board had to incur a loss of Rs 0 64 lakh on account of non-reimbursement of freight charges. Responsibility for the lapse has however, not been fixed (October 1989).

The matter was reported to the Board and Government in August 1989 their replies had not been received (October 1989).

In their written reply the Government/Board stated as under —

- (i) A Purchase Order No HH 2366 dated 13-8 85 was issued for the supply of 1000 MT cement. Accordingly 500 MT cement was to be despatched to XEN/Central Store Rohtak 300 MT cement to SDO Divisional Store Jind and 200 MT cement to SDO Divisional Store Charkhi Dadri. The rates provided in the P.O. were FOR destination inclusive of rail freight element. The cement was transported by road on behalf of the HSEB. The road freight charges in respect of consignments of Central Store Rohtak and Divisional Store Jind, were paid by the Board. As per provision of P.O.

500 MT of cement was received at Rohak and 300 MT at Divisional Store Jind. The element of Road freight charges for consignment received at Central Store, Rohtak was Rs 36072 and that for Divisional Store Jind was Rs 28110. As per procedure in vogue M/s CCI were supposed to pay back the rail freight element only and not the Road freight charges paid by HSEB. The consignees were supposed to submit railway freight reimbursement claims to M/s CCI within six months of receipt of consignments along with the relevant documents which they failed to send in time. As such the claims were declared time barred by M/s CCI. On pursuance, with Regional Development Commissioner for Cement Industries New Delhi, the delays in submission of claims by consignee were condoned during 9/91 and M/s CCI Charkhi Dadri were directed to pay back the admissible rail freight element to HSEB. Accordingly a refund of Rs 22672 (@ Rs 25 per MT for 500 MT cement consigned to Central Store Rohtak and @ Rs 33.90 per MT for 300 MT cement consigned to Divisional Store Jind) has been received from M/s CCI Charkhi Dadri vide Cheque No 623279 dated 19.2.1993 for Rs 1,07,520 (which includes Rs 22672 against this P.O. No. HH/II/2366). Now as the admissible refund has been received from M/s CCI Charkhi Dadri, no financial loss has been caused to the Board. However, administrative action is being taken against the officers who delayed the submission of claims.

The Committee recommend that action taken after calling for the explanation of Shri RS Gupta who has been found negligent may be intimated to the Committee within two months.

### HARYANA FINANCIAL CORPORATION

#### 4.6.1 Irregular disbursement of loan

22. The Corporation sanctioned (May 1985) a loan of Rs 4.27 lakhs to Lord Krishna Ice and General Mills for setting up an ice plant at Odhan (Sirsa) with a stipulation that machinery would be purchased from Jindal India, Yamuna Nagar and Kisan Tubewell Store Sirsa, the suppliers approved by the Corporation. The Corporation disbursed (January—February 1986) Rs 1.09 lakhs to the loanee for land (Rs 0.07 lakh), building (Rs 0.42 lakh) and some items of machinery (Rs 0.60 lakh). In April 1986 the loanee sought permission of the Corporation for change of both the suppliers of machinery which had refused to supply the machinery at the quoted rates and requested for permission to purchase the machinery from Ganesh Mechanical Works, Yamuna Nagar and Lucky Trading Company, Yamuna Nagar. The Corporation however granted the permission without verifying the genuineness of the new suppliers.

The Corporation deputed (May 1986) a clerk to supervise the despatch of machinery by suppliers and make payment of Rs 2.56 lakhs there against. The clerk delivered two cheques (Rs 1.29 lakhs and Rs 1.27 lakhs) to the suppliers without ensuring despatch of machinery to loanee and transit insurance etc. As no information regarding receipt of machinery by the loanee was received, the clerk visited the factory

of loanee but did not find any machinery there. The clerk was placed (May 1986) under suspension for the lapse and an FIR was lodged with police against the suppliers and the loanee in June 1986. However the clerk was reinstated in August 1988 by imposing a penalty of stoppage of two increments with cumulative effect. The police case was still under investigation (October 1989).

The Corporation took over the possession (July 1988) of land (the building was found demolished and some machines installed there removed by loanee) which was put to auction three times between September 1988 and February 1989 but no bid was received.

In their written reply the Government/Board stated as under —

The concern made a request for allowing change of supplier. The originally approved supplier was M/s Jindal India Yamunanagar. A letter from Jindal India was furnished by the party which stated that the supplier is unable to supply the plant and machinery at the cost as originally considered in the scheme. The party accordingly made a request that they may now be allowed to purchase machinery from another supplier namely Ganesh Mechanical Works, Yamunanagar. The party furnished us the quotations for the ten tons ice plant along with break up of items supported with a list of customers of new supplier and a letter regarding guarantee for two years. Similarly the party had made a request that electric motors of Kirloskar make which were initially proposed to be purchased from a local dealer in Srsa namely Kisan Tub well Store may now be allowed to purchase from Lucky Trading Co Yamunanagar. The party informed that new supplier was ready to supply the motors at lesser rates. The party similarly submitted quotations for various electrical motors & Gen Sets from Lucky Trading Co. The letter regarding ready availability of the motors and Gen Set was also furnished by the party.

Whenever a request for change of supplier is received from a party the papers which were generally asked included quotations/offers list of customers guarantee letter etc.

All the above papers were obtained and examined in this case as well. From the list of customers it was apparent that the supplier had supplied plant & machinery to couple of units including those financed by UPFC and PFC.

When the practice of machinery transaction was enforced in the Corporation there was no policy laid down for deputing an officer/official for supervising the transaction. The Corporation had been deputing officials at all levels for machinery transactions.

The police has filed the challan on 28.04.88 in court of Sub Judge Jagadhri. The case is still pending in the Jagadhri Court and the next date has been fixed for 08.07.1993 for prosecution of witnesses.



The Corporation took over possession of land & building of the unit on 29 07 88 u/s 29 of SFCs Act 1951. The Corporation made six attempts to dispose of the unit and finally sold it for Rs 24000 through open auction held on 21 01 91. R C was lodged for recovery of the shortfall amount with the concerned Collector.

During the course of oral examination it was informed by representative of the Corporation that area of the plot was 13 marla on which the building was constructed. The cheque/payment was disbursed to the tune of Rs 3.68 lakhs out of the total sanctioned loan of Rs 4.27 lakhs after it was verified by the Clerk by visiting the spot that the building was complete. Out of the total sanctioned loan and amount of Rs 2.56 lakhs was for the machines and the balance was for land and building. The amount for the building is released in the first instant and the price of the land is paid after its registration. After one week it was checked that machinery did not reach at the spot and a case was registered with the police. It was conceded by the representative of the Corporation that the loan has not been received back because of fraud and the responsibility was fixed of that of the Clerk as he did not get the machinery loaded in the truck with the result that the said Clerk was placed under suspension and his two increments later on were stopped with cumulative effect after conducting enquiry.

The Committee observed that the building was not constructed and the Clerk who was deputed to deliver the cheque was not fully responsible.

When further asked by the Committee as to what precautions were taken to verify as to whether the supplier is genuine and he will supply the machinery definitely it was informed by the representative of the Government that the supplier is producer of this machinery and has been supplying machinery to other units also which were financed by UP and Punjab Financial Corporations.

As regards recovery it was informed by the representative of Corporation that the loanee Shri Surinder Pal who originally belonged to Punjab was residing at Sirsa but left Sirsa after some time and started residing at Ferozpur. A recovery certificate was sent to Deputy Commissioner Ferozpur but it came to the notice that the loanee has again shifted to Faridkot and recovery certificate is now being sent to Deputy Commissioner, Faridkot, with the hope that whenever Shri Surinder Pal will appear in the Court he will be arrested. The next date of the hearing was fixed in the month of December 1993.

Since the Committee was not satisfied with the reply with regard to other construction of the building an enquiry on this point was got conducted and it was revealed that Ice Factory M/s Lord Krishna Ice and General Mills never functioned and the four walls of the said factory have been dismantled and there are only two temporary type unplastered rooms of less than 10 X 10 measurement.

After oral examination the Committee came to the conclusion that only the Clerk is not responsible rather his immediate officers are also responsible. The Committee, therefore, recommend that a proper enquiry be conducted and the responsibility of the officers found at fault be fixed. Besides, the case for effecting recovery may also be pursued vigorously and intimated to the Committee without any further loss of time.

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