

**TWELFTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2008-2011)**

**ONE HUNDRED AND TWENTY THIRD REPORT**

(Presented on 20th July, 2010)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2010

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**On**

**Action taken by Government on the Recommendations contained in the  
Eighty Fifth Report of the Committee on Public Accounts (1989-91)**

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\* Elected to serve as Member w.e.f. 19-3-2009 due to the Resignation of Shri N Anirudhan from the Committee.

\*\* Elected to serve as Member w.e.f. 14-9-2009 due to the appointment of Shri Ramachandran Kadannappally as Minister.

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf present the One Hundred and Twenty Third Report on Action taken by Government on the recommendations contained in the Eighty Fifth Report of the Committee on Public Accounts (1989-91).

The Committee considered and finalised this Report at the meeting held on 23rd June, 2010.

Thiruvananthapuram,  
20th July 2010.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## **REPORT**

This Report deals with the action taken by the Government on the recommendations contained in the Eighty Fifth Report of the Committee on Public Accounts (1989-91).

The Eighty Fifth Report of the Committee on Public Accounts (1989-91) was presented to the House on December 20, 1990 and it contained 20 recommendations relating to Water Resources Department and Vigilance Department. Government were addressed to furnish the action taken statements on the recommendations contained in the Report on January 17, 1991 and the final replies were received on December 3, 2008.

The Committee examined the statements at its meetings held on 4-2-1997, 2-9-1998, 25-8-2003, 28-6-2005, 20-12-2006, 6-6-2007, 6-1-2009 and conducted Witness Examination on 28-5-2002 and were not satisfied with the replies furnished on recommendation No. 6, 9, 15, 16 and 20 (Para No. 60, 63, 69, 70 and 74). These recommendations, their replies and further recommendations are included in Chapter I of this Report.

The Committee decided not to pursue further action on the remaining recommendations in the light of the replies furnished by the Government. These recommendations, their replies and additional details furnished are incorporated in Chapter II of this Report.

## CHAPTER I

**RECOMMENDATIONS IN RESPECT OF WHICH ACTION TAKEN BY  
GOVERNMENT ARE NOT SATISFACTORY AND WHICH REQUIRE  
REITERATION**

## WATER RESOURCES DEPARTMENT

**Recommendation***(Sl. No.6 Para No. 60)*

1.1 The Public Works Department Manual lays down that detailed estimate is to be prepared on the basis of detailed designs and specifications for the work, suitability of site conditions etc. and that care should be taken in the preparation of detailed estimate so that it reflects, as faithfully as possible, the cost of the work as can be foreseen at that time. As per the audit paragraph of the Report of the Comptroller and Auditor General of India for the year 1984-85 (Civil) it is stated that in 14 works executed under the Kallada Irrigation Project, variations were more than 25% of the originally agreed quantities. It is apparent that the preparation of incorrect and unrealistic estimates based on inadequate investigations was the reason for these variations which resulted in extra expenditure of Rs. 9.10 lakh. Another example for inadequate/faulty investigation is the works on tunnel No. III of L.B.C. The tunnelling from exit face of the tunnel is at a stand-still from November 1983 because of the presence of a fault zone. The roof and sides of the tunnel caved in. The works on the tunnel which was stipulated to be completed in September 1984 is still pending (December 1988). This has affected the completion of L.B.C. which in turn has affected even its partial commissioning. The Committee desire to know whether the department had obtained expert opinion of geologists during the investigation of those works. The Committee would also like to know whether the department had prepared for each work, detailed estimate based on detailed designs and specifications as laid down in the P.W.D. Manual. The Committee recommend that a detailed enquiry should be made into the execution of the works from its investigation stage to the completion, wherever the design and alignment were changed and wherever additional quantity in excess of that stipulated in the estimate were done.

**Action Taken**

1.2 Prior to the finalisation of alignment of Tunnel No. III (from ch. 6512m to ch. 9967 m of LB Main Canal) detailed investigations were conducted. But details as to whether expert opinion of geologists was obtained during investigation are not available. The estimates were prepared based on detailed designs and specifications laid down in the Public Works Department Manual.

1.3 The tunneling work at inlet face was started on 21-3-1983. Most of the reach from inlet face met with good tunneling media except for small length in the initial reaches, where there was inadequate rock cover and weak zones. To negotiate this reach, permanent supports as suggested by the Geologists were provided. But the tunnelling works at exit face, even though started on 27-6-1983, met with serious set back due to a major tunnel collapse beyond 24 m. from exit portion. Since then many geological studies were undertaken to assess the nature of the tunneling media. Exploratory bore holes were drilled along the tunnel alignment. World Bank experts also inspected the site. Various studies revealed that the rock in the original alignment is found foliated and fissured in nature. Shear zone was also anticipated in the alignment, thereby tunneling along the original alignment was found difficult. Accordingly, various suggestions given by the geologists and technical experts were considered. Finally, it was decided to take a deviated alignment from ch. .60 to 1065 m and the drilling work through the new alignment was completed by 18-7-1990. Lining the bed and sides is also nearing completion and the work in all aspects is expected to be completed by 31-3-1992.

1.4 The Chief Engineer, Project III has been requested to make a detailed enquiry into the execution of the work as recommended by the Committee.

#### **Further Recommendation**

**1.5 The Committee expresses disappointment in the fact that the department had not materialised the recommendations of the Committee and stresses for the implementation of the same immediately.**

#### **Recommendation**

*(Sl. No. 9 Para No. 63)*

1.6 It is pointed out in the Audit paragraph that 12 out of 15 shutters of the crest gate of the barrage of the dam of Periyar Valley Irrigation Project were defective. The Committee during their visit to the Dam could find that out of these 12 shutters three were completely damaged and were beyond repair. The other 9 shutters were also defective. The Committee noticed some defects in the three shutters also which were stated to be workable. In order to operate these shutters, great human effort was found to be necessary even to raise them a few inches. The Committee understand that these shutter were meant to regulate discharge of flood waters from the dam. The witness has admitted that present condition of the shutters is not conducive to the safety of the barrage as well as people and property in the area. The Committee also understand that the whole problem with the shutters have started when the height of the shutters as well as

the main canal was increased with a view to utilise more water from the tail race of the Idamalayar Dam. The FACT Engineering works who had done the repair works seemed to have failed in carrying out the repairs. Rs.8.48 lakh spent on the additional works have proved to be infructuous. The witness deposed that the work done by M/s. FACT Engineering works was not satisfactory and the contract was terminated. It was also stated that the firm had gone on arbitration. The Committee desire that the Department should urgently get the rectification works done so that the shutters could be operated without any hitch. The outcome of the arbitration case may also be intimated to the Committee.

#### **Action Taken**

1.7 The original contract with the FACT Engineering Works was terminated during 7/88 and the balance work ordered to be rearranged by the Superintending Engineer, Project Circle, Muvattupuzha. The Mechanical Wing of the PWD has prepared and forwarded an estimate for the balance work to the Superintending Engineer, Project Circle, Muvattupuzha and now the work is to be re-arranged. The arbitration case is pending.

#### **Further Recommendation**

**1.8 The Committee wants to be informed of the present position of the case and suggests that every time when action taken statement is furnished to the Committee, as far as possible, the latest position in the concerned matter should be furnished.**

#### **Recommendation**

*(Sl. No. 15, Para No. 69)*

#### **Water Resources and Vigilance Departments**

1.9 The Committee would like to point out that there were many complaints about land acquisition. It is alleged that compensation was paid to only those persons who had approached the court for their claims. Poor land owners who were not able to approach the Court were yet to receive compensation for their land. The Committee point out that 18 land owners belonging to the place 'Thottur' in Edakkattur were among those land owners who were yet to receive compensation. So also in a place called 'Vettikkal', land documents of many land owners whose land had not been acquired were taken into possession by the Department without assigning any reason. The Committee cannot understand the logic behind this action. The Committee recommend that immediate steps should be taken to pay compensation to the

people whose land was acquired and also to return the documents to people from whom those were taken. The Committee find that in some places the Department had paid exorbitantly high prices for the land acquired. It was noticed from the statement furnished before the Committee that Rs. 45 lakh was paid as compensation for a piece of land of about 2.50 hectares acquired. Actually the market price in those areas was far less than the amount paid. So payment of such large amount to the land owners gives room to doubt that there was foul play in the whole issue. The Committee, therefore, recommend that a detailed vigilance enquiry be conducted into the whole land acquisition process.

### **Action Taken**

#### **Water Resources Department**

1.10 After the land acquisition and passing of award it was found that there were land owners who were not able to prove clear titles as to their ownership of land and there were more than one claimant for receiving compensation of land. In such cases the L.A. amount was deposited in the Court and the compensation was disbursed to the real owners based on the Government verdict. At present there are no complaints regarding receipt of compensation for land acquisition.

1.11 For acquiring land for the construction of Vettikkal Minor Distributory from Ch. 0 m to 2175 m., the Executive Engineer, PVIP Division No.1, Perumbavoor furnished requisition vide his letter No.G. 3996/84, dated 3-12-1984 and accordingly notification No. 4(1), dated 12-12-1985 and declaration dated 3-6-1986 were issued. During award enquiry conducted from 14-5-1998 the documents of the concerned land owners were obtained as per rules. But at this stage the requisitioning officer i.e., Executive Engineer, PVIP Division No.I, Perumbavoor repealed the requisition and stopped further proceedings and returned the documents to the land owners. No documents are yet to be returned to any land owners.

1.12 The compensation paid to the acquired land is only Rs. 1255/Are. But in LAR cases, this amount was enhanced to Rs. 6035/Are. From the above fact it is evident that the rate fixed by Revenue Department is not higher than market rate. The acquired land was cultivated with crops like Rubber (tapping), coconut trees (yielding), Arecanut trees (yielding), Coffee, Pepper etc. and the rate of compensation was fixed based on capitalised valuation as per K.C.T.I. Act. Besides there were buildings in the land involved in LAC. 114/88, 116/88 cases. The compensation rate increased substantially due to the above reasons. It may also be noted that area of the acquired land is 2.3292 hectares (5.75 Acres). The Vigilance enquiry also revealed that the land owners approached the court for enhancing the compensation awarded by L.A. Wing and the court allowed the enhanced amounts.

### **Action Taken**

#### **Vigilance Department**

1.13 The Vigilance Enquiry in respect of the PAC recommendation was completed earlier. The enquiry revealed that the allegations were not substantiated in evidence. Hence DVACB recommended no further action in the matter.

#### **Further Recommendation**

**1.14 The Committee recommends that immediate action should be taken to disburse compensation to the 18 land owners whose land was acquired earlier and also to return the documents of land owners whose land had not been acquired but documents were taken into possession by the Department, without further delay.**

#### **Recommendation**

*(Sl. No.16, Para No. 70)*

1.15 The Committee are given to understand that people living in the catchment area of the Periyar Valley Irrigation Project are yet to be evicted. In a place called "Vellamkettichal", about 12 families were actually stranded. The Committee recommend that these families should be evicted immediately and adequate compensation paid to them.

### **Action Taken**

1.16 Prompt action is being taken on complaints regarding land acquisition in all cases.

1.17 The encroachers originally settled in the revenue poramboke in the catchment area of the PVIP shifted their dwelling to the PVIP Poraomboke when the reservoir level was raised and the area submerged. Necessary steps were taken for eviction after issuing notices as per rules.

#### **Further Recommendation**

**1.18 The Committee desires to be informed whether the evicted settlers were given compensation.**

#### **Recommendation**

*(Sl. No. 20, Para No. 74)*

### **Water Resources and Vigilance Departments**

1.19 The Committee understand that a vigilance case is under investigation against a few Engineers connected with purchase of sluice valves for Attappady Valley Irrigation Project. The Committee recommend that the

comments about the excess purchase of stores pointed out in the audit para on Attappady Valley Irrigation Project should also be included in the Vigilance case for a detailed enquiry.

#### **Action Taken**

##### **Water Resources Department**

1.20 The Vigilance Department had already been requested to include the excess purchase of stores pointed out in the audit paragraph on Attappady Valley Irrigation Project also in the Vigilance case, for detailed enquiry as recommended.

1.21 In reply to the above request of Water Resources Department, the Vigilance Department informed that the matter of excess purchase of stores was included in the Vigilance case for detailed enquiry and after completion of investigation the case was charge sheeted before the Enquiry Commissioner and Special Judge, Kozhikode and the Court pronounced the Judgment on 24-4-2004 acquitting all the accused in the case. Vigilance Department has also informed that the matter of filing of appeal against the above judgment is being examined by that Department in consultation with the Advocate General.

#### **Further Recommendation**

1.22 The Committee wants to know whether the Vigilance Department had filed appeal against the judgment dated 24-4-2004 of the Enquiry Commissioner and Special Judge, Kozhikode and if so, present position of the case has to be intimated to the Committee. If no appeal was filed the reason for that may also be stated.

#### **Additional Details**

1.23 12 CrI. Appeals had been filed by the State against the Judgment of the Enquiry Commission and Special Judge, Kozhikode dated 24-4-2004 before the Hon. High Court of Kerala of which 9 were finally heard and disposed of by the Hon. High Court of Kerala on 27-3-2007. The Hon. High Court of Kerala has allowed the CrI. Appeals in part by setting aside the acquittal of the accused and the prosecution has been given the right to proceed with prosecution in accordance with law.

1.24 The Committee approved the additional details on 6-1-2009.

#### **Action Taken**

##### **Vigilance Department**

1.25 A Vigilance Case in VC No. 5/85/HQrs. Under section 5(2)r/w 5(1)(d) of PC Act 1947 and under section 120 (B) IPC was registered in the Vigilance and Anti Corruption Bureau, Special Investigation Unit, Police Station

on 30-9-1985 against 13 persons for the irregularities in the purchase of sluice valves and accessories worth Rs. 2.7 crore for the Six project divisions of Attappady Valley, Malampuzha, Chittoorpuzha, Kanjirappuzha, Pazhassi and Karappuzha in Kerala State for the period from 1980 to 1985. The Accused 1 to 12 were the Engineers of Irrigation Department and Accused No. 13 was the Managing Director of M/s Indira Engineering Corporation and M/s Deepa Agencies, Coimbatore. In the said case in VC No.5/85/HQrs, 13 split Charge sheets were filed before the Court of the Enquiry Commissioner and Special Judge (Special Vigilance Court), Thrissur on 28-1-1989 as CC No. 13/89 to 25/89. While the cases were under trial at the Vigilance Court, Thrissur, a new Vigilance Court was established at Kozhikode in August 1991 and all the thirteen cases were transferred to the Vigilance Court, Kozhikode and re-numbered as CC No. 10/92 to 22/92.

1.26 Of these the case in CC No. 10/92 ended in conviction of the Accused on 27-5-1994. The convicted accused in CC No. 10/92 have filed Criminal Appeals No. A-383/94 and 384/94 before the Hon'ble High Court of Kerala against the Judgment and the same are now pending. In the remaining 12 cases, viz. CC No. 11/92 to 22/92, the Court of the Enquiry Commissioner and Special Judge, Kozhikode pronounced the Judgment on 24-4-2004 acquitting all the Accused on the basis of the Supreme Court Judgment in the case in Mohandas Vs. State of Kerala [2002 (2) KLT 251], holding that Prosecution Sanction Orders are not valid. Against the above impugned order, State of Kerala filed 12 Criminal Appeals before the High Court of Kerala. The Hon'ble High Court of Kerala finally disposed of the above Criminal Appeals on 27-3-2007 by allowing appeal in part by setting aside the acquittal of the accused by the trial Court and Government has been given the right to proceed with prosecution in accordance with the law.

1.27 In this connection it is also informed that the Vigilance Case charge sheeted contains the excess purchase of Sluice Valves and accessories, as recommended by the PAC.

#### **Further Recommendation**

1.28 **The Committee recommends to proceed with prosecution in the Vigilance Case charge sheeted.**

## CHAPTER II

**RECOMMENDATIONS WHICH THE COMMITTEE DOES NOT  
DESIRE TO PURSUE IN THE LIGHT OF THE  
REPLIES FURNISHED BY GOVERNMENT**

## WATER RESOURCES DEPARTMENT

**Recommendation***(Sl. No. 1, Para No. 55)*

2.1 The Committee find that while a number of major irrigation projects taken up for execution by the Irrigation Department were remaining incomplete, new projects (major as well as medium) have been taken up for execution. Out of the eleven incomplete major projects, seven were started more than 2 decades ago. The rationale behind executing several projects at the same time even without finding sufficient funds is not clear to the Committee. In the context of serious resource constraints, the available funds ought to have been concentrated on a few projects to complete/commission them expeditiously, instead of starting new projects without being able to provide full funds to any of them. Benefits as envisaged in the projects will accrue only when they are fully commissioned. As such top priority should have been given to complete the projects already taken up, especially those projects which were commenced long back and were in an advanced stage of completion. Had the Government/Department channelised their energy and resources for completion of the ongoing projects and the new projects taken up on a selective basis taking into account, availability of funds and prospect to reap quick returns, the results would have been far substantial. It was submitted to the Committee by the witnesses that delay in execution of works was partly due to lack of funds. If the available funds were utilised on relatively important projects, those projects would have been completed earlier. Launching up of several projects at the same time has resulted in a huge burden on the exchequer and a horizontal increase in the staff structure and considerable delay in execution. One of the prime factors responsible for the phenomenal 'Time and Cost over-runs' in respect of the projects is the thin spreading of the resources over a number of projects leading to a situation in which none of the projects is completed although crores of rupees have been invested over the years. The contention of the witness that only preliminary investigation works for the new projects were done to prepare a 'shelf of irrigation projects' to be taken up in future, is not tenable. The Committee recommend that projects should be taken up only selectively. The tendency to take up several projects without proper cost-benefit analysis, ensuring availability of funds, etc., is unreasonable, unimaginative and unworkable. The Committee strongly

recommend that the on-going projects should be completed with utmost expedition, tapping all available resources in men, money and materials. The Committee desire that no new projects should be taken up, as far as possible before completing the existing ones.

#### **Action Taken**

2.2 The recommendation of the Committee that the on-going projects should be completed with utmost expedition tapping all available resources is worth considering. Time schedule has been fixed for completion of projects and Government are allotting necessary funds to the ongoing project according to availability giving priority. But the Committee's suggestion that no new projects should be taken up before completing the existing projects will only lead to unhealthy planning of Irrigation schemes in the State. In view of the meagre financial resources of the State, it is highly essential that 'a Shelf of Irrigation Projects' is prepared and kept ready so as to avail of the external financial aid from the World Bank, EEC and from NABARD and similar other financing institutions as and when available. In this connection, it is advisable to give preference to medium projects which do not involve environmental hazards and acquisition of forest land. These have the advantage of lesser period of completion and earlier return for the investment made. However detailed investigation is undertaken only after the technical as well as the economic feasibility of the project has been well established and on the basis of a priority fixed up by the Government.

#### **Recommendation**

*(Sl. No. 2, Para No. 56)*

2.3 An important point which the Committee could notice during the examination of the audit para relating to Irrigation Department, was that investigation of projects is not being done with proper care. This results in change of design and consequent revision of estimates, after the award of works, and sometimes abandonment of works by the contractors. The Committee fails to understand how a work on an irrigation project can be commenced without detailed investigation. To cite an instance, during the execution of works on the Kalanjoor aqueduct of Kallada Irrigation Project, further investigation became necessary for locating proper foundation for anchor blocks owing to non-availability of rocky strata at originally anticipated level and the presence of a weak zone at the foundation level of the 9th pier of the aqueduct. So also, well foundation originally envisaged was changed to open foundation for 4 out of 8 pier of the Vazhappara aqueduct. Further, on the basis of model study undertaken at a cost of Rs. 0.85 lakh, the design of the horizontal barrels of

both the aqueducts was also modified. The Committee also doubt whether proper consultation with experts in earth science and geologists was done when the projects was formulated. Frequent revision of design and plans results in escalation of cost beyond expectation and also delay in execution of works. The same phenomenon could be noticed in almost all the seven major projects. Original estimates of Kallada Irrigation Project was Rs. 13.28 crore. It was reported to the Committee that as per the latest revision of the project estimate, the project is anticipated to cost Rs. 313 crore. There is no justification for such an alarming increase in expenditure which is attributable to failure to provide adequate funds during early stages of the project, delay in acquisition of land required, defective investigation and above all to absence of perspective planning. This state of affairs should not be repeated. The Committee understand that at present there is a separate wing for Research and Investigation. The Committee recommend that during the investigation of a Project, consultation with available governmental agencies on the geological condition of the area where the project is proposed to be built should be made as expeditiously as possible and investigation should be fool proof so that subsequent modifications may not be necessary. During evidence it was deposed before the Committee that even if all humanly possible care is taken, certain factors cannot be anticipated at the investigation stage. The Committee can seldom accept this argument in view of the advancement in science and technology and also in view of the availability of expertise and most sophisticated instruments for studying the nature of the earth, the structure of the terrain etc. The Committee hope that situations where large scale escalation in project cost due to subsequent modifications of designs necessitated owing to inadequate or faulty investigation may not arise in future.

#### **Action Taken**

2.4 The Superintending Engineer, R. B. Circle, Kulacada has reported that the files relating to the 2 works mentioned in the para are with Vigilance Department. The increase in the Project Estimate is due to revision in the Departmental Schedule of rates. The Department takes much care in finalising designs so that no subsequent modification of designs is necessitated. There is already a Chief Engineer (I & P) in the department with supporting staff to conduct investigation for major and minor Irrigation Projects. But in some cases for reasons beyond the control of the department subsequent modification of designs are necessitated. To avoid such instance, the Government have issued strict direction as recommended by PAC to make consultation with available Government Agencies on the Geological condition of the area where the project is proposed so as to make investigation fool proof as far as possible (Copy enclosed as Appendix II)

**Recommendation**

*(Sl. No. 3, Para No. 57)*

2.5 The Committee are given to understand that the difficulties in land acquisition have been a major factor which contributed to delay in execution of works. Owing to obstruction from land owners who were not paid compensation execution of works was stated to be held up. The Committee feel that difficulties in land acquisition could definitely have been foreseen and if earnest attempts were made promptly by the Revenue and Irrigation Departments such hindrances could have been avoided. The Committee recommend that in future, when projects are taken up in a time bound programme, land acquisition, including payment of compensation to land owners, should be chalked out in close co-ordination with Revenue authorities and implemented simultaneously with the investigation of projects.

**Action Taken**

2.6 It is possible that land acquisition and early payment of compensation at the investigation stage itself might lead to blocking up of public money for a long period. However as soon as the project is cleared by Central Water Commission a time bound programme of land acquisition can be framed with close co-ordination between the project authorities and Revenue authorities and the same may be subjected to strict monitoring by the concerned officers. Experienced staff from the Revenue Department have to be deployed for finalising L.A. proceedings and handing over the required land to the project officials expeditiously. However for eliminating delay in LA process generally, the Board of Revenue has prepared a PERT (Project Evaluation and Review Technique) chart fixing time schedule to complete the major activities under the Land Acquisition Act and approved by Government. The salient features of the PERT chart and how it is going to add momentum to the expeditious implementation of Irrigation scheme are high lighted in the G. O. (Ms.) 744/90/RD. dated 18-12-1990 a copy of which is enclosed (Annexure III).

**Recommendation**

*(Sl. No. 4, Para No. 58)*

2.7 Another major bottle-neck noticed in the execution of the projects was abandonment of works half way through by contractors leading to termination of contracts, re-tendering the balance works, etc. and departmental failure to enforce the contractual conditions to the best advantage of Government. In the case of the Periyar Valley Irrigation Project, contracts for 43 works were terminated during 1980-84 due to tardy progress in their execution

and in 30 of them, the termination was at the risk and cost of the contractors. The liability of Rs. 43.53 lakh fixed in 20 cases could not be recovered as it was set aside by the arbitrator. In the case of the Kallada Irrigation Project reference of contractor's disputes to arbitration, resulted in awards granting extra amounts of about Rs. 67.03 lakh to contractors in 15 cases. The Committee fails to understand how majority of the decisions in arbitration come in favour of the contractors. The Committee has serious doubts as to whether the department had taken earnest efforts to present the case of Government before the arbitrators. The facts before the Committee give room for suspicion that there is collusion between the contractors and officials of the department in this regard. The Committee recommend that Government should conduct a detailed investigation into the manner in which the cases of the department were presented before the arbitrator. As a result of investigation, if any negligence/lack of diligence is noticed, the officials whose lapses contributed to the adverse awards should be suitably dealt with. In future, a regular watch over the conduct of cases in arbitration should be kept. The result of action taken in this regard should be intimated to the Committee.

#### **Action Taken**

2.8 It is a fact that several works had to be terminated at the risk and cost of the contractors as per agreement conditions. As regards arbitration cases, Departmental officers have taken earnest attempts to safeguard the interest of the Department and any case of negligence when noticed on the part of the departmental officers in this regard will be viewed with serious concern. The arbitration cases were presented before the arbitrator properly and as per the prescribed procedures. A detailed para wise report against the petition was prepared and forwarded to the Government Pleader (Arbn) duly approved by the Law Officer, PWD for filing before the Chief Engineer (Arbn). A competent officer was deputed to assist the Government Pleader during the hearing of the cases and to furnish all other details called for by the arbitrator as well as the Government Pleader.

2.9 Further the opinion of the Government Pleader as well as the Law Officer were sought on the scope of appeal on the award. On the basis of the opinion further steps were taken. All these procedures are fool proof and the officials of the Department would make all earnest efforts in the preparation of defence statements and furnishing all evidences required to protect the interest of the Department. A register is being maintained to watch the conduct of cases. As regard to Kallada Irrigation Project, Government in GO.(Rt.), 1192/94/IRN, dated 2-12-1994 read with G.O.(Rt.) No. 86/95/IRN. dated 25-1-1995 constituted a one man commission to probe the short coming from the part of departmental

officers and lapses on the part of the Government Pleader concerned. The One man commission Shri. Mohan Kumar submitted his report to Government regarding the arbitration cases in Karapuzha Irrigation Project. Government subsequently constituted a Committee of Chief Engineers to study the report in depth and to suggest action to be taken by Government. This Committee has also submitted their report and the report of the Committee is being considered by Government. While taking up follow up action on the report of Shri Mohan Kumar, the recommendation of the Committee would also be considered.

**Recommendation**

*(Sl. No. 5, Para No. 59)*

2.10 It was reported in audit paragraph that the total net revenue loss in the case of Eight Irrigation Projects declared as 'Commercial' during the period from 1980-81 to 1983-84 worked out to Rs. 17.18 crore. The Committee understand that the total ayacut of almost all the Commissioned projects has not so far been determined exactly. Joint verification of the area benefited by the Projects by the Revenue and Irrigation Departments has not been completed so far. There was delay in assessment of the area in respect of which joint verification has been completed. The Department is unable even to give correct information about the area already assessed, area remaining to be assessed during the current year and also when the assessment would be completed. The loss of revenue due to the slow progress of this work is found to be great. The Committee take very serious note of the delay in determining the actual ayacut irrigated by the Project commissioned and assessment of water cess. The Committee recommend that every effort should be made to complete the assessment and realise the revenue derivable from the projects.

**Action Taken**

2.11 Out of the 8 commercial projects, joint verification has to be completed in Cheerakuzhi Project and assessment has to be completed in Peechi Project in Thrissur District. Joint inspection and assessment of ayacut in respect of Vazhani, Chitturpuzha and Kanhirappuzha Projects have also been completed. Statement received from the District Collectors, Ernakulam, Thrissur and Palakkad are enclosed (Annexure IV). Directions have been given to the Secretary, Board of Revenue to finish the joint inspection and ayacut assessment in other projects immediately and furnish the details to Government.

**Recommendation**

*(Sl. No. 7, Para No. 61)*

2.12 The Committee recommend that Government should prefer their claim with regard to the work of fabrication of steel pipes for Kalanjoor-Vazhappara against the liquidated Geonavala Binny Company and make good the loss sustained in re-arranging the work.

**Action Taken**

2.13 The work of constructing pressure aqueducts at Kalanjoor and Vazhappara was originally awarded to M/s. Geonavala Binny Company Ltd., Kochi as per agreement with the Superintending Engineer, KIP RB Circle, Kottarakkara. The original proposal was for a circular aqueduct with steel shell. The Company could do only preliminary works as in the meantime it went into liquidation. Then the contract was terminated. No payment was made to the company and claims were preferred in the High Court for returning the M.S. Plates etc. issued by the department. The decree was in favour of the department and the steel was auctioned at a rate higher than the original cost.

2.14 The work was re-tendered in 12/83 changing the steel pipe aqueduct into RCC barrel type aqueduct. Since the scope of original and re-arranged works were different, it cannot be said that the Department has sustained loss on account of rearrangement and therefore the original contractor cannot be held liable and proceeded against.

**Recommendation**

*(Sl. No. 8, Para No. 62)*

2.15 The policy decision of Government (1978) was not to include arbitration clause in contracts for amounts exceeding Rs. 2 lakh. But it is found that in respect of Kallada Irrigation Project arbitration clause was included in the conditions of contract leading to many arbitration claims. Even in the case of 2 such claims decided by the Arbitrator (out of 18 works referred to Arbitration), the arbitration awards totalling Rs. 6.70 lakh went against the Government. Government had informed the Committee that the arbitration clause was a stipulation made by the World Bank and as World Bank assistance is being given for the project, the arbitration clause could not be deleted by them in the case of works executed under this project. The Committee desire that, Government should take up the matter again with the World Bank in view of the difficulties faced by the Department due to the presence of arbitration clause in contracts contrary to the practice now in vogue in other work contracts and get their consent in deleting the clause at least in future contracts.

**Action Taken**

2.16 Since the period for assistance from World Bank was over by 31-3-1989, the works arranged after that date are per PWD conditions which do not contain Arbitration Clause.

**Recommendation**

*(Sl. No. 10, Para No. 64)*

2.17 The Committee point out that there is considerable delay in the execution of works viz, driving a tunnel across Methala Hills and Velamboor aqueduct. In the first case, the failure on the part of the Department to supply necessary materials to the contractors, have led to the abandonment of the work by the contractors and subsequent cancellation of contracts twice. In both the cases the contractors had gone in for arbitration. The first contractor was not only absolved of his liability but was also awarded Rs. 2.51 lakh as extra claims. The 2<sup>nd</sup> case is pending before the arbitrator. In the construction of Velamboor aqueduct, due to the change in design, after awarding the work, had made the contractor to abandon the work midway. It took 3½ years for the Department to terminate the contract and re-arrange the work. The departmental witnesses who had given evidence before the Committee did not give any satisfactory explanation for the change in design and the delay in terminating the contract and re-arranging the work. The Committee would, therefore, like to point out that the disputes between the contractors and the Department are delaying the progress of works. In almost all the cases, the Department is solely to blame for the delay. The Committee therefore recommend that utmost care should be taken by the Department to avoid such delay in future. The Committee desire that further developments in respect of arbitration case filed by the 2nd contractor for the works of driving a tunnel across Methala Hills and results of Revenue Recovery proceedings initiated against the 1st contractor of the work, constructing an aqueduct at Velamboor, may be intimated.

**Action Taken**

2.18 The arbitration of the work “Driving a tunnel across Methala Hills” was awarded and the same got decreed in OP No.103/87 which was subsequently challenged in appeal in the High Court of Kerala. The High Court dismissed the appeal and the Advocate General was of the opinion that there is no scope for appeal.

2.19 Regarding the work constructing an aqueduct at Velamboor the contractor filed an OP No. 3698/85 in the High Court against the R.R. steps initiated by the Department to make good the loss amounting to Rs. 17,00,222 sustained to Government on re-arrangement of the balance work. The High Court granted an interim stay on the R.R. proceedings. Hence R.R. proceedings could not be proceeded with.

2.20 In the meantime the contractor filed a suit in the Sub Court, Ernakulam as OS No. 184/85 seeking the appointment of an arbitrator for adjudication of the dispute. The Sub Court in its judgment dated 25-2-1987 had appointed Shri. John Cheriyan, Retd. Chief Engineer as Arbitrator. The matter

had been in arbitration for quite some time. Subsequently the Arbitrator published his award wherein he had exonerated the contractor from the risk and cost of doing the balance work. The Sub Court while passing a decree in the terms of the award upheld the findings of the Arbitrator including the exoneration of the contractor from the risk and cost of doing the balance work. Subsequently the award was decreed and as there was no scope for appeal financial sanction was sought for by Chief Engineer. As the contractor moved E.P. the Department deposited the amount. Due to the above order of Sub Court there is no scope for proceeding with the R.R. steps, although the contractor had in the meanwhile withdrawn the original petition filed by him in the High Court against the R.R. steps of the Department.

2.21 The grounds on which the contractor had been exonerated from the risk and cost of liabilities of doing the balance work could not be incorporated since the award pronounced by the Arbitrator is a non speaking award (Copy enclosed as Annexure V). As a result of the award decreed as such by the Sub Court an amount of Rs. 7,73,790 had to be deposited in the Sub Court on 3/92.

#### **Recommendation**

*(Sl. No. 11, Para No. 65)*

#### **Water Resources and Vigilance Departments**

2.22 The Committee understand that in the work “constructing Paipra North M.D.” action against the officer responsible for not deleting the arbitration clause was pending and that vigilance case was now under investigation. The committee urge the Vigilance Department to speed up the enquiry so that the delinquent officer does not escape punishment.

#### **Action Taken**

##### **Water Resources Department**

2.23 The name of officers involved in the case of land acquisition process for the work of construction of Paipra North Minor Distributory in connection with Vigilance enquiry had been forwarded to the Additional Director General of Police, Vigilance and Anti-corruption Bureau, Thiruvananthapuram. They are:

1. Shri A. M. George, Additional Secretary (Retd.) (Finance Department)
2. Smt. G. Lalithambika, AE (Retd.)
3. Shri P. A. Raman, SE (Retd.)
4. Shri Gopalakrishnan, CE (Retd.)

5. Shri T. I. Varghese, SE (Retd.)
6. Shri K. P. Mathew Head D'man (Retd.)

2.24 The Vigilance Enquiry completed on 30-10-2002 revealed that for the construction of Paipra North MD of PVIP from 0 m. to 12000 m., 25 agreements were executed out of which 17 agreements were for contracts amounting to less than Rs. 2 lakh and 8 agreements for contracts amounting to more than Rs. 2 lakh. As per G.O.(Ms.) No.53/78/PW&E dated 8-5-1978 , if the PAC of the work is less than Rs. 2 lakh, the Arbitration clause in the agreement need not be deleted. So the Engineers concerned, did not delete the Arbitration Clause, while executing agreements of the 17 works amounting to below Rs. 2 lakh. But the contractor Shri P. K. Karunakaran Nair filed arbitration cases before the Chief Engineer (Arbitration), Thiruvananthapuram on agreement No. 22/D/81-82 dated 5-6-1981 with PAC of only Rs. 1,86,471 (Rupees One Lakh Eighty Six Thousand Four Hundred and Seventy One only) and agreement No. 33/D/80-81 dated 16-10-1980 with PAC of Rs. 35,903 only. Both agreements were signed between Shri V. P. Antony, Executive Engineer and Shri P. K. Karunakaran Nair and was awarded Rs.7,625 and Rs. 435 respectively by the Arbitrator. The contractor did not file the first award of Rs. 7,625 before the Sub Court for decree but filed the second award for Rs. 435 in the Sub Court, Ernakulam and was passed in O.P. (A) 80/84 by the Court. In the above two agreements executed, the arbitration clauses were not deleted because the PAC of both works were below Rs. 2 lakh and hence the Engineers concerned are not responsible for filing the Arbitration cases by the contractor. Among the 8 agreements executed with PAC of above Rs. 2 lakh, the Engineers concerned had deleted the Arbitration clauses.

2.25 Government vide G.O. (Ms.)147/80/PW&E dated 18-9-1980 had issued directions to delete all the other clauses related to arbitration existing in the agreement including clause 73 of MDSS (Madras Detailed Standard Specification). The Contractor Sri P. K. Karunakaran Nair approached the Sub Court, Ernakulam requesting for an arbitration by invoking condition 73 of standard Preliminary Specification of MDSS which was followed in part of the agreement No.13/SEPCM/80-81 dated 23-7-1980 and filed an arbitration O.P. as O.S. No. 316/82. The Court appointed Chief Engineer (Arbitration) as Arbitrator on 21-6-1983 and the Arbitrator on 6-3-1998 exonerated the contractor from risk and cost liability. This award was objected to by the Law Officer, PWD, when it came before the Sub Court, Ernakulam and case is now pending there.

2.26 Due to the above reasons the suspected officer (S.O.) had not committed any irregularity in respect of the agreement executed in all the 25 works related to construction of Paipra North MD under PVIP.

**Action Taken****Vigilance Department**

2.27 In compliance with the Public Account Committee's recommendation, the Director, Vigilance and Anti Corruption Bureau had conducted a Vigilance Enquiry (VE 42/97/EKM) against Sri P. V. Antony formerly Executive Engineer, Periyar Valley Irrigation Project, Perumbavoor and Sri Gopalakrishnan formerly Superintending Engineer, Project Circle, Moovattupuzha. The Vigilance Enquiry has disclosed that Suspect Officers have not committed any irregularities in respect of the agreements executed in all the 25 works related to construction of Paipra North M. D. under PVIP.

**Recommendation**

*(Sl. No. 12, Para No. 66)*

2.28 Regarding the variation between the quantity of rock estimated to be blasted and the quantity actually blasted, the Committee cannot agree with the Department's statement that it would not be possible to determine the extent of rock under the earth correctly. If the Department had done detailed investigation with the help of Geologists, the nature and extent of rock could have been determined accurately.

**Action Taken**

2.29 For preparing the estimate rock levels are assessed by taking trial pits or trial borings as per the provision in the PWD Manual. Variation in the estimates occur in some cases only. These are due to peculiar site conditions. Geologists also assess the rock levels by taking trial borings. If the recommendation of consulting Geologists for finalising the estimate is acceptable it will involve much delay in the execution of the scheme.

**Recommendation**

*(Sl. No. 13, Para No. 67)*

2.30 When the height of the shutters was increased, the height of high level and low level canals was also raised by erecting mud walls on the already existing structure. When water was let out through the canals for trial run, considerable leakage was found. The Committee doubt whether the mud walls could withstand the pressure of water during peak season when water is let out in large quantity. It is understood that if a breach occurred in the canals, the Panchayats of Pindimana, Kottappadi, Keerampara and the Municipal area of Kothamangalam would be seriously affected. The Committee therefore recommend that the entire interior portion of the canals should be provided with concrete lining.

**Action Taken**

2.31 Concrete lining has been completed during 1990-91.

**Recommendation**

*(Sl. No. 14, Para No. 68)*

2.32 The Committee observe that payment to contractors are not being made strictly on priority. There are complaints that contractors who took up small works are often overlooked and their bills are not cleared promptly. The Committee desire that the matter should be looked into and steps taken to clear the bills strictly according to priority.

**Action Taken**

2.33 Bills are paid strictly based on priority of receipt of the same in Division and Sub Division offices which make payments of the bills.

**Recommendation**

*(Sl. No. 17, Para No. 71)*

2.34 The work on the Kothamangalam branch canal from 4.1 km. to 6.98 km. is held up because the contractor entrusted with the work has abandoned it. The 1000 and odd families living in that area find it difficult to move around since rubble and other building materials needed for the bund, were dumped in the area blocking the road. The Committee, therefore, urge the Government to take immediate action to re-arrange the work.

**Action Taken**

2.35 Kothamangalam branch canal has been completed.

**Recommendation**

*(Sl. No. 18, Para No. 72)*

2.36 The Committee urge the department to take up the work on the foot bridge at the 4th km. of the main canal and execute it departmentally if contractors are reluctant to carry out the work.

**Action Taken**

2.37 The construction of foot bridge has been arranged along with the lining work of main canal and is going on.

**Recommendation**

*(Sl. No. 19, Para No. 73)*

2.38 The Committee understand that there is a proposal to develop the Periyar Valley Irrigation Project into a tourist spot. A scheme costing Rs. 50 lakh is currently under consideration of the Government. The Committee desire that the Irrigation Department in co-operation with the Tourism Department should make every effort to get the proposal sanctioned and the scheme implemented. Meanwhile, a canteen under the management of KTDC for catering to the needs of the tourists now visiting the place should be opened at the dam site.

**Action Taken**

2.39 Beautification of the dam site of the PVIP is being taken up.

Thiruvananthapuram,  
23rd June, 2010.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX I

**Summary of Main Conclusions/Recommendations**

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusions/Recommendations</i>
1	1.5	Water Resources	The Committee expresses disappointment in the fact that the department had not materialised the recommendations of the Committee and stresses for the implementation of the same immediately.
2	1.8	”	The Committee wants to be informed of the present position of the case and suggests that every time when action taken statement is furnished to the Committee, as far as possible, the latest position in the concerned matter should be furnished.
3	1.14	”	The Committee recommends that immediate action should be taken to disburse compensation to the 18 land owners whose land was acquired earlier and also to return the documents of land owners whose land had not been acquired but documents were taken into possession by the Department, without further delay.
4	1.18	”	The Committee desires to be informed whether the evicted settlers were given compensation.
5	1.28	Vigilance	The Committee recommends to proceed with prosecution in the Vigilance Case charge sheeted.

## APPENDIX II

GOVERNMENT OF KERALA

**Irrigation (G & P) Department****No. 15929/P2/95/Ir.D.***Dated 19th February 1997*

## CIRCULAR

Sub :—Public Accounts Committee—85th Report—Implementation of recommendation in para 56—Instruction—Issued

The Public Accounts committee 1989-91 in their recommendation in para 56 of 85th Report has observed that for lack of proper consultation with experts in Earth Science and Geologists on the Geological condition of the area where the project is proposed to be built, there are instances of large scale escalation in project cost due to subsequent modifications of designs and investigations. The committee is therefore of the view that advancement in Science and Technology availability of expertise and most sophisticated instruments for studying the nature of the Earth structure of the terrain have to be put to use for the Investigation and Design of Major and Minor Irrigation Projects so as to minimise the cost of land acquisition and further investigations. The Committee also observed that the service of the Government agencies in the field may be utilised for the purpose.

The government have examined the matter in details and accepted the observations and view of the PAC in this regard. In the circumstances the Chief Engineer (Investigation and Planning) is directed to seek the advice of the experts in Earth Science and Technology Department where their services is required in the case of Investigation of Major and Minor Irrigation Projects in the State so as to make foolproof in Investigation in future.

C. ANIRUDHAN,

*Additional Secretary,**In charge of Secretary, Irrigation and Water Supply.*

## APPENDIX III

## GOVERNMENT OF KERALA

**Abstract**

Land Acquisition—Avoidance of delay in Land Acquisition Process Introduction of PERT (Project Evaluation and Review Technique) Chart—Approved and issued.

## REVENUE (B) DEPARTMENT

G. O. (Ms.) and 744/90/RD Dated, Thiruvananthapuram, 18th December, 1990.

Read :—Letter No. LR (C) 2-28985/87 dated 14-6-1990 from the secretary, Board of Revenue, Thiruvananthapuram

## ORDER

In view of the provisions under section 23 (1) A and 34 of the LA Act, 1894 LA proceedings have to be completed as expeditiously as possible so as to avoid cost over-run of the project for which land is acquired. Considering this aspect the Board of Revenue has prepared and forwarded a PERT (Project Evaluation and Review Technique) Chart so as to eliminate the delays now experienced in LA cases. The following time frame has been provided to complete the major activities under the LA Act.

1. Notification under Section 4 (1) : 3 months from the date of receipt of requisition
2. Declaration under Section 6 : @ 6 months from 4 (1) notification where there are no objections and cases under urgency clause  
@ 7 months from 4(1) notification where there are objections to the acquisition
3. Passing of ward : @ 10 months and 15 days from 4 (1) notification where there are no objections and cases under urgency clause  
@ 11 months and 15 days from 4 (1) notification where there are objections

4. Handing over of land : 15 days from the date of award
5. Post award action : 140 days from award

The different stage of activities and the time allowed for each phase, the stages of action and guidelines in land acquisition in PERT method and an index check list are appended

Government have examined the PERT chart and are pleased to approve the same. The PERT method should be adopted in all land acquisition cases in the State

By Order of Governor,

T. SANKARAN,

*Additional Secretary.*

## ACTIVITIES IN LAND ACQUISITION CASE

<i>Activities</i>	<i>No. of days allowed</i>
(1)	(2)
1. Receipt of requisition	:
2. Joint inspection of the land by land acquisition officer and requisitioning Authority and conduct of preliminary enquiry	: 30 from the date of receipt of requisition by Land Acquisition Officer
3. Publication of Notification under section 6 of the survey and Boundaries Act	: 40 from Activity No. 2
4. Publication of Notification under section 4 (1) in the official gazette 2 dailies and its substance in the locality	: 60 from Activity No. 2
5. Survey and demarcation of land and preparation of S.D. records	: 90 from Activity No. 3
6. Sending of list of structures if any, to PWD for valuation	: 30 from Activity No. 4
7. Scrutiny and approval of survey and S.D. records by Supdt. of Survey and Land Records.	: 30 from Activity No. 5
8. Enquiry under section 5A on objections if any	: 90 from Activity No. 4
9. preparation of Basis for valuation	: 90 from Activity No. 4
10. Approval of Basis	: 30 from Activity No. 9
11. Submission of DD under section 6 to the Board of Revenue or Government	: 120 from Activity No. 4 (case in which no objections to the acquisition) 90 from activity No. 4 for cases in which no objections and cases under urgency clause
12. Publication of declaration in the official gazette 2 dailies and in the locality	: 60 from Activity No. 11
13. preparation of D.V.S. and submission to the District Collector	: 30 from Activity No. 10

(1)	(2)
14. Approval of D.V.S. by District collector	: 30 from Activity No. 13
15. Obtaining fund from the Requisition Department	: 30 from Activity No. 14
16. Issue of notice under section 9(1) and 10 and under section 9 (3) and 10	: 15 from Activity No. 12 and 14
17. Conduct of award enquiry	: 45 from Activity No. 16
18. passing of award after obtaining prior approval	: 15 from Activity No. 17
19. Sending information to the Dist. Collector and Requisitioning body about the passing of award.	: 7 from Activity No. 18
20. Issue of notice under section 12(2) to parties	: 5 from Activity No. 18
21. Taking possession of land and handing over to the requisitioning Department	: 15 from Activity No. 18
22. Issue of notice to parties to whom payment could not be made	: 15 from Activity No. 18
23. Issue of cheque to the parties	: 15 from Activity No. 18
24. Sending A form statement to the Accountant General	: 15 from Activity No. 18
25. Reference to Court under sections 30 and 31	: 20 from Activity No. 18
26. Reference to Court under sections 19 after giving information to the Requisitioning Department	: 90 from Activity No. 18
27. Furninshing statement in form 14 to the Sub Registrar	: 15 from Activity No. 18
28. Furnishing B form statement to the Accountant General	: 30 from Activity No. 23

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(1)	(2)
29. Final scrutiny and approval of revised Revenue records and statement of changes	: 60 from Activity No. 18
30. Carrying out changes in the Village accounts and Taluk accounts	: 15 from Activity No. 29
31. Issue of notice under section 9(2) of the KS and B Act	: 10 from Activity No. 18
32. Publication of notification under section 13 of the K.S. and B Act in the official Gazette and in the Village Office	: 120 from Activity No. 31
33. Submission of final LACM to the District Collector	: 10 from Activity No. 32

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STAGES IN LAND ACQUISITION CASES  
UNDER THE PERT METHOD

With a view to complete the land acquisition proceedings expeditiously, the Land Acquisition steps have been divided into 33 activities as per the PERT (Project Evaluation Review Technique) Chart . The different stages of activities and the time allowed to each item are given in Appendix I. The PERT chart is given in appendix II and an Index check list is given in Appendix III. The number inside the circle in the Chart in Appendix II correspond to the numbers indicated against the items in Appendix I. These 33 activities have been arranged into 4 stages of action combining the activites which can be carried out simultaneously Ist stage (Notification).

2. Immediately on receipt of a requisition through the District Collector, the Land Acquisition Officer should conduct an inspection of the land proposed for acquisition, preferably a joint inspection with the Departmental Officer of the Requisitioning Department, and conduct a preliminary enquiry. This should be completed within 30 days from the date of receipt of Requisition (Activity No. 2).

3. The notification under section 6 of the S&B Act and the preliminary notification under section 4(1) of the L.A. Act, 1894 can be published simultaneously within the next 60 days from the date of local inspection (Activity No. 3 & 4)

4. As soon as the notification under section 6 of the S&B Act is published, the land can be surveyed and demarcated. 90 days are allowed for the field survey and preparation of S.D. records. In the meantime, a list of structures, if any, in the land which costs more than Rs. 5000 may be sent to the PWD for valuation (Activity No. 5 & 6).

5. After a clear interval of 30 days from the publication of 4(1) notification, the Land Acquisition officer should conduct the enquiry under section 5A on objection petitions, if any, filed against the acquisition. 90 days are allowed from the publication of the 4(1) notification for the completion of enquiry. Basis for valuation can be prepared and got approved simultaneously (Activitiy No. 8, 9 & 10)

In the meantime, the survey and sub division records can be got scrutinised and approved by the superintendent of survey and Land Records (Activity No. 7)

Approval of basis and a scrutiny of survey and sub division records can be got carried out simultaneously.

**2nd Stage (Draft Declaration)**

6. As soon as the enquiry under section 5A is completed and survey records are got approved, Draft Declaration can be drawn up and sent for approval. This should be done within 120 days from the date of publication of the 4(1) notification (Activity No. 11)

7. On receipt of the draft declaration, the Government or the Board of Revenue, as the case may be, after scrutiny, approve the DD and sent it for publication. There will be 60 days for the approval and publication of the Draft Declaration (Activity No. 12). In the meantime the L.A. Officer, can prepare the D.V.S and submit it to the District Collector for his approval. The District Collector will get 30 days for the scrutiny and approval of D.V.S. (Activity 13 and 14)

**3rd Stage (Award)**

8. As soon as the Declaration is published and D.V.S approved, the L.A. Officer should issued notice under section 9(1) and 10 and that under section 9(3) and 10 and conduct the award enquiry (Activity No. 16 & 17). Simultaneously the Requisitioning Authority will be requested to place the required funds at the disposal of the L.A. Officer (Activity No. 15)

9. As soon as the award enquiry is completed, award in form No. 10 should be drawn up and submitted to the competent authority for obtaining prior approval. After obtaining the prior approval, Award should be passed and information thereof should be sent to the District Collector and the Requisitioning Department. Notice under section 12(2) and under section 9(2) can be issued simultaneously. Compensation will be paid to the interested parties or deposited to the courts, as the case may be (Activities 18, 19, 20, 23 and 31).

**4th Stage (Post Award)**

10. Along with activities 18, 20 and 23, Land Acquisition Officer will issue notice to the parties whom payment is not made. In the meantime the land can be taken possession of and handed over to the Requisitioning Department. Statement in Form A to the Accountant General and statement in Form 14 to the Sub Registry Office should also be sent simultaneously (Activity No. 21, 22, 23, 24 and 27). (Activities 21, 22, 23, 24 and 27 should be completed within 15 days from the date of Award).

11. In the case of dispute as to a apportionment of compensation etc. the case may be referred to the decision of the court within 20 days from the date of award (Activity No. 25).

12. Within 60 days from the date of award, the revised Revenue records may be subjected to final scrutiny and approval and a statement of charges prepared. As soon as the statement of changes is prepared, necessary changes may be carried out in the Village and Taluk accounts. In the meantime a statement in Form B may be sent to the Accountant General. Applications for enhanced compensation, if any, received may be referred to courts simultaneously (Activities 26, 28 29 and 30).

13. A notification under section 13 of the S & B Act may be published and final L.A.C.M. sent to the District Collector (Activity 32 & 33).

14. In addition the following guidelines may be followed in all land acquisition cases.

(i) Immediately on receipt of the requisition for acquisition of land, the L.A. Officer should inspect the land before the report of the subordinate officer is called for. This should be preferably a joint inspection with the concerned Department officers so that the L.A. officer will be in a position to know the details and suitability of the land selected.

(ii) Usually delay is noticed in obtaining the sub division records from the Superintendent of Survey and Land Records and also the valuation statement of structures from the PWD the L.A. Officers should take advance action to get the details from the above officers. The fact that delay will result in loss to Government by way of payment of interest should also be brought to the notice of the Superintendent of Survey and Land Records and the PWD. This should not be handed in a routine way by reminding them periodically. If it is felt that the details could not be obtained within the time limit prescribed in the PERT Chart, the officers concerned should be personally contacted and even this attempt is not successful the matter should be brought to the notice of the concerned higher authorities as well as the requisitioning authority.

(iii) At the time of conducting 5A enquiry it is desirable to have the presence of an official from the requisitioning Department so that the objections can be discussed straight way and decisions taken early.

(iv) The expeditious disposal of L.A. Proceedings can hardly be over emphasised in the interest of the affected public. It is also important for the requisitioning Department for who the land is acquired so as to avoid cost over-run and time over run of the projects.

(v) The L.A Act, 1894 , as amended by the L.A. (Amendment) Act, 1984 contemplates a time limit of three years within which different stages of the acquisition proceedings, have to be completed. Otherwise, the acquisition proceedings

will lapse and denoys proceedings have to be started afresh. The time limit prescribed in the Act is the maximum admissible and this span of time is not required to complete the L.A. Proceedings. Hence the endeavour of the Land Acquisition Officers should be complete the L. A. Proceedings at the earliest. The PERT method is intended to have a time frame for each action under the L.A. Proceedings and to have an idea of the various activities to be completed under the L.A. Act at each stage of action. Even the time limit prescribed in the PERT method is the maximum and L.A. Proceedings can be completed earlier than this time limit. If L. A. Cases are not finalised within a year from the date of issue of Section 4(1) notification, it will result in extra financial commitments. So the L. A. Officers will see that the L. A. cases not completed within one year are processed expeditiously and award passed at the earliest.

(vi) In each L.A. case, a check list as per Appendix IV, will be prepared dividing the various activities and fixing the time limit for completion of works as per the time allowed in the PERT chart and kept in the file. The Land Acquisition Officer and the Inspecting Officers will see whether the work is completed as per the time schedule.

INDEX CHECK LIST

L.A. Case No.

<i>No. of activity</i>	<i>Details of activities</i>	<i>Time allowed for completion of the activity as per the PERT Chart</i>	<i>Time taken for the completion of the activity</i>	<i>Remarks period of delay if any</i>
(1)	(2)	(3)	(4)	(5)
1	Date of receipt of requisition for acquisition of land			
2	Joint inspection of land & preliminary enquiry	30 days from Act 1		
3	Publication of notification under section 6 of the S & B Act	40 days from Act 2		
4	Publication of 4 (1) notification	60 days from Act 2		
	(a) Gazette.....			
	(b) Dailies .....			
	(c) Locality.....			
5	Survey and demarcation of land and preparation of S.D. Records	90 days from Act 3		
6	Sending of list of structure if any, to PWD for valuation	30 days from Act 4		
7	Security and approval of Sy. and S.D. Records of S.S.L.R.	30 days from Act 5		
8	Enquiry under section 5 A	90 days from Act 4		

(1)	(2)	(3)	(4)	(5)
9	Preparation of Basis for valuation	90 days from Act 4		
10	Approval of Basis	30 days from Act 4		
11	Submission of D.D. Board of Revenue or Government	120 days from Act 4		
12	Publication of Declaration	50 days from Act 4		
	(a) Gazette.....			
	(b) Dailies .....			
	(c) Locality.....			
13	Submission of D.V.S. for approval	30 days from Act 10		
14	Approval of D.V.S.	30 days from Act 13		
15	Obtaining of fund	30 days from Act 14		
16	Issue of notification under section 9 (1) and 9 (3)	15 days from Act 12		
17	Conduct of award enquiry	45 days from Act 16		
18	Passing of award	15 days from Act 17		
19	Sending information to the District Collector, about passing of award	7 days from Act 18		
20	Issue of Notification u/s 12 (2)	5 days from Act 18		

21	Taking possession of the land and handing over to the Requisitioning Department	15 days from Act 18
22	Issue of notification to parties to whom payment could not be made	15 days from Act 18
23	Issue of Cheque to the parties	15 days from Act 18
24	Sending a form statement to Accountant General	15 days from Act 18
25	Reference to Court u/s 30 and 31	20 days from Act 18
26	Reference to Court u/s 18	90 days from Act 18
27	Furnishing statement in form No. 14 to Sub Registry office	15 days from Act 18
28	Furnishing statement B Form statement to Accountant General	30 days from Act 23
29	Final scrutiny and approval of revised records	60 days from Act 18
30	Carrying out changes in the Village and Taluk records	15 days from Act 27
31	Issue of notification under section 9(2) of S & B Act	10 days from Act 18
32	Publication of notification under section 13 of S & B Act	120 days from Act 31
33	Submission of final L.A.C.M.	10 days from Act 32

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APPENDIX IV

<i>Name of Projects</i>	<i>Extent of ayacut reported by PWD (in Hect.)</i>	<i>Extent of ayacut jointly verified (in Hect.)</i>	<i>Extent found liable for assessment (in Hect.)</i>	<i>Extent of ayacut brought to assessment (in Hect.)</i>
1 Peechi	14251.5851 Hect.	14251.5851 Hect.	14251.2042 Hect.	14231.2042 Hect.
2 Chalakkudy	8611.5000 "	8611.5000 "	8611.5000 "	8611.5000 "
3 Periyar Valley	21863.9165 "	21863.9163 "	13606.2329 "	13606.2329 "
4 Cheerakkuzhi	927.0000 "	865.2883 "	865.2883 "	865.2883 "
5 Malampuzha (In TSR)	216.9657 "	216.9657 "	129.9657 "	129.9657 "
Malampuzha (In PKD)	20431.8115 "	23432.8029 "	20622.6900 "	20216.0630 "
6 Walayar	4122.5259 "	4122.5259 "	4122.5259 "	4122.5259 "
7 Margalam	3345.9888 "	3345.9888 "	3345.9888 "	3345.9888 "
8 Meenkara	4880.4961 "	4966.2659 "	4964.2659 "	4964.2659 "

## APPENDIX V

No. Arb.110/87.

Thiruvananthapuram.

22nd June, 1988.

IN THE MATTER OF ARBITRATION  
BETWEEN

P. T. SKARIAH,  
Contractor,  
Punnathanathu House,  
Kizhakombu P. O.,  
Koothattukulam.

(Hereinafter referred to as the Claimant)

OF THE ONE PART  
AND

1. The State of Kerala, represented by  
The Secretary to Government,  
PW (Water and Transport) Department,  
Government Secretariat,  
Trivandrum.
2. The Superintending Engineer,  
PWD, Project Circle,  
Muvattupuzha 686 661.

(Hereinafter referred to as the Respondents)

## OF THE OTHER PART

WHEREAS The Claimant above mentioned as plaintiff filed original suit (Arbitration) No. 184 of 1985 in the Court of the Principal Sub Judge, Ernakulam under section 20 of the Arbitration Act 1940, with the above mentioned Respondents as Defendants praying among other reliefs for a reference to certain disputes that arose between the parties out of a contract in writing for the work of "PVIP -Constructing an Acqueduct at ch. 22524 m. of High Level Canal at Valampur", under contract Agreement No.11/SCPCM 1978-79 dated 18-1-1987.

AND WHEREAS the court by its judgement dated 25-2-1987 has appointed me as Arbitrator to decide the disputes mentioned therein ;

AND WHEREAS the III Additional Sub Judge, Eranakulam as per the Court proceedings dated 7-4-1988 has remitted back the award dated 22-8-1987, for the limited purposed of quantifying the amount due to the petitioner from the respondents and pass a fresh awards;

NOW, THEREFORE, I, A John Cherian, Retired Chief Engineer, PWD, residing at 9/243-5, AVICOTE, Behind T.T.C. Jwaharnagar P.O., Trivandrum 695 041, having taken upon myself the burden of the reference and having heard and duly weighed and considered the allegations and the evidence produced by both the parties before me, do hereby make and publish this final Award in writing of and concerning the matter referred to me. The verification of final bill was made on 21-6-1988 in the presence of Shri P. K. Skariah, Claimant and Shri Varghese C. Paul, Executive Engineer, representing the Respondents only for the specific purpose of quantifying the amount.

I HEREBY AWARD AND DIRECT AS FOLLOWS:

- Issue A Claim (1) The Respondents shall pay Rs. 81,471 (Rupees Eighty one thousand four hundred and seventy one) to the claimant towards balance payment in the Final Bill. The Respondents shall release the retention amount of Rs. 33,349 (Rupees. Thirty three thousand three hundred and forty nine) held by them to the claimant. The Respondents shall also release the Security Deposit for this work to the Claimant.
- Issue B Claim (2) The Claimant is not entitled to any compensation.
- Issue C Claim (3) The Claimant is not entitled to any compensation.
- Issue D Claim (4) The Claimant is not entitled to any increase in rates already agreed to.
- Issue E Claim (5) The Claimant is not entitled to any prevented gains.
- Issue F Claim (6) The Respondents have terminated the Contract and subsequently re-arranged the work. The Respondents shall not held the Claimnat liable for the risk and cost of such re-arrangements.
- Issue G Claim (7) The Claimant is not entitled to any interest.

The parties shall bear their respective costs in these proceedings. The respondents have raised four counter claims, and these are covered in the various terms of this award.

9/243-5, AVICOTE,  
Behind T.T.C.,  
Jawaharnagar P.O.,  
Thiruvananthapuram.

A. JOHN CHERIAN,  
*Retired Chief Engineer, PWD*  
*(Arbitrator)*

*Signed and Delivered on*  
*this the Twenty Second Day*  
*of June 1988.*