



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2023-2026)**

THIRTY SECOND REPORT
(Presented on 8th July 2024)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM

2024

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On

**Kerala State Industrial Enterprises Limited and Kerala State
Industrial Infrastructure Development Corporation**

**(Based on the Reports of the Comptroller and Auditor General of India
for the years ended 31st March, 2016, 2018 & 2019)**

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COMMITTEE ON PUBLIC UNDERTAKINGS

(2023-2026)

COMPOSITION

Chairperson:

Shri E. Chandrasekharan.

Members:

Shri A. P. Anil Kumar

Shri Anwar Sadath

Shri Ahammad Deverkovil

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

Shri D. K. Murali

Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla.

Legislature Secretariat:

DR. N. Krishna Kumar, Secretary

Shri Venugopal R., Joint Secretary

Shri Anil Kumar B., Deputy Secretary

Shri Mohanan O., Under Secretary.

INTRODUCTION

I, the Chairperson, Committee on Public Undertakings (2023-2026) having been authorised by the Committee to present the Report on its behalf, present this 32nd Report on Kerala State Industrial Enterprises Limited and Kerala State Industrial Infrastructure Development Corporation based on the reports of the Comptroller and Auditor General of India for the years ended 31st March, 2016, 2018 & 2019 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Reports of the Comptroller and Auditor General of India were laid on the Table of the House on 23-5-2017, 24-8-2020 & 10-6-2021 respectively. The Reports, besides other things in their findings, brought to light some functional irregularities relating to the Kerala State Industrial Enterprises Limited and Kerala State Industrial Infrastructure Development Corporation. The Committee, in connection with the perusal of reports, took notice of the comparability of the audit paragraphs pertaining to such irregularities and decided to examine them altogether. The consideration of the audit paragraphs included in this report and the examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings (2021-2023) at its meeting held on 2-11-2022.

This Report was considered and approved by the Committee (2023-2026) at its meeting held on 4-7-2024.

The Committee place on record its appreciation for the assistance rendered to them by the Accountant General (Audit), Kerala in the examination of the Audit Paragraphs included in this Report.

The Committee wishes to express thanks to the officials of the Industries Department of the Secretariat and the Kerala State Industrial Enterprises Limited and the Kerala State Industrial Infrastructure Development Corporation for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government, Industries Department and Finance Department and the officials of the Kerala State Industrial Enterprises Limited and Kerala State Industrial Infrastructure Development Corporation who appeared for evidence and assisted the Committee by placing their views before the Committee.

E. CHANDRASEKHARAN,

Chairperson,

Committee on Public Undertakings.

Thiruvananthapuram,
8th July, 2024.

REPORT

On

KERALA STATE INDUSTRIAL ENTERPRISES LIMITED (KSIE) &

KERALA STATE INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION (KINFRA)

Audit Paragraph [2015-16]

Para 3.5.3- Irregular engagement of temporary staff

As per the provisions of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, vacancies¹ for contract employment exceeding three months were to be notified to the Employment Exchanges. Further, for such employment, Rules for Reservation in Government Service shall be applicable. According to Rule 14 of Rules for Reservation in Government Service, unit of appointment for the purpose of reservation shall be 20, out of which two shall be reserved for persons belonging to Scheduled Castes and Scheduled Tribes, eight for other backward classes and remaining 10 shall be from the open category. We observed that six² PSUs and one department engaged 1686 contract employees, without notifying the vacancies to Employment Exchanges as detailed in Table 3.13.

Table-3.13 : Engagement of temporary staff

Sl. No.	Audit findings	Management/Government Reply
7	KSIE ³ Managing Director (MD), KSIE appointed (October 2015 to June 2016) 106	Government replied (March 2017) that all employees who

- 1 Does not apply to vacancies in relation to any employment to do unskilled office work.
- 2 SIDCO, Kerala State Construction Corporation Limited, Kerala State Financial Enterprises Limited, Oil Palm India Limited, Kerala State Poultry Development Corporation Limited and Kerala State Industrial Enterprises Limited.
- 3 Kerala State Industrial Enterprises Limited.

<p>employees on temporary basis either directly or through Labour Outsourcing Agency. In case of appointment through Labour Outsourcing Agency, the prospective employees would forward their applications to MD who would direct the Labour Outsourcing Agency to appoint the employees.</p> <p>Based on its inspection (March 2016), Industries Department, GoK ordered (April 2016) to terminate all the appointments made by the MD. Instead of complying with government directions, the MD appointed 25 more employees. Government replaced (June 2016) the MD. The new MD terminated (June 2016) all the irregularly appointed employees. An amount of ₹39.92 lakh had been disbursed as remuneration to the irregularly appointed employees.</p>	<p>had been irregularly appointed and had been terminated.</p>
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The reply was only partially acceptable as temporary appointment had to be made from Employment Exchange against sanctioned posts only thereby ensuring transparency, equal opportunity and reservation rules in appointments. Further, no recovery was effected from Managing Director, KSIE who illegally appointed the employees. GoK should initiate action to fix responsibility for such stark disregard to rules and causing undue huge financial burden on public exchequer.

[The Audit paragraph 3.5.3 contained in the Report of the C&AG for the year ended 31st March 2016.]

The notes furnished by the Government on the audit paragraph are given in Appendix II.

Discussion and findings of the Committee**(KERALA STATE INDUSTRIAL ENTERPRISES LTD. (KSIE))**

The Committee enquired about the audit objection that Managing Director, KSIE appointed 106 employees on temporary basis either directly or through Labour Outsourcing Agency during the period from October 2015 to June 2016, flouting all the reservation ratio of the Government in recruiting to the posts which is carried out by Employment Exchanges that extend more than three months.

The Additional Secretary informed the Committee that there were irregularities in the appointments of employees on temporary basis during the tenure of former Managing Director, Shri Saji Basheer and he was removed from the post on public interest and after that the new Managing Director was appointed in 2016 and he cancelled all illegal appointments. A vigilance enquiry was conducted in the matter and found that the Government had incurred a loss of ₹39.92 lakh through illegal appointments.

The Additional Secretary added that when KSIE approached the Revenue Department for revenue recovery against the Managing Director, they informed that it can be done only if a notification is issued under Section 71 of the Kerala Revenue Recovery Act, 1968 including KSIE. So the file has been handed over to Revenue Department for further action and the amount will be recovered from the Managing Director after issuing the notification.

To a query regarding the irregular appointments, the Additional Secretary informed that the appointments were made by the Managing Director through the Labour Outsourcing Agency. It was also added that the applications were invited by the Managing Director and he directed the Labour Outsourcing Agency to give appointment to the selected candidates, hence the appointments were not fully controlled by the agency.

The Committee enquired how the vacancies were filled after the dismissal of irregularly appointed employees and whether the Government norms are strictly followed for the appointments in the Company.

The Managing Director clarified that the employees were selected by a Committee comprising the representatives of RIAB and Government as per the Government rules. He added that the recruitment to the posts which is engaged by PSC, appointments are made as per the advice of PSC.

The Committee insisted that proper criteria should be followed while making the appointments and a report on the procedures currently followed in connection with the appointment should be made available to the Committee and also opined that the mistakes that happened in KSIE should not be repeated in future. The Committee pointed out that revenue recovery proceedings have not been initiated against the delinquent officer even after 5 years. Therefore the Committee recommends that the revenue recovery proceedings against former Managing Director should be expedited to realise an amount of ₹39.92 lakh and report to the Committee without delay.

Conclusions/Recommendations of the Committee

1. The Committee observes that KSIE is not following a transparent and proper procedure for the appointments in the Company. So the Committee recommends to furnish a report on the procedure being followed in the appointments.

2. The Committee recommends that the revenue recovery proceedings against former Managing Director should be expedited to realise an amount of ₹39.92 lakh and directs to furnish a report to the Committee regarding this without delay.

KERALA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION (KINFRA)

Audit paragraph [2015-16]

Para 3.5.4 - Irregular regularisation of contract employees

The Hon'ble Supreme Court held (April 2006) in Umadevi Vs. State of Karnataka that 'regularisation' is not and cannot be a mode of recruitment by any State. It was also held that regularisation cannot give permanence to an employee whose services are *ad hoc* in nature.

As mandated under Article 14 and 16 of the Constitution, fair chances for all eligible candidates should be given in public appointment which can be achieved through public notice/advertisement, a transparent selection procedure and adoption of reservation policy for weaker sections. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. The passing of orders for continuance tends to defeat the very constitutional scheme of public employment.

We observed that two PSUs and two departments regularised 476 employees as detailed in *Table 3.14*.

Table - 3.14 : Temporary staff regularised:

Sl. No.	Name of PSU/Department	Temporary staff regularised	Month/year in which regularised	Audit findings
1	Kerala Industrial Infrastructure Development corporation	25	February 2016	Regularised with the approval of Industries Department, GoK. The past service of the employees were counted for pay fixation in violation of direction of GoK.

[The Audit paragraph 3.5.4 contained in the Report of the C&AG for the year ended 31st March 2016.]

The notes furnished by the Government on the audit paragraph are given in Appendix II.

Discussion and findings of the Committee

The Committee enquired about the audit objection that KINFRA regularised 25 temporary staff with the approval of Industries Department and the past service of the employees were counted for pay fixation in violation of direction of GoK.

The Managing Director, informed the Committee that the said matter was considered in the 68th board meeting of KINFRA and subsequently, KINFRA had got permission through the Government order dated 21-7-2018 to regularise 27 employees with retrospective effect from 2012 as per Rules. The Managing Director added that KINFRA had submitted a proposal to the Government for regularisation of 27 employees working in KINFRA for 36 permanent posts sanctioned by the Government G.O. (Ms.)No.74/2012/ID dated 11-6-2012. As per G.O. (Ms.)No. 10/2016/ID dated 19-1-2016, the Government had approved the regularisation of 25 contract employees working in KINFRA against 36 permanent posts. The Committee directed to furnish the Government order regarding the regularisation of the employees.

The Committee enquired whether temporary staff were currently employed in KINFRA. The Managing Director replied that the contract employees are appointed through an outsourcing agency. Engineers for civil and electrical works have been recruited through Employment Exchange or by other means and graduate apprentice trainees are being appointed for a period of one year. The Committee pointed out that recruitment through other mechanism is not a proper procedure when a large number of applicants are waiting to get employed after registering with the Employment Exchange.

When the Committee inquired whether the recruitment for the sanctioned posts were done through outsourcing agency, the Managing Director informed that the sanctioned post is only for permanent employees and all other appointments are made as per the decision of the Board from time to time.

To a query of the Committee, the Managing Director responded that the regularisation of the employees is based on the decision of the Cabinet. At this juncture the Committee pointed out the verdict of the Hon'ble Supreme Court that temporary employees should not be regularised. The Committee sought the details of regularisation of employees and accepted the witness reply with dissatisfaction.

Government order regarding the regularisation of the employees was made available to the Committee by the Industries (G) Department vide letter dated 7-11-2022.

Conclusion/Recommendation of the Committee

3. The Committee expresses its dissatisfaction for not adhering to rules and violation of Hon'ble Supreme Court verdict in regularisation of employees and wants the Corporation to follow transparent and stipulated procedure in the case of contract employees.

Audit paragraph [2017-18]

Para 5.6 - Delay in finalisation of Annual Accounts in State PSUs

Failure of the Administrative Departments in initiating punitive measures resulted in non-finalisation of the annual financial statements of PSUs within the stipulated period. In the absence of finalisation of accounts and their subsequent audit, it could not be ensured whether the investment of ₹ 5,922.25 crore by the Government of Kerala and expenditure incurred were properly accounted for. Moreover, the Government's investment in such PSUs remained outside the control of State Legislature.

According to the provisions of Section 136 (1) read with sections 129 (2) and 96 (1) of the Companies Act, 2013, companies are required to finalise their annual financial statements and place the audited financial statements for every financial year along with annual reports in the Annual General Meeting within six months from the end of the relevant financial year (by September). The same shall also be placed in the State Legislature within three months thereafter (by December).

In compliance with the provisions of the Companies Act, 2013, State Public Sector Undertakings were to place their audited accounts upto the financial year 2017-18 along with the annual reports in the Annual General Meeting by September 2018. The same was also to be placed in the Legislature by December 2018.

Audit observed that:

- Out of 121 working PSUs in the State, 13 PSUs finalised their financial statements for the year 2017-18 as of September 2018. Only six PSUs did, however, place their audited financial statements in the State Legislature within December 2018 as shown in the Table 5.2

Table 5.2: Details of Placement of audited financial statements in the State Legislature as of July 2019

Particulars	Total	Annual General Meeting			State Legislature		
		Within 30-9-2018	After 30-9-2018	Not Placed so far	Within 31-12-2018	After 31-12-2018	Not placed so far
Number of working PSUs which finalised accounts upto the financial year 2017-18	13	6	7	0	6	6 ⁴	1 ⁵

The remaining 108 PSUs had arrears in finalisation of accounts for periods ranging between 1⁶ and 11⁷ years. Audit also observed that during the accounts arrear period (2008-09 to 2017-18), the Government of Kerala infused budgetary assistance of ₹5,922.25 crore by way of equity, loans and grants to these PSUs.

- In order to ensure that State Public Sector Undertakings adhered to the provisions of the Companies Act on the finalisation of the annual financial statements, the Finance Department, Government of Kerala issued (September 2015) directions to Administrative Departments of the PSUs to withhold 10 to 15 per cent of budget allocation of defaulting PSUs. Further, no fresh Government guarantee was to be provided to defaulting PSUs to obtain loan.

During 2015-16 to 2017-18, the Administrative Departments, however, released budget allocation of ₹218.63 crore (2015-16), ₹415.27 crore (2016-17) and ₹317.10 crore (2017-18) in full respectively to 23, 24 and 30 PSUs whose accounts were in arrears. Furthermore, six PSUs were given Government guarantee of ₹567.86 crore during 2016-17 for availing loans. During 2017-18 also, nine PSUs with accounts in arrears were given Government guarantee to the tune of ₹1,055.37 crore.

4 The Kerala State Financial Enterprises Limited, Autokast Limited, Indian Institute of Information Technology and Management – Kerala, Steel and Industrial Forgings Limited, Kerala State Power and Infrastructure Finance Corporation Limited, Kerala High Speed Rail Corporation Limited.

5 Kerala State Electricity Board Limited.

6 22 PSUs had arrear in accounts of one year.

7 Trivandrum Spinning Mills Limited (2007-08 to 2017-18)

Thus, though the Administrative Departments had the responsibility to oversee the activities of the PSUs and to ensure that the accounts were finalised and adopted by these PSUs within the stipulated period, the Administrative Departments did not withhold 10 to 15 per cent of budgetary assistance to PSUs with arrears in finalisation of accounts.

- As per section 139 of the Companies Act, 2013, the Statutory Auditors of PSUs are appointed by the Comptroller and Auditor General of India (CAG).

Audit observed that the CAG appointed Statutory Auditors for the years in which financial statements were in arrears as far back as September 2008. But these PSUs did not finalise the arrear accounts so far due to non-availability of qualified accounting staff. The Government of Kerala permitted (December 2016) PSUs to employ outside professionals at Government expense to overcome the shortage of accounting staff. But, this possibility was also not explored by 108 PSUs whose annual financial statements were in arrears for 1 to 11 years.

Thus, failure of the Administrative Departments in initiating punitive measures resulted in non-finalisation of annual financial statements within the stipulated period. In the absence of finalisation of accounts and their subsequent audit, it could not be ensured whether the investment of ₹ 5,922.25 crore by Government of Kerala and expenditure incurred were properly accounted for. Moreover, Government's investment in such PSUs remained outside the control of State Legislature.

GoK replied that the PSUs were directed (17 July 2018) to submit a schedule for finalisation of accounts and complete their audit before 31 July 2018, but most of the PSUs did not comply with the same. The PSUs were directed (August 2018) to furnish a schedule of approval of accounts for each pending year to the Finance Department by 31 August 2018, failing which further fund release and pay revision of employees of PSUs would be stopped. The Chief Executives/Managing Directors of all PSUs were also informed (31 December 2018) that pay revision of employees in PSUs would be subject to finalisation of accounts up to previous year and also on maintenance of up-to date accounts.

The reply was not acceptable as the Government did not implement its own earlier directions of withholding grants and denial of fresh government guarantee to PSUs with arrears in finalisation of accounts.

[The Audit paragraph 5.6 contained in the Report of the C&AG for the year ended 31st March 2018.]

The notes furnished by the Government on the audit paragraph are given in Appendix II.

Discussion and findings of the Committee

KSIE

To a query regarding the delay in finalisation of annual accounts, the Managing Director informed that KSIE had completed AG Audit up to the year 2017-18, Statutory Audit for the year 2018-19, 2019-20 were completed and submitted to AG for finalisation. The Managing director added that auditing of the accounts for succeeding years can be completed within three months.

KINFRA

To a query regarding the delay in finalisation of Annual Accounts, the Managing Director, KINFRA informed that the statements for the year 2020-21 had been submitted to the Legislative Assembly.

Conclusions/Recommendations of the Committee

4. The Committee observes that the investment in PSUs made by the Government and the expenses incurred thereon can be ensured only if it is properly accounted for. So the Committee recommends that the PSUs must complete the finalisation of annual financial statements within the stipulated time and the Administrative Department should monitor the same and should invoke punitive measures, if found necessary.

Audit paragraph [2018-19]

Para 4.7 - Reconciliation with Finance Accounts of Government of Kerala

The figures in respect of equity, loans and guarantees outstanding as per records of State PSUs (other than Power Sector) should agree with that of the figures appearing in the Finance Accounts of the Government of Kerala. In case the figures do not agree, the PSUs concerned and the Finance Department should carry out reconciliation of the differences. The position in this regard as on 31 March 2019 is stated in Table 4.4

Table 4.4: Equity, loans and guarantees outstanding as per Finance Accounts of GoK vis-a-vis records of State PSUs (other than Power sector)

(₹ in crore)

Sl. No.	Outstanding in respect of	Amount as per Finance Accounts	Amount as per records of PSUs	Difference
1	Equity	5,662.25	5,734.05	71.80
2	Loans	6,390.61	6,629.35	238.74
3	Guarantees	17,451.90	17,415.39	36.51

(Source: Compiled based on information received from PSUs and Finance Accounts)

Audit observed that out of 137 State PSUs, such differences occurred in respect of 117 PSUs as shown in **Appendix-4**. The differences between the figures are persisting since last many years. The issue of reconciliation of differences was also taken up with the PSUs and the Departments from time to time. We, therefore, recommend that the State Government and the respective PSUs should reconcile the differences in a time-bound manner.

[The Audit paragraph 4.7 contained in the Report of the C&AG for the year ended 31st March 2019.]

The notes furnished by the Government on the audit paragraph are given in **Appendix II**

Discussion and findings of the Committee

KSIE

The Senior Audit Officer stated that the figures in respect of equity, loan and guarantees should agree with that of the figures appearing in the finance accounts of the GoK.

According to KSIE, as per the records, the equity and loans were ₹1.20 crore and ₹1.10 crore but as per the records of state finance accounts the figures were ₹31.28 crore and ₹27.50 crore.

The Managing Director informed that KSIE was working as a holding company of subsidiary companies and as per Government order in 1999, all these companies were de-linked from KSIE and the loan and equity of the said companies were transferred to the Company's own accounts. Based on this, with the permission of Finance Department, steps are being taken to reconcile the accounts of the company.

He added that after the Audit, as per the records of the Company, equity and loan are ₹1.20 crore and ₹1.01 crore respectively. The Committee suggested that steps should be taken by KSIE to reconcile the differences in a time bound manner.

The Additional Secretary replied that he would bring the matter to the attention of the Principal Secretary for setting up a team for reconciliation in consultation with the Finance Department.

Conclusions/Recommendations of the Committee

5. *The Committee recommends to furnish a detailed report regarding the steps taken by the Government and PSU to reconcile the differences in accounts and the current status of the same.*

KINFRA

The Senior Audit officer stated that as per the records of the KINFRA the loan amount was ₹531.04 crore and equity was nil. But as per the State Finance Accounts, the loan amount was ₹595.01 crore.

The Additional Secretary replied that there was a difference of ₹63 crore in the year 2017-18 and ₹116 crore were resumed in the year 2017-18 and the entire amount was returned in the years 2018-19, 2019-20 and 2020-21. He added that ₹452.81 crore sanctioned in 2020 had been reconciled and issued the order in October 2020 and currently there is no difference.

The Committee accepted the reply. ***Hence, no comments.***

E. CHANDRASEKHARAN,

Chairperson,

Committee on Public Undertakings.

Thiruvananthapuram,

8th July, 2024.

APPENDIX-I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl No.	Para No.	Department Concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
1	1	Industries Department	The Committee observes that KSIE is not following a transparent and proper procedure for the appointments in the Company. So the Committee recommends to furnish a report on the procedure being followed in the appointments.
2	2	Industries Department	The Committee recommends that the revenue recovery proceedings against former Managing Director should be expedited to realise an amount of ₹39.92 lakh and directs to furnish a report to the Committee regarding this without delay.
3	3	Industries Department	The Committee expresses its dissatisfaction for not adhering to rules and violation of Hon'ble Supreme Court verdict in regularisation of employees and wants the Corporation to follow transparent and stipulated procedure in the case of contract employees.
4	4	Industries Department	The Committee observes that the investment in PSUs made by the Government and the expenses incurred thereon can be ensured only if it is properly accounted for. So the Committee recommends that the PSUs must complete the

(1)	(2)	(3)	(4)
			finalisation of annual financial statements within the stipulated time and the Administrative Department should monitor the same and should invoke punitive measures, if found necessary.
5	5	Industries Department	The Committee recommends to furnish a detailed report regarding the steps taken by the Government and PSU to reconcile the differences in accounts and the current status of the same.

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